

First Published in The Wichita Eagle on October 13, 2017

OCA#083303

October 3, 2017

ORDINANCE NO. 50-600

AN ORDINANCE AMENDING SECTIONS 6.04.010, 6.04.040, 6.04.045, 6.04.046, 6.04.047, 6.04.048, 6.04.060, 6.04.190, 6.04.210, 6.08.010, 6.08.020, 6.08.030, 6.08.040, 6.08.070, 6.08.080 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING DEFINITIONS, CONTROL AND PROTECTION OF ANIMALS IN GENERAL, DANGEROUS DOGS, AND DANGEROUS OR EXOTIC ANIMALS AND REPEALING THE ORIGINAL OF SAID SECTIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 6.04.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Definitions.

As used in this chapter:

*Abandoned cat* means a cat which has returned to the feral state or which does not have a collar.

*Adequate care* means normal care and prudent attention to the needs and welfare of an animal, including that care normally needed to maintain good health of the animal, including clean and dry bedding and resting surfaces, grooming, removal of manure, and:

1. *Adequate food* means wholesome foodstuffs suitable for the animal provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health of the animal considering its age and condition; and

2. *Adequate health care* means the provision to an animal of all immunizations and preventive care required to maintain good health; space adequate to allow the animal

to rest and exercise sufficient to maintain good health; and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death; and

3. *Adequate shelter* means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the animal, considering the condition and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions; and

4. *Adequate water* means a continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the condition of the animal.

*Animal Services Officer* means any person employed by, contracted with or appointed by the City of Wichita, or any designee of the Chief of Police of the City of Wichita, for the purpose of aiding in the enforcement of this Code. As used in this code, Animal Services Officer, Health Officer and Animal Control Officer are synonymous.

*Animal day care* means a commercial establishment that takes temporary possession of an animal, at the request of an owner, to provide safety, comfort and/or socialization of the animal.

*Animal fighting paraphernalia* means equipment, animals, or commodities designed or capable of use for the purpose of training animals to attack other animals, as in dogfighting or cockfighting, including but not limited to: animal treadmills, drugs for healing animals such as anti-inflammatories, antibiotics or steroids, spurs, equipment used to threaten animals for the purpose of training for aggressive behavior, and/or equipment used to strengthen animal bodies. In determining whether an object is animal fighting paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

1. Statements by an owner or person in control of the object concerning its use.

2. Prior convictions, if any, of an owner or person in control of the object under any state law or city ordinance relating to animal fighting, animal cruelty or gambling.
3. The proximity of the object, in time and space, to a direct violation of an animal fighting, animal cruelty or gambling statute or ordinance.
4. The proximity of the object, in time and space, to other objects also susceptible for use as animal fighting paraphernalia.
5. The existence of bloodstains or blood spatters on the object.
6. The manner in which the object is displayed for sale or is described in written material on the subject of animal fighting.
7. The existence and scope of legitimate uses for the object in the community.
8. Expert testimony concerning the object's use.
9. The proximity of the object, in time and space, to dogs showing evidence of wounds or scarring.

*Animal shelter* means the facility or facilities authorized to care for animals impounded or held under the authority of the ordinances of the City of Wichita or the State of Kansas.

*Attack* means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, including, but not limited to, charging, cornering, chasing, or circling a person.

*Bite* means any actual or suspected abrasion, scratch, puncture, tear, bruise or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

*Cat* means any of the small carnivorous mammal varieties of *Felis Catus* which are domesticated. Such term shall not include hybrid breeds of cats which have been bred to a wild animal.

*Cattery* means any premises where there is being maintained or harbored a total of five or more cats or more than two unspayed female cats, except veterinary hospitals. This term does not include foster homes operated under the auspices of rescue organizations licensed by the Kansas Department of Animal Health.

*City Treasurer* means the duly appointed treasurer of the city or his/her authorized representative.

*Commercial animal establishment* means any pet shop, animal day care, grooming shop, auction, riding school, stable, kennel, guard dog service, dog trainer or other business which keeps or maintains animals in stock for retail or wholesale trade or sale.

*Dangerous dog* means: any dog that has been declared dangerous or potentially dangerous pursuant to 6.04.045.

*Defecate* means to excrete waste matter from the bowels.

*Dog* means any animal which is of the species *Canis Familiaris*. Such term shall not include hybrid breeds of dogs which have been bred to a wild animal.

*Dog breeder* means a person who raises or produces dogs or puppies for sale or profit.

It is presumed that a person who advertises the sale of dogs or puppies or a person who owns two or more unaltered female dogs is a dog breeder. Such term shall include persons who are licensed by the State of Kansas as an animal dealer, retailer breeder, animal breeder, hobby breeder or hobby kennel. Such term shall include a person who owns one or two unaltered Pit Bulls.

*Domestic animals* means all animals that have been domesticated, such as, but not limited to, dogs, cats, cattle, horses, swine, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons or other fowl.

*Domestic animal structure* means all pens, houses or structures where domestic animals are confined, such as, but not limited to: hutches, cotes, lofts, kennels, dog runs, warrens, feed lots, barns or other buildings and enclosures. The term does not apply to perimeter fencing surrounding the property.

*Ferret* means a domesticated, small, elongated carnivorous mammal which belongs to the Mustelidae Family (*Mustela putorius furo*).

*Foster care, group home or rescue* means a person or organization, whether for profit or non-profit, which provides temporary care for animals from a licensed animal shelter at a private residence. Temporary care is a period of time not to exceed six months. Such term shall include foster, group and rescue homes operated under the auspices of rescue organizations licensed by the Kansas Animal Health Department.

*Fowl* means any domesticated or wild bird, including but not limited to: chickens, hens, ducks, geese, pheasants, turkeys, doves, pigeons, parrots, parakeet and exotic birds.

