

ORDINANCE NO. 24-24

AN ORDINANCE PERTAINING TO ANIMALS AND FOWL; AMENDING CHAPTER 6 OF THE CODE OF THE CITY OF EMPORIA, KANSAS AND REPEALING SAID CHAPTER AS IT EXISTED PRIOR TO THE ADOPTION OF THIS ORDINANCE.

BE IT ORDAINED by the Governing Body of the City of Emporia, Kansas;

Section 1. That Chapter 6 of the Code of the City of Emporia, Kansas, is hereby amended to read as follows:

“Chapter 6 ANIMALS AND FOWL

Art. I. In General, §§ 6-1–6-20

Art. II. Dogs And Cats, §§ 6-21–6-49

Div. 1. Generally, §§ 6-21–6-40

Div. 2. Pet Registration And Licensing, §§ 6-41–6-46

Art. III. Enforcement and Penalties, §§ 6-50–6-52

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions:

For the purposes of this chapter, the following terms, phrases, words and derivations shall have the meanings given herein unless otherwise specifically defined:

Animal: Any vertebrate creatures other than humans.

Animal Shelter: means the Emporia Animal Shelter or any premises designated by the City for the purpose of impounding and caring for animals held under the authority of this chapter.

Attack: means any violent or aggressive physical action or contact.

Community Cat: means any ear-tipped feral or stray cat that may be cared for by a designated caregiver in the immediate area.

Caregiver: means a person or animal welfare organization who is the registered party authorized to care for a Community Cat Colony. A community cat caregiver is a responsible party but not an owner or harbinger of a Community Cat Colony, and has no legal rights to feral cats.

Colony: means a group of community cats living together as a unit with a location registered with the Emporia Police Department or approved organization.

Domestic Animal: means a species of animal that is commonly kept by humans for their service, utility, or companionship.

Domestic Pet: means a dog, cat, or other species of domestic animal which is commonly kept by humans for pleasure rather than utility, whether such animal is owned or unowned.

Ear Tip: A straight line cutting of the tip of a feral cat's left ear to indicate that it has been sterilized and vaccinated against rabies.

Enforcement Officer: means an animal control officer, law enforcement officer, or any other person duly appointed to enforce this Chapter, with jurisdiction in the city limits of Emporia, Kansas.

Euthanasia: The humane destruction of an animal which may be accomplished by any of the methods provided for in K.S.A. 47-1718.

Exotic Animal: means any animal that is not native to the area where it is kept in captivity and is relatively rare or unusual to keep.

Farm Animal: means a domestic animal commonly raised on a farm or ranch and used or intended for use as food, fiber, or labor; including livestock and fowl.

Feral Cat: An unsocialized outdoor cat, including cats born in the wild or formerly owned cats that are no longer socialized.

Fowl: means a bird commonly raised on a farm for meat or eggs.

Handler: means a person in immediate physical charge of an animal.

Harborer: means a person who provides food, shelter, or otherwise accepts responsibility for the care or control of a domestic animal, whether temporarily or permanently. A community cat caregiver shall not be considered a harborer.

Impound: To seize, confine or restrain in custody.

Livestock: means large farm animals including cattle, equine, sheep, and goats. Fowl shall not be considered livestock.

Owner: Any person or persons having a right of property in an animal. A parent or legal guardian shall be deemed to be owner of animals owned or maintained by children upon their premises.

Person: means any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

Provocation: means an action likely to prompt physical retaliation that instigates, angers, or irritates, including, not limited to, teasing, tormenting, abusing, charging, or attacking.

Stray Cat: means a cat who lived indoors and was socialized to people, but has left or lost its home, or was abandoned, and no longer has regular human contact

Supervision: means within visual and auditory range of the owner or harborer

Sterilized: made infertile by surgical procedure

TNR: means a Trap-Neuter-Release program in which feral and stray cats are trapped, neutered or spayed, vaccinated against rabies, ear-tipped, and returned to a familiar location or colony.

Trap: Any mechanical device or snare which seeks to hold, capture or kill an animal.

Veterinary Clinic: Any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injury of animals.

Wild Animal: means any species of animal which is normally found living in the natural environment which is not commonly kept as domestic pets or farm animals.

