

CHAPTER II. ANIMAL CONTROL AND REGULATION

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ARTICLE 1. GENERAL PROVISIONS

2-101. DEFINITIONS. For the purposes of this chapter, the following words and phrases shall mean:

(a) Abandon includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(b) Animals means all vertebrate and invertebrate animals such as but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals. This term also includes reptiles, fish, bees or birds that have been tamed, domesticated or captured when such animals would be recognizable as a domesticated.

(c) Animal Control Officer: Any employee of the City empowered by the Public Works Director to enforce the provisions of this chapter, as approved by the Governing Body.

(d) Animal Shelter means the facility or facilities operated by the city or another agency by Interlocal agreement or contract for the purpose of impounding or caring for animals under the authority of this chapter or state law.

(e) 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.

(f) Cat means any member of the species felis catus, regardless of sex.

(g) Dangerous Animal means any animal deemed to be dangerous or vicious per section 2-104.

(h) Dog means any member of the species canis familiaris regardless of sex.

(i) Fowl means all animals that are included in the zoological class avis, which shall include, but is not limited to, chickens, ducks, geese, turkeys, guineas and pigeons.

(j) Harbor means any person who shall allow any animals to habitually remain or lodge, or to be fed within his or her home, store, yard, enclosure or place of business or any other premises where he or she resides or controls, such definition to specifically include the habitual feeding of wildlife in a manner that encourages wildlife to remain on or near ones premises.

(k) Humane Live Animal Trap means any cage trap that upon

activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

(l) Humanely Euthanize means the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method approved by the American Veterinary Medical Association or the American Humane Society.

(m) Immediate Control means the regulation and supervision by a person with the ability to restrain an animal so that the animal is unable to run or get loose at will.

(n) Impound means the capture and/or kenneling of a dog.

(o) Kennel means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in location only, more than two (2) dogs.

(p) Livestock includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(q) Mistreatment: Includes every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

(r) Neutered means any male or female cat or dog that has been permanently rendered sterile.

(s) Own means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any animal which is subject to the provisions of this chapter, the minor's parent, or the owner/lessee of the real property of which such minor and animal resides shall be deemed to "own" such animal for the purposes of this chapter.

(t) Owner means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (q) above.

(u) Running at large means any animal that is 1) off the premises of its owner, keeper or harbinger, 2) not confined within a fenced enclosure or shelter, or 3) not under the effective control of a person, either by lead, cord, rope or chain not exceeding ten (10) feet in length; 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 this Code. For the purposes of this definition, "the premises of its owner, keeper, or harbinger" shall not include common areas of the grounds or a condominium, townhouse or apartment, and unrestrained animals upon those areas shall be deemed to be running at large.

(v) Tether or Picket: Means attaching a leash, rope, chain, lead, or other similar apparatus or device to the body of an animal and another object for the purpose of confining the animal or limiting the movement of the animal.

(w) Vaccination means an injection of a vaccine, approved by the State Board of Public Health and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

(x) Vicious Animal means any animal deemed to be dangerous or vicious per section 2-301.

(y) Veterinarian means a doctor of veterinary medicine licensed by the State of Kansas.

2-102.

ANIMAL CONTROL OFFICER; DUTIES AND AUTHORITY TO ENTER. (a) The animal control officer shall have the duty and power to enforce all articles and sections of this chapter.

(b) The animal control officer, or any law enforcement officer, shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter or to prevent mistreatment of such animal as defined by this code.

(c) If the designated animal control officer is a designee of the Public Works Director, such animal control officer shall identify themselves as the acting animal control agent for the city when entering upon property for animal control purposes. The designated animal control officer may issue warning citations or complaint alleging violation of this chapter to any individual regarding violation of this Chapter. Such warning citations shall be kept in the office of the Public Works Director. Such non-law enforcement animal control officer shall also sign complaints as the complainant alleging violations of this chapter.

(d) No person shall willfully hinder, obstruct or otherwise interfere with any city official, city employee, or employee of the Sedgwick County Health Department in the discharge of his or her duties under this chapter, or any article or section of this chapter.