*Garbage* means the putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food for human beings.

*Groomer* means a person or establishment which provides animal grooming services.

*Inhumane treatment* means any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from the weather; any treatment such as overloading, overworking, tormenting; beating, mutilating, teasing or other abnormal treatment; or causing or allowing the animal to fight with any other animal.

*Kennel* means any premises where there is being maintained a total of five or more adult dogs owned by the property resident.

*Livestock* means any cow, ox or other bovine, goat, sheep, horse, ratites, donkey, swine, mule or other animal of similar or larger size.

*Microchip* means a passive transponder which can be implanted in an animal and which is a component of a radio frequency identification (RFID) system.

*Neighbor* means any person residing within 200 from the outermost property line of the property where a domestic animal is owned, kept or harbored.

*Owner, keeper or harborer* means any person who possesses, harbors, keeps, feeds, shelters, maintains, offers refuge or asylum to any animal, or who professes to keeping, owning or harboring of such animal. In addition, any person who signs a receipt as owner, keeper or harborer for the return of an animal from any shelter or animal holding facility, shall be presumed to be the owner, keeper or harborer of the animal. A parent or legal guardian shall be deemed to be an owner, keeper or harborer of animals owned, kept or harbored upon their premises by minor children who are less than 18 years of age. Such term shall also include any person who exercises control over or is in possession of any such animal.

*Person* means any individual, firm, association, joint stock company, syndicate, partnership, corporation, other state franchised business entity such as a professional association, limited liability company, or limited liability partnership, or other organization of any kind.

*Picket* means attaching a leash, rope, chain, lead, tether or other similar apparatus or device to the body of an animal and another inanimate or immovable object for the purpose of confining the animal or limiting the movement of the animal.

*Pit Bull dog* is defined to mean any and all of the following dogs:

1. The Staffordshire Bull Terrier breed of dogs;

The American Staffordshire Terrier breed of dogs;

3. The American Pit Bull Terrier breed of dogs;

4. Dogs which have the appearance and physical characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

A dog which possesses five out of the following eight characteristics shall be considered to be a Pit Bull:

1. Head is medium length, with a broad skull and very pronounced cheek muscles, a wide, deep muzzle, a well-defined, moderately deep stop, and strong under jaw. Viewed from the front the head is shaped like a broad, blunt wedge.

Eyes are round to almond shaped, are low in the skull and set far apart.

3. Ears are set high. Un-cropped ears are short and usually held rose or half prick, though some hold them at full prick.

4. Neck is heavy and muscular, attached to strong, muscular shoulders.

5. Body is muscular, with a deep, broad chest, a wide front, deep brisket, well-sprung ribs, and slightly tucked loins.

6. Tail is medium length and set low, thick at the base, tapering to a point.

7. Hindquarters are well muscled, with hocks, set low on the legs.

8. Coat is a single coat, smooth, short and close to the skin. Pit bull puppies have the same characteristics, though in juvenile or adolescent form. Muscles, along with breadth and depth of head and chest may be less developed. Specifically excepted from this definition is any dog with proof, by a written certification from a veterinarian licensed by the State of Kansas, that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier or Staffordshire Bull Terrier.

*Premises* means a lot, plot or parcel of land including structures located thereon.

*Public nuisance* means any repeated acts of an animal that irritates, perturbs or damages rights and privileges common to the public or enjoyment of private property or indirectly injures or threatens the safety of a member of the general public. Such actions include, but are not limited to:

1. Damage to public or private property including, but not limited to: breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner;
2. Rips any trash bag or tips any solid waste collection container which spills or scatters trash, debris, refuse or waste.
3. Repeatedly defecates upon any public place or upon premises not owned or controlled by the animal's owner, keeper or harborer, provided that this definition shall not apply where such waste is immediately removed and properly disposed of by the owner of such animal.
4. Allowing or permitting an animal to be maintained in an unsanitary condition so as to be offensive to sight or smell.
5. Causes a condition which endangers public health or safety.

*Ratites* means all creatures of the ratite family that are not indigenous to this state, including but not limited to, ostriches, emus and rheas.

*Refuse* means all putrescible and non-putrescible waste materials (except animal body discharges) such as trash, garbage, dead animals, paper, cardboard, tin cans, grass, wood, metals, salvage or inert materials produced or accumulated in connection with the maintenance of domestic animals.

*Retail* means any transaction where the animal is sold to the final consumer.



*Running at large* means any animal, with the exception of a cat, that is not confined within a fenced enclosure or shelter capable of preventing the animal from exiting at will, unless under the control of a person, either by lead, cord, rope or chain; provided that an animal may be considered confined if it is on a leash, rope or chain which is sufficient to keep the animal on the premises where picketed in accordance with section 6.04.040(e)(14). For the purposes of this chapter, an animal shall not be considered running at large when on the owner's property and confined by an operating electronic fencing system when the premises are clearly and prominently marked to show the existence of the electronic fencing system and the animal is equipped with the necessary and operating components of the system required to confine the animal to the owner's property. Further, a dog shall not be considered to be running at large when it is unleashed inside a dog park owned or operated by the City of Wichita.

*Sale or offer for sale* includes transfers by sale or exchange.

*Sanitary* means clean, free from waste and free from infectious influences.

*Secure enclosure* means a locked enclosure or structure measuring at least six feet in width, 12 feet in length, and six feet in height, a secure top attached to the sides which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property, which has been inspected and approved by Animal Services Officer. Such enclosure shall have a concrete or wire floor to prevent the dog from digging out or escaping from the enclosure.

*Stockyard* means a public terminal stockyard posted by the packers and stockyards divisions of the United States Department of Agriculture.

