

ORDINANCE G-1228

**AN ORDINANCE AMENDING SECTION 215.045, ENTITLED
“DANGEROUS DOG” OF CHAPTER 215, ENTITLED “ANIMALS,” OF TITLE
II, ENTITLED “PUBLIC HEALTH, SAFETY, AND WELFARE” OF THE
CODE OF ORDINANCES OF THE CITY OF JUNCTION CITY, KANSAS, TO
AMEND THE REQUIREMENTS AND DUTIES OF SECONDHAND
DEALERS COVERED BY SAID ORDINANCE**

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

SECTION 1: Section 215.045 – “Dangerous Dog” of the Code of Ordinances of the City
of Junction City, Kansas is hereby amended to read as follows:

SECTION 215.045: - DANGEROUS DOG

A. *Definition.*

"Dangerous dog" shall mean any of the following:

1. Any dog with a known propensity, tendency or disposition to attack, to cause injury, or otherwise threaten the safety of human beings or domestic animals; or,

Any dog which, in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places; or on private property other than on the property of the owner; or,
3. Any dog which, unprovoked, attacks or bites, or has attacked or bitten a human being or domestic animal; or,
4. Any dog owned or harbored primarily for the purpose of dog fighting shall only be considered dangerous if the dog is evaluated and dangerousness is concluded by a licensed veterinarian or an individual with experience in evaluating dogs seized in similar cruelty cases; or,
5. Any dog that has been determined to be a dangerous dog in an administrative hearing pursuant to Subsection 215.045(c); or,
6. Any dog that has become a dangerous dog upon first conviction pursuant to Ordinance 215.037 upon a first or subsequent conviction of Aggressive Animal-at-Large.
7. Notwithstanding the definition of a "dangerous dog," above, no dog may be declared dangerous if any injury or damage is sustained by a person or animal who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime; or,
8. No dog may be declared dangerous if an injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the dog. No dog may be declared dangerous if the dog was protecting or defending a human being or if the dog was protecting or defending her litter of offspring or offspring of the owner's property, within the immediate vicinity of the dog, from an attack or assault; or,

9. Nothing in this Section shall be deemed to regulate or prohibit the lawful maintenance and use of dogs by law enforcement agencies or include actions by a law enforcement dog while on duty or while performing duties; or,
- B. To be criminally liable under this subsection, a dog owner, harbinger, or possessor need not have a prior conviction for dangerous dog nor a prior administrative declaration of dangerous dog. Any reference in 215.045 to “*owner*” is a reference to the owner, keeper, harbinger, possessor, or other person in custody of the dog while exhibiting the alleged dangerous tendencies and/or behavior.
- C. *Administrative Procedure.*
1. *Initial Impoundment.* In the event that an Animal Control Officer or law enforcement officer has probable cause to believe that a dog is dangerous, as defined above, the Animal Control Officer or law enforcement officer may seize and impound such animal at the animal shelter unless the owner agrees to impound the animal at the owner's expense at any veterinarian within the city until the conclusion of any impending municipal court charge regarding the animal. If an animal is ordered to be impounded pursuant to this subsection, the person who owns, harbors, keeps or possesses such animal shall be entitled to a hearing in the municipal court within fourteen (14) days of such impoundment to review the propriety of such impoundment and whether a bond may be posted. Impoundment expenses shall be assessed as court costs against a convicted owner and any bond may be applied to such costs.
 2. *Citation.* Any police officer or animal control officer of the city is authorized to issue a uniform complaint and notice to appear to any person who own, harbors, keeps or possesses a dangerous dog when such officer has probable cause of an act or acts which are made unlawful by the provisions of this Section. The citation will give the person an initial appearance within fourteen (14) days of the seizure of the dog.
 3. *Hearing.* At the initial appearance, the owner of the dog shall be able to request a hearing on whether or not the dog is dangerous. The Court will determine whether to declare the dog dangerous at that subsequent hearing. The rules of evidence will apply. The City will bear the burden of proof at the hearing, which is by a preponderance of the evidence. The City must prove that the dog is dangerous pursuant to 215.045(a). Both the City and the owner shall be able to present witnesses and evidence.
 4. *Decision.* The failure to appear at the hearing by the owner shall not prevent the judge from issuing a ruling. After the hearing, the Court shall notify the owner of its decision in writing if the owner was not present.
 5. *Duties of Owner of Declared Dangerous Dog.* If the Court determines that a dog is dangerous and is still impounded, it shall remain so until the owner complies with the requirements of: licensing, confinement, registration, and spaying/neutering. If the owner fails to do so within thirty (30) days of the Court's decision, then the dog shall be deemed abandoned and subject to the impoundment procedure in 215.060(d).
 - a. The owner shall annually register the dangerous dog with the City pursuant to Subsection (G)(1). The microchip requirement must be done within thirty (30) days of release of the dog.
 - b. All dangerous dogs shall be confined in a secured enclosure as prescribed by Subsection (G)(2). If not in the required enclosure, then the dog shall be on a leash and muzzled.