(Ord. 97-38, § 1, 10-15-1997; Ord. 98-7, § 1, 3-4-1998; Ord. 15-33, 12-16-2015; Ord. 16-30, 7-20-2016; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-2. Animal Nuisance Prohibited:

- (a) It shall be unlawful for the owner or harbinger of any animal to cause, permit or fail to exercise proper care and control to prevent such animal from performing, creating, or engaging in an animal nuisance.
- (b) Animal nuisance is created when an animal:
 - (1) Molests or interferes with persons or domestic animals by chasing, jumping, barking, growling, charging, attacking, or behaving in a way that a reasonable person would find threatening, alarming, or aggravating;
 - (2) Creates noise for frequent or prolonged periods of time by day or night, disturbs the peace and quiet of any person of ordinary sensitivity within the vicinity of the noise;
 - (3) Creates noxious or offensive odors;
 - (4) Defecates upon any public place or upon premises not owned or controlled by the owner or harbinger unless promptly removed by the animal owner or harbinger;
 - (5) Creates an insect breeding and/or attraction site due to an accumulation of excreta;
 - (6) Damages property other than that of the owner or harbinger;
 - (7) Destroys or damages wildlife on property other than that of the owner or harbinger; or
 - (8) Threatens or causes a condition which endangers public health, safety or welfare.
- (c) Any animal found acting in a way forbidden by this article in the determination of the enforcement officer shall hereby be declared a nuisance, and its owner or harbinger shall be subject to citation.

(Ord. 97-38, § 1, 10-15-1997; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-3. Running At Large, Generally:

- (a) It shall be unlawful for an owner or harbinger of any animal to allow such animal to run at large. Knowledge or acquiescence by the owner or harbinger is not an element of the offense.
- (b) A cat shall be deemed running at large when the cat is found off the property of the owner or harbinger while causing an animal nuisance.
- (c) A dog or other domestic animal shall be considered running at large when such animal is found off the property of its owner or harbinger and not under the physical control of the owner or handler.
- (d) An animal shall not be deemed to be running at large if:
 - (1) The animal is securely attached to a leash or lead and under the control of the owner or handler;
 - (2) The animal is confined in a cage or carrier or within the enclosed interior of a motor vehicle;

- (3) The animal is a dog and, under the supervision of its handler, is using the City's off-leash dog park in accordance with the City's rules and regulations for any City off-leash dog parks; or
- (4) The animal is a service animal that has been individually trained to assist a person with a disability recognized under the Americans with Disabilities Act and is under the control of its handler through voice, signal, or other effective controls.

(Ord. 97-38, § 1, 10-15-1997; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-4. Tethering of Animals:

It shall be unlawful for any person to:

- (a) Use a tether or any assembly or attachments thereto to tether an animal that, due to weight, inhibits the free movement of the animal within the area tethered; or
- (b) Tether an animal on a choke chain or in a manner likely to cause injury, strangulation, or entanglement; or
- (c) Tether an animal in an open area where it can access streets, sidewalks, or other public right-of-way; or
- (d) Tether or restrain an animal upon any public property, or upon any private property without the consent of the owner or occupier of the property.

(Ord. 97-38, § 1, 10-15-1997; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-5. Animal Or Fowl Pens:

- (a) It shall be unlawful to maintain any stable, shed, yard, pen or other place in which animals or fowl shall be kept in such a manner as to be or become offensive to those residing in the vicinity or annoying to the public.
- (b) Any pen, coop or other building upon a lot used for the purpose of confining or housing the animal must be constructed of such material and in such manner that they can be kept clean and sanitary at all times.
- (c) Animal enclosures must provide adequate space for each animal, both horizontally and vertically, to be able to make normal postural and social adjustments and provide adequate freedom of movement.
- (d) Enclosures and fencing must be secure to hold the animals and must be kept in good repair.
- (e) No debris, garbage, water, excrement, or any other potential health hazard shall be allowed to accumulate or remain.
- (f) Fencing for the keeping of domestic farm animals shall meet the following additional requirements:
 - (1) Fencing shall not be closer than twenty-five feet (25') from the front lot line.
 - (2) The primary housing for livestock animals shall not be less than seventy-five feet (75') from the lot line and not less than one hundred feet (100') from any neighboring dwelling.

- (3) Chicken coops and runs shall be constructed in such a way as to keep chickens fully enclosed. Chickens must remain inside enclosures at all times. Chicken enclosures must meet the following additional requirements:
- a. Enclosures shall have a minimum of twelve (12) square feet per chicken, not to exceed fifty (50) square feet in total.
 - b. Enclosures shall be located fully within the backyard of the owner or keeper of the chickens. Enclosures shall not be located in the front yard or side yard.
 - c. Chicken enclosures shall not be closer than ten feet (10') from the lot line and shall not be closer than fifty feet (50') from any dwelling, church, school, or business structure other than that of the owner or keeper.
- (g) If an enforcement officer determines that a violation of this section exists, the officer may file a complaint with the municipal court for such violation. Each day that any violation of this Article continues may constitute a separate offense.
- (Ord. 97-38, § 1, 10-15-1997; Ord. 98-7, § 2, 3-4-1998; Ord. 22-48, § 1, 11-2-2022; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-6. Keeping Wild, Exotic, Dangerous or Vicious Animals:

- (a) Wild or Exotic Animals. It shall be unlawful for any person to own or harbor a wild animal or exotic animal. Persons who are licensed by the United States Department of Agriculture and hold an Animal Welfare Act license are exempt from subsection (a) as well as zoos accredited by the Association of Zoos and Aquariums, a wildlife sanctuary, research facility, or other appropriately licensed facility.
- (b) Dangerous Animals.
- (1) It shall be unlawful for an owner or harbinger of an animal to allow, cause, permit or fail to exercise proper care and control to prevent such animal from engaging in dangerous behavior.
 - (2) For purposes of this Chapter, “dangerous behavior” shall mean, without provocation, attacking a person, domestic pet animal, or livestock, and causing minor injury.
 - (3) For purposes of this Section, “minor injury” shall mean abrasions, shallow puncture wounds, or other injuries less serious than a “serious injury” as defined in subsection (c)(3).
 - (4) Dangerous behavior shall not include incidents in which the animal was protecting itself, its offspring, or a human being from threat or attack by a person or other animal.
 - (5) Keeping Requirements. Upon conviction of a violation of subsection (b)(1), the attacking animal shall be declared a dangerous animal by the Municipal Court and shall be kept subject to the following standards:
 - a. Leash and Muzzle. No person shall permit a Dangerous Animal to go outside its home or kennel unless such animal is securely leashed and under the control of a person who is at least 18 years of age. All Dangerous Animals on a leash outside the animal’s home or kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting people or other animals.

b. Confinement. Dangerous animals shall be securely confined when not leashed and muzzled. Securely confined shall means

1. within the home of the owner or harborer or within a securely enclosed kennel with secure sides, a secure top attached to the sides, and either has a secure floor attached to the sides or all sides of the pen are embedded into the ground no less than two feet deep; or
2. within a securely fenced yard of the owner or harborer when under the direct supervision of a person who is at least 18 years of age. In no event shall a dangerous animal remain in a fenced yard unsupervised. In no event shall a dangerous animal be permitted to be off-leash in a city dog park.

(6) Pending Disposition. Any animal remaining with or returned to its owner pending final disposition of dangerous animal charges shall be subject to the keeping requirements in subsection (b)(5).

(7) Failure to Comply. It shall be unlawful for the owner or harborer of a dangerous animal to fail to comply with the keeping requirements and conditions set forth in Subsection (b)(5).

(8) Any dangerous animal found to be the subject of a violation of any provision of this Chapter shall be subject to immediate seizure and impoundment.

(9) Upon a second or subsequent conviction of this Section involving the same dangerous animal, in addition to other fines and penalties, the court may order the immediate removal of the dangerous animal from the city, surrender of the animal to an animal shelter or rescue, or order the animal humanely euthanized. For purposes of this Section, conviction includes a finding of guilt, or entry into a diversion agreement. If the Municipal Court orders a dangerous animal to be humanely euthanized, such euthanasia order shall be subject to the provisions of subsection (f) Euthanasia.

(c) Vicious Animals

(1) It shall be unlawful to own or harbor a vicious animal.

(2) Vicious Animal shall mean an animal which, without provocation attacks and causes serious injury to any person, pet animal, or livestock.

(3) For purposes of this Section, "serious injury" shall mean deep puncture wound, crush injury, facial trauma, nerve damage, tendon damage, ligament damage, bone fracture, or other injuries requiring multiple sutures or surgery.

(4) No animal may be declared a vicious animal if the animal was protecting itself, its offspring, or a human being from threat or attack by a person or other animal when the incident occurred.

(5) In the event that an enforcement officer finds probable cause to believe an animal is vicious, that officer shall endeavor to issue a citation for a violation of subsection (c). Such animal shall be impounded at the Animal Shelter pending disposition of charges or further order of the municipal court.