*Unaltered* means an animal which has not been surgically sterilized.

*Veterinarian* means a doctor of veterinary medicine licensed by the State of Kansas.

*Veterinarian hospitals* mean a domestic animal hospital operated by a doctor of veterinary medicine, licensed by the state.

*Vicious propensity* means a known tendency or disposition to approach any individual or domestic animal in an attitude of attack when there is no provocation.

*Waste or wastes* means manure or the bodily discharge of all domestic animals, spilled feed or unconsumed feed and liquid cleaning wastes, including suspended solids resulting from cleaning operations.

*Wild animal* means any species that has established breeding populations currently within North America, which is self-sufficient in the natural environment, and the majority of whose populations are not domesticated.

SECTION 2. Section 6.04.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Control and protection of animals in general.

(a) Any owner, keeper or harbinger of any animal, other than cats, found running at large within the corporate limits of the city shall be deemed guilty of a misdemeanor. Knowledge or intention on the part of the owner, keeper or harbinger shall not be elements of this offense. An Animal Services Officer may seize, impound and cause to be destroyed any such animal, including those animals not within the definitions of the Kansas Pet Animal Act, using the procedures set out at K.S.A. 47-1710. The Supervisor of Animal Services may return the animal to its rightful owner, keeper or harbinger upon request and may require the payment of a service charge and a boarding fee for days spent in confinement at the shelter prior to return of the animal. If any animal impounded for any reason is determined by the Animal Services Officer to require confinement separate from other like animals in order to protect the health and wellbeing of that animal, staff, the

public, or other animals being housed at the animal holding facility due to any aggressive behavior and/or any disease or medical conditions, the boarding fee for such animal shall be twice the normal boarding fee established by the animal shelter.

Any person who is convicted of the charge of animal running at large shall be punished as set forth below:

(1) Upon a first conviction, a fine of not less than \$100.00 nor more than \$1,000.00 shall be assessed.

(2) Upon a second conviction a fine of not less than \$200.00 nor more than \$1,000.00 shall be assessed.

(3) Upon a third or subsequent conviction, a fine of not less than \$300.00 nor more than \$1,000.00 shall be assessed and the owner must appear in Municipal Court.

(b) In addition to the penalties set forth in paragraph (a), the owner, keeper or harbinger of any unaltered dog that has been impounded for running at-large shall be required to:

(1) Have an identification microchip implanted in the dog traceable to the current owner, and registered with the City of Wichita, and

(2) Have the dog surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog, at his or her own expense. It shall be a violation of this ordinance to fail to have the dog surgically sterilized, or provide proof from a licensed veterinarian that said dog has previously been surgically sterilized, or has been surgically sterilized and micro-chipped within thirty days after redemption of said dog as indicated in this ordinance, or

(3) The owner, keeper or harbinger may maintain the aforementioned dog intact by paying an additional unaltered animal fee, the amount of which shall be established by the Supervisor of Animal Services or designee, to redeem such dog from the Animal Shelter. Such dog may be maintained intact provided that the dog is not found to be running at large on any subsequent occurrence within the dog's lifetime.

(4) For any dog required to be surgically sterilized, the Supervisor of Animal Services shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. Such voucher shall remain valid for thirty (30) days. Any owner, keeper or harbinger failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or micro chipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.

(c) Upon the second occurrence of any intact dog impounded by Animal Services for running at large, the owner, keeper or harbinger of such dog shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of redemption of said dog at his or her own expense. For any animal required to be surgically sterilized, the Supervisor of Animal Services shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harbinger shall provide documentation of the sterilization upon completion. Any owner,

keeper or harbinger failing to provide documentation of the sterilization procedure within thirty days of impoundment shall be deemed guilty of a misdemeanor.

(d) Animals which are kept on the premises of any pet store shall not be allowed, by the storeowner or any employee, to run at large inside the store or on the external premises of the pet store during business hours, and no person shall allow any animal under their care or control to run at large on the premises of any store during business hours. This provision shall not apply to animals participating in supervised training classes within an enclosed area of the store.

(e) It is unlawful for any person to:

(1) Kill any squirrel or songbird within the corporate limits of the city, provided that it shall be permissible for Animal Services Officers or a person who has a wildlife control permit issued by the Kansas Department of Wildlife, Parks and Tourism to kill squirrels, skunks, birds, or other animals that have become so numerous as to cause destruction or nuisance to property or in the event of disease occurring among such squirrels, skunks, birds, or other animals that may be considered contagious to human beings;

(2) Interfere with or molest an animal used by the police or fire department of the city or other governmental agency or department in the performance of its lawful functions and duties or interfere with the handler of such animal in such a way that the handler is deprived of or inhibited in his control of such animal;

(3) Own, maintain, or have in his or her possession with the intent to use in the unlawful conduct of animal fighting, animal fighting paraphernalia;

(4) Own, keep or harbor on one's premises any animal, by a person convicted of animal fighting, pursuant to K.S.A. 21-6414 or convicted of cruelty to

animals as defined by Section 6.04.035 of the Code of the City of Wichita or K.S.A. 21-6412 and amendments thereto;

(5) Own, keep or harbor any animal, which, by loud, frequent, excessive or habitual barking, howling, yelping or other noise or action, unreasonably interferes with the use or enjoyment of property of any person of reasonable sensibilities residing in or occupying the area;

(6) Allow any unspayed female dog in season to be in an area where there is access by an unconfined male dog;

(7) Allow an unconfined male dog in an area where there is access to any unspayed female dog in season;

(8) Own, keep or harbor a dog over five months of age within the corporate limits of the city without such dog having a current vaccination against rabies performed by a veterinarian, and the owner thereof securing an annual license for such dog issued by the City Treasurer. The Chief of Police or designee shall have the authority to establish appropriate licensing fees for such animals;