- c. All dangerous dogs shall be spayed or neutered by a licensed veterinarian at the owner's expense before being released to the owner.
 - d. Following the above requirements within the prescribed period does not take away the owner's continuing obligations under Subsection (G).
- 6. *Appeal.* The City or the owner may appeal the Court's decision to the Gear County District Court pursuant to Article 46 of Chapter 12 of the Kansas Statutes. In the event of an appeal by the owner of a dog impounded hereunder, the bond for such an appeal shall include an amount to insure the payment of the costs of impoundment for fifteen (15) days and such bond may be adjusted during the pendency of such appeal. The failure to post such bond, or any adjustment thereto, within the timeframe established by the Court shall be deemed an abandonment of the dog by the owner, and the City shall have the right to dispose of the dog in any manner it determines to be applicable, including the destruction of the dog.
- 7. *Not Dangerous Ruling.* If the dog is not determined to be dangerous, the Court may determine whether the owner shall pay any, or all, of the costs of the impoundment, taking into consideration whether other reason(s) existed for impoundment, and such other relevant factors.
- G. *Dangerous Dog.* It shall be unlawful for any person to own, keep, or harbor a dog that such person knows or reasonably should know to be a dangerous dog, unless the owner complies with the following requirements:
 - 1. *Registration.* The owner shall annually register the dangerous dog with the City, on such forms designated by the City Clerk. Any application and reapplication must include documentation regarding the animal's vaccinations, alteration, and microchipping. The owner shall be responsible for maintaining and keeping registration of the dog with the City up-to-date. The owner shall pay an annual registration fee of \$50.00. The owner shall notify the City Clerk within five (5) business days of the following:
 - a. a change in the primary address of the dangerous dog, whether within in or outside of the City;
 - b. a change in the person who is the dog's owner;
 - c. death of the dangerous dog; or,
 - d. change in the information supplied in the application or renewal application for a dangerous dog license.
 - 2. *Identification.* The owner shall have a microchip inserted in the dog by a licensed veterinarian. The microchip shall remain in the dog for the remainder of the dog's life. Said microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog (owner, residence, phone number, etc.). The owner shall pay all costs associated with the microchip feature.
 - 3. *Confinement.* All dangerous dogs shall be confined in a secured enclosure. It shall be unlawful for any owner to maintain a dangerous dog upon any premises that does not have a secured enclosure. It shall be unlawful for any owner to allow a dangerous dog to be outside of the dwelling of the owner or outside the secured enclosure unless it is necessary for the owner to obtain veterinary care for the dangerous dog or for the limited purposes of allowing said dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be required.

4. *Muzzle.* In such event the dog leaves the required confinement, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner 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.
5. *Altering.* The dangerous dog shall be spayed or neutered by a licensed veterinarian. The application or reapplication of a dangerous dog license must include the dog's medical documentation showing it is spayed or neutered.

H. *Criminal Offenses Regarding Dangerous Dog*

1. *Dangerous Dog At-Large.* Any dangerous dog, per Subsection (A), that is not confined or registered as required shall be impounded by an animal control officer or a law enforcement officer. "At-large" is defined as in 215.035 and 215.037. Upon conviction, in addition to all costs for impoundment, the owner or keeper shall pay a fine:
 - a. *First Offense.* At least two hundred fifty dollars (\$250.00) but not more than five hundred dollars (\$500.00).
 - b. *Second Offense* within twenty-four (24) months, in addition to the impoundment fees, the owner or keeper shall pay a five hundred dollar (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed.
 2. *Dangerous Dog-Attack on Human.* If any dangerous dog or vicious dog as previously defined in this Section, shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, upon a conviction, the owner shall pay a fine of at least five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00), the animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed. All costs associated with rabies testing of the animal shall be assessed to the animal owner.
 3. *Dangerous Dog-Attack on Other Animal.* If any dangerous dog or vicious dog as previously defined in this Section, shall kill or wound, or assist killing or wounding, any domestic animal, upon conviction the owner shall pay a two hundred fifty dollar (\$250.00) fine. The animal control officer or law enforcement officer is empowered to impound the dog, and the dog shall be destroyed.
- I. It shall be an affirmative defense to Subsections (H)(2) and (3) of this section that the dog was provoked, teased, injured, and was protecting itself, its owner, its offspring or another human being.
- J. The impounded dog shall not be destroyed pending any appeals of convictions under Subsections (H)(1), (2), and (3) of this section. The dog shall remain impounded pending the determination of the complaint, except pursuant to Subsection (C)(1). If the court shall find that there has not been a violation, such dog shall be released to the custody of the owner. In addition to fines provided in this Section, the municipal judge shall have the authority to sentence the person adjudicated guilty of this Section to serve up to a maximum of six (6) months in jail.

SECTION 2. All ordinances and parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed.

SECTION 3. This Ordinance shall be effective upon publication as required by law. Passed and adopted by the Governing Body of the City of Junction City, Kansas this 4th day of September, 2018.

CITY OF JUNCTION CITY, KANSAS

Pat Landes
Mayor

ATTEST: (Seal)

Tammy Melton, City Clerk