- (6) In addition to other penalties imposed, upon conviction the municipal court shall order that the animal be humanely euthanized and direct the operator of the Animal Shelter or its veterinary designee to ensure that the order is enforced. Enforcement shall be subject to the provisions of subsection (f) Euthanasia.
- (d) Penalty. Any person violating this chapter shall, upon conviction, be punished by a fine of not less than \$75 and not more than \$500, or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment.
- (e) Cost of Care. Upon conviction of a violation of any provisions of this Section, in addition to other fines and penalties, the owner or harbinger of the animal shall be ordered to pay any relevant expenses for boarding fees, quarantine fees, euthanasia fees, veterinary services, or other expenses necessary for the care of the animal during any period of impoundment at the Animal Shelter.
- (f) Euthanasia. If the Municipal Court orders an animal to be humanely euthanized pursuant to this Section, that decision shall be final unless the defendant appeals to a court of competent jurisdiction for any remedies that may be available within the applicable appeal period and posts a cash bond sufficient to pay daily boarding fees for the animal during the appeal period.
 - (1) A bond for the care of the animal pending appeal shall meet the following requirements:
 - a. A cash bond shall be filed with the Municipal Court on or before the date of Municipal Court disposition and must be sufficient to pay for the care of the animal at the rate of \$20 per day for a period of at least 30 days. Such bond shall expire at the end of the time for which expenses are covered by the bond.
 - b. Prior to the expiration of an active bond, the defendant shall post a new cash bond sufficient to pay for the care of the animal for the next period of at least 30 days.
 - (2) The euthanasia order shall be suspended pending final determination, so long a timely appeal is filed and a cash bond for the care of the animal remains active.
- (g) Diversion. A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section only once during any five-year period. As a condition of diversion, the defendant shall be required to pay any cost of care for any period of impoundment of the subject animal as specified in subsection (e); and shall be required to keep the subject animal in accordance with the keeping requirements and conditions of subsection (b)(5) for the duration of the diversionary period.

(Ord. 97-38, § 1, 10-15-1997; Ord. 06-39, § 1, 12-20-2006; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-7. Keeping Swine:

It shall be unlawful to keep any pig, hog or swine of any kind within the city.

(Ord. 97-38, § 1, 10-15-1997; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-8. Dead Animals:

The owner of any animal that shall die within the city shall, within twenty-four (24) hours, cause the carcass to be removed beyond the city limits; in no case shall such owner permit such

carcass to remain in the open air in the city until it becomes offensive in smell. The provisions of this section shall not pertain to a legally authorized pet cemetery.

(Ord. 97-38, § 1, 10-15-1997; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-9. Trapping, Snaring, Etc.:

(a) It shall be unlawful for any person to use any trap, cage, snare or bait to catch, kill, maim, destroy or otherwise take any animal within the city; provided, that upon complaint to the Police Department that any wild animal has caused or is causing damage or destruction of property upon any private premises in the City, such animal may be taken into custody and destroyed by a pest control firm or person or company approved by the Police Department. This subsection shall not apply to common household pests, including, but not limited to, rats, mice, bats or moles.

(b) The chief of police may authorize private citizens to trap, cage, snare or bait animals within the city where such authorization will aid city, county, state or federal animal or game control officers in the performance of their appointed duties.

(c) This section shall not apply to enforcement officers as designated and authorized by the city.

(Ord. 97-38, § 1, 10-15-1997; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-10. Keeping Domestic Animals:

(a) It shall be unlawful to keep, cause to be kept, harbor, or maintain any domestic animal in any manner contrary to the provisions of this article or any other provision of the city code or zoning regulations.

(b) Domestic Pets. No person shall own or harbor more than - - - - -
- - - - - three dogs, no more than three cats, and no more than five total dogs and cats combined on the same premises; except that a litter of puppies or kittens may be kept for a period of time not exceeding six months from birth.

Persons legally owning dogs or cats in excess of the permitted number prior to September 1, 2024 shall be allowed to continue ownership of such animals, provided ownership remains with the same person. Veterinary records or animal registration records establishing ownership of such dogs or cats prior to September 1, 2024 shall be presented to an enforcement officer upon request.

(c) Farm Animals. No person shall own or harbor any farm animal in a residential zone of the city without a permit. Any person who desires to own, keep, or harbor one or more farm animals may apply to the City Clerk for a Farm Animal Permit that shall, upon issuance, permit the applicant to keep the animals specifically allowed in that permit.

(1) Farm Animal- - - Permits. The City Clerk shall establish an application process to be followed by all individuals seeking a Farm Animal Permit. Such permits shall be issued for the period from January 1st through December 31st of each year. The City Manager is hereby authorized to set fees and fee-related policies for the Farm Animal Permit. All fees shall be nonrefundable and nontransferable.

a. Criteria. All applicants must adequately show that: (1) the keeping of the animals will not create a nuisance in the surrounding neighborhood, (2) humane care will be provided, and (3) the premises where the animals are kept

is suitable for the keeping of the number and type of animals requested and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to, the following:

1. The animals will be kept or maintained at all times in a safe and sanitary manner.
 2. The outdoor quarters in which the animals are kept or confined will meet the requirements of Sec. 6-5 Animal of Fowl Pens.
 3. The keeping of such animals will not create any animal nuisance by virtue of their behavior, number, type, or manner of keeping.
 4. The animals will not be found at large, will not damage the property of others, and will not molest or intimidate pedestrians or passersby.
 5. The applicant, or any person who will share in the care, custody, and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state, or federal laws, codes, or regulations pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.
- b. Rented Property. Persons applying for a permit on rented property must provide a signed and notarized letter from the property owner granting permission to keep the requested animals on the property.
- c. Prohibitions. Farm Animal Permits shall be subject to the following prohibitions:
1. No livestock animal shall be permitted on any premises less than one acre in size.
 2. No more than one large livestock animal per acre shall be permitted, including bovine and equine.
 3. No roosters shall be permitted.
 4. No swine shall be permitted.
 5. No unpermitted animals shall be permitted.
 6. Offspring of permitted animals may only remain on the permitted premises until the age of weaning in the case of mammals, or in the age of maturity in the case of fowl.
 7. No commercial farm operations or slaughtering shall be permitted.
- d. Number of Animals. No more than 5 total domestic animals of any species or breed will be allowed under a farm animal permit.

(2) Application and Investigation.

- a. Upon receipt of application, the City Clerk shall forward the application to an Enforcement Officer designated by the City Manager for investigation. The

Enforcement Officer shall review the application and inspect the premises during the investigation process.

- b. Any applicant shall be required to show proof of meeting the required standards by clear and convincing evidence.
 - c. The enforcement officer shall submit a written report to the City Clerk stating the factual basis for its recommendation to grant or deny the application. The enforcement officer may consider the comments of neighbors, past violations by the applicant, the size, condition, and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant, or any other factors relative to the issue of keeping domestic pet or farm animals.
 - d. Any permits issued shall be issued for the individual applicant at a specific premises for the animals listed in the application. A permit shall not transfer to a new owner. An animal subject to a Farm Animal Permit may be replaced with an animal of the same species, breed, and sex, and a new permit shall not be required. Any other changes shall require a new application and permit. Such changes should be reported to the City Clerk within 14 days. Nothing in this Section shall exempt or except any applicant or any other person from any other requirement of this Chapter.
- (3) Determination. Applicants for a Farm Animal Permit will be notified in writing when a determination has been made. The City Clerk shall deny any application where the applicant fails to show proof of the permit criteria.
- (4) Permit Revocation. A Farm Animal Permit may be revoked by the City Clerk upon a showing that; (1) the animal's place of keeping constitutes a nuisance to the surrounding neighbors, (2) humane standards of care are not being met by the permittee, (3) a non-permitted animal is being kept on the premises, (4) evidence of a prohibited activity is found on the premises, (5) a violation of this Chapter of has occurred, (6) a violation of zoning regulations has occurred, or (6) the permittee provided false information in their application.
- (5) Appeal. In the event of a denial or revocation of a permit, the City Clerk shall notify the applicant by first class mail, and the applicant shall then have ten (10) calendar days in which to appeal the determination to the property maintenance appeal board.
- (d) Exemptions. The provisions of subsections (b) and (c) shall not apply to a licensed animal shelter, licensed veterinary clinic or other licensed facility where animals are kept in accordance with licensing requirements; a properly zoned kennel as defined and authorized by the zoning regulations; or a service animal that has been individually trained to assist a person with a disability as recognized under the Americans with Disabilities Act.
- (Ord. 97-38, § 1, 10-15-1997; Ord. 98-7, § 3, 3-4-1998; Ord. 22-48, § 2, 11-2-2022; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-11. Impoundment, Redemption, and Adoption of Animals:

- (a) Any domestic animal found by an enforcement officer to be kept or maintained in violation of the terms of this chapter may be impounded in the manner provided by law.
- (b) Animals impounded at the Animal Shelter which are not subject to quarantine or court hold shall be safely kept for a period of three (3) business days following the day of receipt of the animal, during which time such animal may be released to the owner or harbinger upon payment of fees and costs for the care of the animal.
- (c) The fee for impoundment and keeping a dog or cat, or other animal, shall be twenty dollars (\$20.00) per day, including the day of capture. The owner or harbinger of an animal impounded at the animal shelter shall also be responsible for the cost of reasonable veterinary care for the animal during impoundment, if any. Impoundment fee may be waived at the discretion of the animal shelter.
- (d) Animals not redeemed by the owner or harbinger within the statutory holding period may be made available for adoption to a suitable prospective owner. An adoption fee may be charged to a prospective owner. No dog or cat shall be transferred to the permanent custody of a prospective owner unless such dog or cat has been surgically spayed or neutered; or the prospective owner signs an agreement to have the dog or cat spayed or neutered and deposits an amount as determined by the animal shelter which shall be refunded upon presentation of a written statement signed by a licensed veterinarian that the dog or cat has been spayed or neutered
- (e) It shall be unlawful for an owner or harbinger to fail to reclaim an animal impounded at the animal shelter within three (3) business days of impoundment.