(9) Own, keep or harbor a cat over five months of age within the corporate limits of the city without such cat having a current vaccination against rabies performed by a veterinarian licensed by the State of Kansas;

(10) Sell or offer for sale, barter or give away any living baby chicks, rabbits, ducklings, or other fowl except pigeons, under two months of age or to sell, offer for sale, barter, give away or display animals or fowl as specified in this subsection which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; provided, however, that this section shall not be construed to prohibit the sale of animals or fowl, as specified in this subsection,

in proper brooder facilities by hatchers or persons engaged in the raising and selling of such animals and fowls for recognized animal husbandry or commercial purposes;

(11) Continuously picket a dog for more than one continuous hour, except that picketing of the same dog may resume after a hiatus of three continuous hours. A dog may not be picketed for a total time period exceeding three hours, in any twenty-four-hour period.

For the purpose of picketing a dog, a chain, leash, rope, or tether shall be at least 10 feet in length.

a. A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to picket a dog shall not weigh more than one-eighth ( $1/8$ ) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed;

b. Dogs shall be picketed in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles;

c. It is unlawful to attach chains or other tether restraint implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

(12) Permit or allow any animal to be a public nuisance;

(13) Own, keep or harbor more animals than is permitted by the requirements of this title; and

(14) Entering or remaining on premises where the unlawful conduct of animal fighting is occurring whether the person knows or has reason to know that animal fighting is occurring on the premises.

(f) Animal Services Officers and Law Enforcement Officers may issue the owner or owners of animals creating a public nuisance, as defined in this title, a citation to appear in municipal court to answer the offense charged. To effect legal relief, persons may contact the Animal Services or contact the Wichita Police Department to file a report regarding such nuisance.

SECTION 3. Section 6.04.045 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Dangerous dog—Determination by Supervisor of Animal Services.

(a) The Supervisor of Animal Services or designee, may, without a public hearing and based on the facts available to him or her, declare a dog to be dangerous or potentially dangerous based on any one of the following guidelines:

1. The nature of any attack committed or wound inflicted by the animal and the need to put the community and owner on notice that the dog has displayed the propensity to inflict wounds or engage in aggressive or menacing behavior; or
2. The past history and seriousness of any attacks or wounds inflicted by the animal; or
3. The dog has exhibited an aggressive and vicious propensity toward persons or domestic animals and is capable of inflicting serious physical harm or death or damage to property; or
4. The conditions under which the animal is kept and maintained which could contribute to, encourage, or facilitate aggressive behavior, such as, but not



limited to, allowing the animal to run at large, tethering in excess of legal limits as defined in this chapter, physical property conditions, presence of young children, the elderly, or infirm within or residing near the home, any past violations of this chapter, and/or failing to provide proper care, food, shelter, or water; or

5. Whether the dog was owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting;
  6. In determining whether to deem a dog dangerous, the factfinder may consider potentially mitigating circumstances such as whether the bite or scratch was made in a playful manner without any sign of aggression or whether it was a response to pain, abuse, criminal trespass, and intentional provocation.
- (b) If a dog is deemed dangerous or potentially dangerous, the level shall specified as “potentially dangerous” or dangerous level 1, 2, or 3 based on the nature of the attack or wound combined with the totality of circumstances. The guidelines per level are advisory in nature and shall not bind the factfinder to a particular level if the totality of circumstances warrants a higher or lower level.
1. Potentially Dangerous: A minor bite, nip, scratch or abrasion where skin contact or nicks may be evident but no vertical puncture wound exists; or an attack, without an actual bite, which inhibits movement and/or otherwise qualifies as an “attack” pursuant to Section 6.04.010.
  2. Level 1: Any attack as defined by Section 6.04.010 or bite in an aggressive manner that pierces the skin; or any attack or bite subsequent to being deemed dangerous or potentially dangerous on a prior occasion.

3. Level 2: Any bite that requires medical attention; or any bite that includes deep punctures or bruising even when no medical attention is sought; or any attack or bite incident involving predatory aggressive behavior toward a human or other domesticated animal while running at large, including, but not limited to: chasing, stalking, circling, inhibiting movement, predatory or aggressive pack behavior; or any bite subsequent to being deemed dangerous or potentially dangerous on a prior occasion.
  4. Level 3: Any severe bite to a human requiring significant medical attention, wound closure, or other emergency medical attention; or an attack or bite with a demonstrated history of bites or attacks; or repeated non-compliance with Animal Services requirements that indicates a risk to the public; or circumstances otherwise indicating a pronounced and obvious risk to public health or safety.
- (c) If a dog is deemed dangerous or potentially dangerous, the conditions may be required of the dog's owner or harborer to guarantee the safety of the public including, but not limited to, attendance at an approved education course, canine aggression workshop or management plan, sterilization, liability insurance, or safety equipment.
- (d) The following conditions are minimum requirements that shall be ordered at each level:
1. Potentially dangerous requirements: mandatory signage and registration in accordance with Sections 6.04.047 and 6.04.048 and microchipping pursuant to Section 6.04.046 (e). If there are no further incidents or indications of aggression, either charged in court or uncharged, and all requirements have been met, upon application by the owner to the Supervisor of Animal Services, the potentially dangerous dog designation and all restrictions that accompany it, may be removed

after 24 months. The decision to lift the designation is at the discretion of the Animal Services Supervisor or designee.

2. Level 1 and Level 2: mandatory signage and registration in accordance with Sections 6.04.047 and 6.04.048, mandatory secure enclosure as specified in Section 6.04.046 (a), microchipping pursuant to Section 6.04.046 (e), and a letter from a landlord if one exists. If there are no further incidents or indications of aggression, either charged in court or uncharged, and all requirements have been met, upon application by the owner to the Supervisor of Animal Services, the Level 1 Dangerous Dog designation and all restrictions that accompany it, may be removed after 36 months. The decision to lift the designation is at the discretion of the Animal Services Supervisor or designee. The designation may never be removed from a Level 2 determination.

3. Level 3: Euthanasia is mandatory.

- (e) A dog that is harbored or maintained outside the city limits of Wichita, but committed acts within the city limits of Wichita that would deem it dangerous or potentially dangerous, may be deemed dangerous and any orders made pursuant to that determination will apply if the dog enters the city limits of Wichita.

- (f) Dangerous Dog – Notification procedure

If the Supervisor of Animal Services or a designee determines that a dog is dangerous or potentially dangerous, he or she will determine an appropriate disposition based on the known facts and consistent with the provisions of this chapter. The Supervisor of Animal Services or a designee may impound the dog and shall notify the owner of such determination by personal service, residential service at the person's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing

therein, or by certified mail addressed to the owner's last known address, or addressed to the location where the dog is maintained. If service is by certified mail Animal Services shall request return receipt with instructions to the delivering postal employee to show to whom delivered, the date of delivery, and address where delivered. Service of process by certified mail shall be considered obtained upon the delivery. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the Supervisor of Animal Services or designee shall send a copy of the notice to the defendant by ordinary, first class mail. This first class mailing shall be evidenced by a certificate of mailing. Service shall be considered obtained upon the mailing of this additional notice by first class mail.

SECTION 4. Section 6.04.046 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Dangerous dog—Failure to comply with orders.

- (a) It is unlawful for an owner, keeper or harbinger of a dangerous dog to permit the dog to be outside an approved or secure enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a responsible person who is 18 years of age or older and possesses sufficient strength for physical control of the animal. In such event, the dangerous dog shall be securely muzzled and restrained with a chain or leash not exceeding four feet in length, and shall be under the direct control and supervision of the owner, keeper or harbinger of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

- (b) Secure or approved enclosures required under this section must be approved by the Supervisor of Animal Services or designee and be adequately lighted and kept in a clean and sanitary condition.
- (c) The owner, keeper or harborer shall allow the access to the property where the dangerous animal is being harbored to facilitate inspections and insure compliance for the duration of the life of the animal or duration of the designation.
- (d) If the owner, keeper or harborer of ~~any~~ a dog that has been determined to be dangerous or potentially dangerous is required to have the animal surgically sterilized by a licensed veterinarian, it shall be completed within thirty days of the dangerous animal determination, at his or her own expense. For any animal required to be surgically sterilized, the Supervisor of Animal Services or designee shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner, keeper or harborer shall provide documentation of the sterilization upon completion. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or microchipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and micro chipping of the dog.
- (e) The owner, keeper or harborer of any dog that has been determined to be dangerous or potentially dangerous shall be required to have a microchip, traceable to the dangerous dog and the current owner, inserted into the dog and copies of documentation of said procedure available for review by the Supervisor of Animal ~~Control~~ Services. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or microchipping of the dog. Upon the renewal of

the license, the amount will be changed to reflect the altering and microchipping of the dog.

- (f) It is unlawful for anyone having prior felony convictions of Crimes Against Persons, Sex Offenses, Crimes Affecting Family Relationships and Children, and Crimes Involving Controlled Substances as defined in Chapter 21 of the Kansas Statutes Annotated to possess, harbor, own or reside on any premises with a dog deemed dangerous level 1 or 2 or 3.
- (g) It shall be unlawful for any person to:
  - (1) Harbor, keep or maintain a dangerous dog level 1 , 2 or 3 on property not owned by the person without the written consent of the land owner; or
  - (2) Sell, barter or give away to another person a dog which has been deemed dangerous level 1, 2 or 3; or
  - (3) Own, keep or harbor more than two dogs which have been declared dangerous by this title; or
  - (4) Transfer ownership or long-term care of a dog deemed potentially dangerous to any person without a written acknowledgement of the court orders signed by the person receiving the potentially dangerous dog and filed with the Supervisor of Animal Services. The person receiving the dog shall sign a document acknowledging the dog is deemed potentially dangerous and agree to the requirements that accompany that designation and file such document with the Supervisor of Animal Services.
  - (5) After acknowledging ownership or long term care of a dog deemed potentially dangerous, fail to comply with orders of fact-finder who deemed the dog potentially dangerous.

- (6) Fail to comply with boarding requirements: Any dog deemed dangerous level 1 or 2 shall be cared for by a licensed veterinarian or boarding facility in the event that short term boarding or housing becomes necessary. In the event of the owner's or harborer's absence, a dangerous dog may not be cared for by persons living outside the household other than a licensed veterinarian or boarding facility.
- (h) Should a previously determined dangerous or potentially dangerous dog be found running at large attack or inflict injury upon any person or domesticated animal or a previously determined dangerous or potentially dangerous dog be found running at large in violation of this section and the owner or harborer has not complied with the orders of the dangerous dog orders, the Judge of the Municipal Court shall, in addition to any other penalty provided in section 6.04.190, order the dog destroyed. Provided, however, the judge of the Municipal Court may, at his or her discretion, only for the question of ordering the dog destroyed consider whether the attack or injury was sustained by a person or animal who, at the time, was committing a criminal trespass or other tort upon the premises of the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, aroused, or assaulted the dog or was committing or attempting to commit a crime.
- (i) Failure to comply with any orders of the Supervisor of Animal Services, designee or any factfinder related to a dog being deemed dangerous or potentially dangerous is a misdemeanor and is punishable in accordance with Section 6.04.190(a).

SECTION 5. Section 6.04.047 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Signs required.