(Ord. 97-38, § 1, 10-15-1997; Ord. 03-22, § 1, 5-21-2003; Ord. 06-39, § 2, 12-20-2006; Ord. 15-33, 12-16-2015; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-12 Reckless Animal Owner; declaration.

- (a) Any person convicted of a violation of one or more violations of this chapter on three separate occasions in a thirty-six (36) month period may be declared a reckless animal owner by the municipal court.
- (b) Any person declared a reckless animal owner shall, at the time of declaration, advise the court of the breed, age, sex, and pattern of currently owned animals.
- (c) Once declared a reckless animal owner, it shall be unlawful for a person to acquire, own, keep, possess, or harbor any additional animals for a period of up to five (5) years from the date of the declaration.
- (d) If a person is convicted of further violations of this Chapter after being declared a reckless animal owner, the municipal court may order the subject animal to be surrendered to an enforcement officer or subject to other disposition as determined by the court.

(Ord. 24-24 § 1, 8-21-2024)

Secs. 6-13–6-20. Reserved:

ARTICLE II. DOGS AND CATS

DIVISION 1. GENERALLY

Sec. 6-21. Repealed. (Rep. by Ord. 24-24, 8-21-2024)

Sec. 6-22. Repealed. (Rep. by Ord. 24-24, 8-21-2024)

Sec. 6-23. Repealed. (Rep. by Ord. 24-24, 8-21-2024)

Sec. 6-24 Rabies:

- (a) It is unlawful for any person to own or harbor any dog or cat six (6) months of age or older unless such dog or cat is currently vaccinated against rabies. The rabies vaccination receipt issued at the time of vaccination shall be carefully preserved by the owner or harbinger of the dog or cat and exhibited promptly upon request for inspection by an enforcement officer.
- (b) If at any time rabies shall be reported or suspected to be in the city or vicinity, the chief of police shall have the right and power to compel the muzzling of all dogs during a period to be fixed by him in a notice published in the official paper; and it shall be unlawful to disobey such notice. (Ord. 87-3, § 1, 1-21-1987; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-25. Animal Bites and Quarantines:

- a) Any person with knowledge that a dog, cat, or other domestic mammal has bitten and penetrated the skin of a human or animal, or with knowledge that a human or animal has been exposed to rabies, shall promptly report such bite to the Police Department or the Lyon County Public Health Office. Rabies quarantine procedures shall be initiated when appropriate, in accordance with the provisions of this section and in conjunction with Lyon County Public Health orders.
- b) Any domestic mammal that bites and penetrates the skin of a human or other domestic mammal shall be confined and quarantined for a period of not less than ten (10) days, in the following manner:
 - 1) Quarantine confinement shall take place either at a licensed animal shelter or veterinary clinic until such time as the Public Health Officer finds that such dog or cat shows no evidence of having rabies.
 - 2) If it is determined that a dog or cat is suffering from rabies, it shall be forthwith euthanized; otherwise, it shall be released from quarantine at the end of the confinement period unless the animal is subject to court hold for impoundment.
 - 3) The owner or harbinger of confined animals shall be responsible for the payment of any cost of such confinement and any additional fees relative to the confinement or maintenance of the animal. The fee for keeping a quarantined dog or cat at the city animal shelter shall be twenty dollars (\$20.00) per day or part thereof, plus any other applicable animal shelter fees.
- c) All orders of the Public Health Officer regarding observation, quarantine, euthanasia, and testing shall be followed.
- d) Failure to report a bite or rabies exposure as required in subsection (a) shall, upon conviction, be punished by a fine of not less than \$50.00.
- e) Failure to comply with an observation, quarantine, or euthanasia order shall, upon conviction, be punished by a fine of not less than \$150.00 and not more than \$500.00, or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment.

(Ord. 87-3, § 1, 1-21-1987; Ord. 03-22, § 3, 5-21-2003; Ord. 06-39, § 3, 12-20-2006; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-26. Repealed. (Rep. by Ord. 24-24, 8-21-2024)

Sec. 6-27. Repealed. (Rep. by Ord. 24-24, 8-21-2024)

Sec. 6-28. Repealed. (Rep. by Ord. 24-24, 8-21-2024)

Sec. 6-29. Proper Confinement of Cats and Dogs in Heat Required:

The owner of any female cat or dog shall, during the period that such animal is in heat (estrus), keep it securely confined and enclosed within a building or secure enclosure. The area of the enclosure shall be so constructed that no other cats or dogs may gain access to the confined animal except for purposes of planned breeding.