The owner of a dog deemed dangerous or potentially dangerous shall display in a prominent place at the entrance to his or her premises where the dog is housed a warning sign purchased from the City of Wichita Department of Animal Services indicating there is a dangerous dog on the premises. A sign is also required to be posted on the secure enclosure in which the animal is harbored. The Supervisor of Animal Services or designee may require additional signs if deemed necessary based on the layout of the property. Failure to post the required signs is a misdemeanor and is punishable in accordance with Section 6.04.190 (a).

SECTION 6. Section 6.04.048 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Registration and insurance.

- (a) The owner, keeper or person harboring a dangerous or potentially dangerous dog shall annually register the dog with the City of Wichita on such forms designated by Wichita Animal Services or designee. The owner, keeper or harborer shall complete an application and shall pay a \$50.00 annual registration fee for a potentially dangerous dog to the City of Wichita or a \$300 annual registration fee for a dog deemed dangerous level 1 or 2 and shall pay all costs associated with any other requirements ordered as a result of the dangerous dog designation. If the dog's owner had a valid dog license, such owner shall not receive a refund of the licensing fees paid for the altering or microchipping of the dog. Upon the renewal of the license, the amount will be changed to reflect the altering and microchipping of the dog.
- (b) The owner, keeper or person harboring a dog deemed dangerous or potentially dangerous shall notify the Supervisor of Animal Services in writing a minimum of seven calendar days prior to any change in the address of the owner, keeper or person harboring the dog or the location of the dangerous dog and arrange for an inspection of the new



property. Any owner, keeper or harbinger of a dangerous dog who fails to comply with this provision shall be deemed guilty of a misdemeanor in accordance with Section 6.04.190 (a).

(c) If the owner, keeper or person harboring a dangerous or potentially dangerous dog is required to maintain liability insurance, it shall be in the amount of at least \$100,000.00 dollars for each such dog against the potential injury or damage liabilities and hazards associated with the ownership or possession of such dog. The owner or person harboring a dangerous dog shall file with the Supervisor of Animal Services a certificate of insurance reflecting the required minimum insurance and shall notify the Supervisor of Animal Services of any changes to the insurance policy in writing within 7 calendar days of the change. Any owner, keeper or harbinger who fails to comply with this provision shall be deemed guilty of a misdemeanor and punished in accordance with Section 6.04.190 (a).

SECTION 7. Section 6.04.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Animal bite violations.

(a) No person who owns, possesses, harbors or exercises control over any animal shall do the following:

1. Permit or allow the animal to attack or bite any person or domestic animal not on the premises of such owner, keeper or harbinger;

2. Permit or allow the animal to attack or bite any person or domestic animal upon the premises of the residence of such owner, keeper or harbinger upon the premises of any business establishment not then open to the public. It is an affirmative defense to this paragraph if such premises are previously posted at each entrance with a prominent and

conspicuous sign warning all persons of the animal, and the animal is confined in a proper enclosure. It is also an affirmative defense to this paragraph that the attack or bite by the animal was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, theft or other crime upon the property;

3. Permit or allow the animal to attack or bite any person or animal upon the premises of any business establishment that is open to the public. It is an affirmative defense to this paragraph that the attack or bite by the animal was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, theft or other crime upon the property.

(b) For purposes of this section, the word "permit" shall mean allow or let happen. Knowledge or intention on the part of the person who owns, possesses, harbors or exercises control over the animal shall not be elements of this offense.

(c) The provisions of this section shall not apply to any law enforcement officer who uses an animal while engaged in law enforcement activities, nor to any owner, keeper or harbinger of any animal which attacks or bites a person engaged in physically attacking or striking such owner, possessor or keeper or harbinger.

(d) Penalties for violation of this section:

1. Upon a first conviction of any violation of the provisions of this section, a minimum fine of \$250.00 shall be assessed.

2. Upon a second conviction of any violation of the provisions of this section, a minimum fine of \$500.00 shall be assessed.

3. Upon a third or subsequent conviction, of a violation of any provisions of this section, a minimum fine of \$1,000.00 shall be assessed.

4. In addition to the minimum fines set forth above, the Municipal Court Judge may impose a term of imprisonment not to exceed ~~six~~ twelve months, and a fine not to exceed \$2,500.

SECTION 8. Section 6.04.190 of the Code of the City of Wichita, Kansas is hereby amended to read as follows:

Violation—Penalty.

(a) Except as otherwise provided for by the Code, a person violating any provision of this chapter is guilty of a misdemeanor and shall be punished by a fine of not more than \$2,500 or by imprisonment of not more than one year, or both such fine and imprisonment, provided the minimum fine for the following enumerated sections of this chapter shall be assessed as follows:

Section	Violation	Fine
6.04.040(a)(1)	Violation of Leash Law. 1st offense	\$100.00
6.04.040(a)(2)	2nd offense	\$200.00
6.04.040(a)(3)	3 or more offenses	\$300.00/court appearance
6.04.040(b)	Failure to microchip after 1 <sup>st</sup>	\$50.00/court appearance impound
6.04.040(b)(1)	Sterilization Violations after 1 <sup>st</sup> impound	\$100.00/(must show proof of sterilization, or court appearance)
6.04.040(c)	Fail to show proof of sterilization 2 <sup>nd</sup> impound)	\$150.00/court after appearance
6.04.060	Dog Bite Violations.	
6.04.060(a)(1)	1st offense	\$250.00/court appearance
6.04.060(a)(2)	2nd offense \$500.00/court appearance	

6.04.060(a)(3)	3 or more offenses \$1,000.00/court appearance	
6.04.080	Failure to confine rabies suspect animal \$250.00/court appearance	
6.04.110	Failure to obtain a license to keep a dog	\$50.00
6.04.140	No identification tags	\$35.00
6.04.155	No required breeding license	Mandatory Court appearance
AND:		
6.04.155(a)(1)	1st offense	\$100.00
6.04.155(a)(2)	2nd offense	\$250.00

- (b) Each day that any violation of this chapter occurs shall constitute a separate offense and shall be punishable under this chapter as a separate violation.
- (c) In addition to the penalties enumerated in subsections (a) and (b) of this section, the judge of the Municipal Court may, upon a person's third conviction of Sections 6.04.040(a), 6.04.040(a)(1), and 6.04.040(a)(2), involving the same animal within any twelve-month period, order such person's license to keep said animal revoked.
- (d) Any person who continues to own or harbor an animal after the license for said animal has been revoked is guilty of a misdemeanor.

SECTION 9. Section 6.04.210 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Appeal from Animal Services rulings

(a) Unless otherwise specified, any person dissatisfied with any order or determination of the Supervisor of Animal Services or designee made under his or her authority pursuant to this chapter may appeal such order or determination to the City Council, except the designation of dangerous or potentially dangerous dogs. An appeal shall be a de novo quasi-judicial proceeding from which further appeal may be taken to the District Court. An appeal must be filed with the City Clerk no more than 14 calendar days from the date of the written order appealed from. The City Council will hear the appeal no later than 30 days from the filing of such appeal.

(b) **Dangerous or Potentially Dangerous Dog—Appeal of decision of Supervisor of Animal Services**

The owner of a dog declared dangerous or potentially dangerous by the Supervisor of Animal Services or a designee may appeal the determination by filing a form provided by the City of Wichita Municipal Court within (14) calendar days of receipt of such notification. The completed form shall be submitted to the City of Wichita Municipal Court and a Municipal Judge will conduct an administrative hearing within 7 calendar days of receipt of the owner's appeal, unless good cause requires an extension of hearing date. At such hearing, testimony may be offered by the owner of the dog, animal trainers who have directly and personally evaluated the dog, Animal Services Officers or staff of Animal Services, victims of any bite or attack, witnesses to the dog's behavior, neighbors or other affected persons, and veterinarians concerning the vicious propensity of the dog. The Municipal Court Judge shall consider the factors listed in Section 6.04.045 (a) (1) through (6) and by applying substantial competent evidence shall either deem the dog potentially dangerous, dangerous and assign a level or shall overrule the dangerous or potentially dangerous determination made by

Animal Services. The Municipal Court will notify the owner in writing of the outcome of the hearing within five business days.

(c) Costs of Care at All Phases of Appeal

During all stages of any appeal process, the owner, keeper or harbinger of such animal shall be responsible for the cost of keeping such animal in the animal shelter. The owner, keeper or harbinger of such animal can file a renewable, non-refundable, cash or performance bond with the animal shelter where the animal is being held, within the appeal period, in an amount equal to the cost of care and treatment of the animal for 20 days. Said cash or performance bond shall be renewable for an additional 20 days and each successive 20 days the animal is held by Animal Services during the pendency of the appeal. Payment of said renewal shall be within five days of the running of the previous 20 day period. If said cash or performance bond, or its renewal, is not tendered to the Animal Shelter within the time specified above, then Animal Control Services shall have immediate ownership of such animal and the Supervisor of Animal Control Services shall determine the disposition of such animal. Absent such appeal, the Supervisor of Animal Control Services or designee may pick up and cause the animal to be destroyed, or in lieu of such destruction he or she may permit the confinement of the animal in a manner and location that he or she deems appropriate or as provided in Section 6.04.046.

(d) Appeal from the decisions of Municipal Court Judge

After a Municipal Court Judge conducts an Administrative Hearing and rules based on the substantial competent facts, the Municipal Court will notify the owner in writing of the outcome of the hearing within five business days. The owner may appeal the hearing outcome to the District Court of Sedgwick County within 14 days of the written notification. The District

Court will review the case to determine if the Municipal Court Judge's decision was supported by substantial evidence and that the administrative order was neither arbitrary nor capricious in accordance with K.S.A. 60-2101.

SECTION 10. Chapter 6.08. of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Title – DANGEROUS AND EXOTIC ANIMALS

SECTION 11. Chapter 6.08.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Definitions.

As used in this chapter:

1. *Dangerous wild animals* means carnivorous animals of a similar nature and species and venomous or otherwise dangerous reptiles, including but not limited to, alligators, iguanas, turtles, pythons other than ball, anacondas, boa constrictors, monitor lizards, caiman, crocodiles, tegus, coyotes, bobcats, foxes, wolves, lions, tigers, leopards, jaguars, cheetahs, mountain lions, or any hybrid thereof; bears or any hybrid thereof. Such term shall not include nonpoisonous and nonvenomous amphibians and reptiles including python regius or ball pythons and tortoises, unless prohibited by federal or state law.

*Exhibitor* means a person whose business involves the showing or displaying of animals to the public and who is a Class C USDA licensee as defined by 9 C.F.R. § 1.1, and amendments thereto excludes the Sedgwick County Zoo or other government owned animal facility.

*Exotic animal* means those animals not normally native to North America and animals of any species the majority of whose population are wild. This term specifically includes animals

such as, but not limited to, elephants, camels, antelope, monkeys, anteaters, kangaroos. The following animals are not considered exotic animals and are permitted within the City of Wichita:

1. Tropical or other fishes; except those prohibited by federal or state law.
2. Birds, except those prohibited by federal or state law.
3. Small animals such as gerbils, rats, mice, hamsters, guinea pigs, and ferrets; small mammals raised for harvesting fur salable into an existing market, such as chinchillas, nutria or mink.