(Ord. 87-3, § 1, 1-21-1987; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-30. Community Cats, Colonies, and Caregivers:

- a) Community cat colonies are authorized to remain in the city under the care of a community cat caregiver, subject to the requirements of this Section.
- b) Community Cat Caregiver Requirements:
 - 1) Community cat caregivers must register with the animal shelter or other organization approved by the Police Chief.
 - 2) Registered caregivers are authorized to provide food, water, shelter, and medical services to community cat colonies.
 - 3) A registered caregiver is not an owner of a community cat colony and has no legal rights to feral or stray cats in the colony. The responsibility of a community cat colony does not impact the caregiver's right to ownership of pets in accordance with this Chapter.
- c) Community Cat Colony Requirements:
 - 1) A community cat colony must have a registered caregiver.
 - 2) All cats that are part of a community cat colony shall be sterilized, vaccinated against rabies, and ear-tipped at the supervision of a licensed veterinarian. FVRCP vaccination is encouraged. TNR programs shall be permitted to be practiced by community cat caregivers, organizations, and animal control, in compliance with any applicable federal or state law.
 - 3) Community cats in a registered colony are exempt from pet registration and licensing requirements.
- d) Public Nuisance:
 - 1) For purposes of this Section, public nuisance means any repeated acts of a cat or cats within a registered community cat colony that damages rights and privileges common to the public or enjoyment of public and private property or indirectly injures or threatens the safety of a member of the public. Such actions include but are not limited to, urinating or defecating on a complainant's property or immediately adjacent public property, destruction of complainant's property or

public property, unwanted and repeated squatting on complainant's property, destruction to wildlife or other animals upon complainant's property or public property. The standard by which to judge whether the Community Cat Colony is a public nuisance is that of a reasonable person.

- 2) If an enforcement officer has reason to believe that one or more cats in a registered colony are creating a public nuisance, the enforcement officer shall provide notice in writing to the registered caregiver regarding the nature of the nuisance.
- 3) If the caregiver fails to resolve the nuisance within 30 days or fails to cooperate with the enforcement officer in abating the nuisance, an enforcement officer may remove one or more cats from the colony or may remove or relocate the entire colony. In addition, the caregiver's registration may be revoked.
- 4) Nothing in this section shall limit the authority of an enforcement officer to enforce the provisions of this Chapter.

(Ord. 24-24 § 1, 8-21-2024)

Secs. 6-31–6-40. Reserved:

DIVISION 2. PET REGISTRATION AND LICENSING

Sec. 6-41. Required:

It shall be the duty of every owner or harbinger of a dog or cat within the limits of the city to cause said dog or cat to be registered in accordance with the provisions of this article.

(Ord. 87-3, § 1, 1-21-1987; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-42. Fee:

- (a) The owner or harbinger of a dog or cat shall pay an annual registration and licensing fee as follows:
 - (1) For each neutered male dog or cat or spayed female dog or cat, fifteen dollars (\$15.00).
 - (2) For each unneutered male dog or cat or unsplayed female dog or cat, forty dollars (\$40.00).
- (b) An owner of a dog or cat that meets the following conditions may be exempt from the requirements for subsequent annual registration and affixing of dog tags under this Article, after the first such registration, when:
 - (1) the animal has been implanted with a unique and identifying microchip capable of being read by an external reader owned by the organization administering dog registration under a contract with the City;
 - (2) the animal has current vaccine for rabies; and
 - (3) the animal has been sterilized and the owner has presented satisfactory evidence of sterilization as defined in subsection (1) of this section.

- (c) The annual registration and licensing fee shall be due and payable on January 2 of each year or within three (3) days after a dog or cat is brought into the city or arrives at the age of six (6) months. All licenses shall expire on December 31 of the year issued.

(Ord. 87-3, § 1, 1-21-1987; Ord. 87-24, § 1, 8-19-1987; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-43. Application, Proof of Vaccination and Issuance of Tag:

- (a) It shall be the duty of every dog or cat owner or harborer within the city annually to furnish to Police Department or Animal Shelter an apt description of any dog or cat of which he is the owner or harborer, and to pay the annual registration and licensing tax.
- (b) Each licensed cat or dog shall receive a new tag for each year, which shall have stamped or engraved thereon the year of issue, the words "Emporia City Tag" with a number thereon corresponding with the number on the receipts and descriptions; provided, that no receipt shall be given or tag issued until the owner or harborer shall furnish a certificate signed by a registered veterinarian showing thereon said dog has been inoculated for rabies either with:

- (1) Killed tissue vaccine (sometimes known as "one year vaccine"); or

- (2) With the modified live virus vaccine (sometimes known as "three year vaccine");

and that said vaccination is current and valid.