*Secondary perimeter* means a fence, rope, elevation separation such as a stage, or some other physical arrangement as may be approved by the Chief of Police or designee by which the public is kept at such a distance from an animal as to avoid accidental or intentional contact with animals.

*USDA license* means a person licensed as a breeder (Class A), dealer (Class B) or exhibitor (Class C) in accordance with 9 C.F.R. § 1.1, et seq., as amended.

*USDA licensed facility* means a facility for the housing of dangerous wild animals or exotic animals operated by a person with an USDA license.

*Veterinary clinic* means a facility for the care and treatment of animals operated by a doctor of veterinary medicine licensed by the State of Kansas.

*Wild animal* means any species that has established breeding populations currently within North America, which is self-sufficient in the natural environment, and the majority of whose populations are not domesticated.

SECTION 12. Chapter 6.08.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Dangerous wild animal, wild animal and exotic animal - Presence in the city prohibited—  
Exceptions.



(a) It is unlawful to exhibit, keep, maintain, control, harbor or possess dangerous wild animals, wild animals, or exotic animals within the corporate limits of the city except in accordance with the provisions of this section.

(b) Dangerous wild animals, wild animals, and exotic animal are allowed within the city only under the following circumstances:

1. During exhibitions when under the direct supervision and presence of a person with the appropriate USDA license and in accordance with the requirements of Section 6.08.030;

2. While being transported directly to or from a USDA licensed facility when under the direct supervision and presence of a person with the appropriate USDA license and in accordance with the requirements of Section 6.08.040;

3. While being transported directly to or from a veterinary clinic when under the direct supervision and presence of a person with the appropriate USDA license and in accordance with the requirements of Section 6.08.040; or

4. While being held at a veterinary clinic.

SECTION 13. Chapter 6.08.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Exhibition requirements.

(a) Only Class C licensees who have registered as exhibitors as required by this chapter shall be allowed to exhibit exotic animals, wild animals and dangerous wild animals within the city.

(b) At least one Class C licensee must be present at all times at each exhibition and in direct physical control of the dangerous wild animals, wild animals or exotic animals being exhibited.

(c) Public contact with dangerous wild animals shall be prevented by a secure enclosure with a secondary perimeter to avoid public contact with the animals.

(d) Public contact with wild animals and exotic animals is permitted so long as a USDA licensee is present at all times and in direct control of exotic animal and proof of liability insurance is provided to Animal Services ten business days prior to any exhibition or event.

(e) Exhibitors must notify the Supervisor of Animal Services 10 calendar days prior to any exhibition within the city. The notice shall be in such manner as determined by the Supervisor of Animal Services and shall include the date, time and location of each exhibition.

(f) Prior to the conduct of any exhibition in the city, exhibitors shall file with the Animal Services copies of USDA permits applicable to these regulations. Upon the request of Animal Services prior to, during, or following an exhibition, exhibitors shall have available and present to the Supervisor of Animal Services or state health officials copies of health records, vaccination records and ownership records for the dangerous wild animals, wild animals or exotic animals exhibited.

(g) Exhibitors shall have a written protocol for first aid and medical attention in the event of an injury caused during exhibitions. Exhibitors shall maintain appropriate first aid equipment and supplies at an exhibition.

(h) Exhibitors shall maintain liability insurance covering any exhibition in the city in the amount of at least \$250,000.00 and naming the city as an additional insured. A copy of the insurance shall be provided to the city prior to the exhibition.

Any insurer shall notify the city in writing, of any expiration, reduction or cancellation of liability insurance required by this subsection not later than ten days before the expiration, reduction or cancellation takes effect. Any surety company who secures the performance of a bond shall notify the city in writing, of any expiration, reduction or cancellation of the bond as required

by this subsection, not later than ten days before the expiration, reduction or cancellation takes effect.

(i) All exhibitors shall comply with the requirements of section 3.09.120 regarding care and maintenance of any dangerous wild animal, wild animals, or exotic animals.

(j) All exhibitors shall be required to obtain an animal exhibition license pursuant to section 3.09.020 of the Code of the City of Wichita.

SECTION 14. Chapter 6.08.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Transportation.

(a) *Exhibitions.* Dangerous wild animals, wild animals, and exotic animals transported to or from an exhibition in the city shall be under the direct physical control of a Class C licensee and contained in a secure cage inside an enclosed vehicle so as to prevent accidental or intentional contact with the public.

(b) *Veterinary Clinic.* Dangerous wild animals, wild animals, and exotic animals transported to or from a veterinary clinic in the city shall be under the direct physical control of a person with an USDA license and contained in a secure cage inside an enclosed vehicle so as to prevent accidental or intentional contact with the public.

SECTION 15. Chapter 6.08.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Hearings.

Any person affected by any interpretation or requirement of Animal Services or any administrative penalty ordered under this chapter may request an Administrative Hearing pursuant to 6.04.210.

SECTION 16. Chapter 6.08.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Administrative penalty.

Notwithstanding any other remedy or procedure set forth in this chapter, any person who is found to have violated any provisions of this chapter, or any order issued thereunder, ~~any~~ may be assessed an administrative penalty. Such penalty may include the suspension or revocation of the right to conduct future exhibitions by the exhibitor. Any Administrative Penalty may be appealed to a Municipal Court pursuant to Section 6.04.210.

SECTION 12. The original of Sections 6.04.010, 6.04.040, 6.04.045, 6.04.046, 6.04.047, 6.04.048, 6.04.060, 6.04.190, 6.04.210, 6.08.010, 6.08.020, 6.08.030, 6.08.040, 6.08.050, 6.08.070, 6.08.080, of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 16. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 10th day of October, 2017.

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Jeff Longwell, Mayor

ATTEST:

Approved as to Form:

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Karen Sublett, City Clerk

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Jennifer Magana, Director of Law and City Attorney