(Ord. 87-3, § 1, 1-21-1987; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-44. Display Of Tag; Duplicate Tags:

It shall be the duty of every owner or harborer of a dog or cat upon which the tax has been paid and which has been registered and licensed as provided to put around the neck of such dog or cat a collar and annually attach thereto securely with a metallic fastening the tag provided for in this article and cause such tag to be constantly worn by such dog or cat until the license is renewed; or shall be available for presentation upon demand to an enforcement officer. When any tag has been lost, the chief of police shall, upon presentation of the receipt showing that the tax has been paid on such dog or cat, issue to the person requesting the same a duplicate tag upon payment of the sum of five dollars (\$5.00).

(Ord. 87-3, § 1, 1-21-1987; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-45. Repealed (Rep. by Ord. 24-24, 8-21-2024)

Sec. 6-46. Exemptions:

The provisions of this division shall not apply to:

- (a) A dog or cat which is less than six (6) months old; or
- (b) A dog or cat temporarily in the city accompanied by its owner or harborer who is a nonresident of the city, provided that a dog or cat visiting in the city for more than thirty (30) cumulative days shall be registered and licensed; or
- (c) An ear-tipped community cat.

(Ord. 87-3, § 1, 1-21-1987; Ord. 15-33, 12-16-2015; Ord. 24-24 § 1, 8-21-2024)

Sec. 6-47–6-49 Reserved.

ARTICLE III. ENFORCEMENT AND PENALTIES

Sec. 6-50. Enforcement.

- (a) It is hereby made the duty of an Enforcement Officer, or anyone having the authority of an Enforcement Officer, to enforce the terms and provisions of this Chapter. An Enforcement Officer is authorized to issue citations to any person found in violation of this chapter, and to impound any animal which is the subject of such violation.
- (b) The City Manager or Police Chief may appoint persons to be known as Enforcement Officers whose duties it shall be to assist in the enforcement of this Chapter.

(Ord. 24-24 § 1, 8-21-2024)

Sec. 6-51. Penalties, Generally.

- (a) Any person convicted of a violation of any provision of this Chapter shall be deemed guilty of an ordinance violation, and upon conviction of any such violation shall, unless other specific penalty or penalty range is provided by another Section of this Chapter, be punished by a fine of up to \$500.00, or by imprisonment for a term not to exceed 30 days, or by both such fine and imprisonment.
- (b) Any person violating any of the following sections of this Chapter:
 - Sec. 6-2 pertaining to animal nuisance;
 - Sec. 6-3 pertaining to animals running at large; or
 - Sec. 6-29. pertaining to proper confinement of cats and dogs in heatshall, upon conviction, be sentenced by the court according to the following schedule of minimum fines:
 - First offense: \$50.00
 - Second offense: \$100.00
 - Third or subsequent offense: \$250.00
 - (1) Conviction includes being convicted of a violation of the same city code provision or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of the same city code provision.
 - (2) Any conviction or entry into a diversion agreement within the 5 years preceding the offense date shall be considered for purposes in determining whether an offense is a first, second, third, fourth or subsequent.
- (c) Any person violating any of the following sections of this Chapter:
 - Sec. 6-4 pertaining to tethering;
 - Sec. 6-9 pertaining to trapping and snaring; and
 - Sec. 6-24 pertaining to rabies vaccination;
 - Sec. 6-30 pertaining to registration of community cat caregivers; or
 - Sec. 6-41 pertaining to dog and cat registration

shall, upon conviction, be punished by a fine of not less than \$50.00. Each day's violation may constitute a separate offense.

(d) Any person violating any of the following sections of this Chapter:

Sec. 6-5 pertaining to animal or fowl pens;

Sec. 6-7 pertaining to the illegal keeping of swine;

Sec. 6-8 pertaining to removal of dead animals;

Sec. 6-10 pertaining to the illegal keeping of domestic animals;

shall, upon conviction, be punished by a fine of not less than \$75.00. Each day's violation may constitute a separate offense.

(e) In addition to the penalties listed in this Section, the municipal court may also order reasonable restitution and any other remedy as may be from time to time provided or allowed by other applicable law.

(Ord. 24-24 § 1, 8-21-2024)"

Section 2. That Chapter 6 of the Code of the City of Emporia, Kansas as it existed prior to the adoption of this ordinance is hereby repealed.

Section 3. This ordinance shall take effect upon its publication in the official city newspaper.

Section 4. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Emporia, Kansas as an addition or amendment thereto and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

PASSED AND APPROVED by the Governing Body of the City of Emporia, Kansas, this 21st day of August 2024.

Erren Harter, Mayor

ATTEST:

Kerry Sull, City Clerk