(e) The Animal Control Officer may bring a licensed veterinarian to the premises where an animal is alleged to have been subjected to inhumane treatment to inspect the premises where any animal was maintained and make a report for use by the Animal Control Officer. The cost of a veterinarian may be assessed to anyone convicted.

(f) It shall be the duty of the animal control officer to keep or cause to be kept records of the impoundment and disposition of all impounded animals and of animal bites reported to such officer.

2-103.

RUNNING AT LARGE. (a) It shall be unlawful for the owner or person having control of any animal other than a cat or cats to permit the same to run at large.

(b) Any owner of any animal, other than cats, found running at large within the corporate city limits shall be cited for violation of this section. Knowledge or intention on the part of the owner shall not be elements of this offense. The animal control officer may seize, impound and cause to be destroyed any such animal, pursuant to the provisions of K.S.A. 47-1701I et seq., and amendments thereto. The animal control officer may cause any such impounded animal to be returned to its rightful owner upon the payment of a service charge and a boarding fee for days spent in confinement at the shelter prior to return of the animal. Citations for dog running at large and all other violations of this code are separate matters from impound and boarding fees.

(c) Any animal injured or found to be ill on public property while running at large shall be removed by an animal control or law enforcement officer who shall, if necessary, place such animal or animals in the custody of a doctor of veterinary medicine duly licensed by the state of Kansas for treatment of injury or illness.

(d) The owner of an injured animal taken to a veterinarian by the

animal control officer or a law enforcement officer is responsible for payment of charges for veterinary services provided to that animal either to the veterinarian directly or reimburse the City for payments made to the veterinarian for veterinary services rendered to or on behalf of the owner's animal. The costs and fees of any type of animal health care provided may be ordered by the municipal court as restitution.

(e) If any animal dies while running at large on public property, the owner shall be liable for disposal fees established by the animal shelter in addition to penalties for violation of this section as set out in the schedule of fees.

2-104. **AGGRESSIVE ANIMAL DEFINED; PENALTIES.** (a) An "aggressive animal" includes any animal or dog that without provocation, exhibits aggression or combativeness towards either 1) a person or 2) another domestic animal which is on the property of its owner/harbinger, while such aggressive or combative animal as that language is set forth in 2-301. Aggression or combativeness implies an actual threatening act as judged by a reasonable person, including but not limited to physical harm or emotional harm, when a human being is in reasonable apprehension of immediate bodily harm to themselves, their minor child, or their pet. It is not necessary that said person or animal be attacked, bitten, or scratched by the aggressive animal at large.

(b) Any person found guilty of subsection (a) above shall be fined a minimum of \$100.00 and a maximum of \$500.00 for the first offense within a twelve (12) month period; a minimum of \$250.00 and a maximum of \$1,000.00 for a second or subsequent offense within a twelve (12) month period, or by imprisonment, for not more than 10 days, or by both such fine and imprisonment. The Municipal Judge shall have no authority to suspend payment of the minimum fine associated with this offense, but shall have the authority to suspend the term of imprisonment. The fine shall be in addition to any applicable court costs or impoundment fees. The impoundment facility shall not release an animal to an owner until the owner has paid the assessed fine in full and complied with all other terms of the adjudication.

(c) Following a conviction for a violation of this section involving a physical injury to either a domestic animal or a human being, the animal control officer must follow the provisions of 2-304 of this Code regarding determination of the animal's status as vicious. Prior to the animal being released to the owner the municipal court judge must rule on the status of the animal as vicious.

(d) Victims of an aggressive animal at large may submit veterinarian bills, medical bills, or any other bills detailing damages associated with the animal attack for possible court ordered restitution by the Colwich Municipal Court. Damages exceeding \$500.00 shall not be ordered as restitution. Restitution shall not be ordered for emotional harms.

2-105. **HABITUAL VIOLATOR; AGGRESSIVE ANIMAL AT-LARGE.** It shall be a separate offense for any person to receive two (2) or more citations for violation of Section 2-103 within a thirty-six (36) month consecutive period. Such person shall be cited as a habitual violator. Violation of this section may be found when a single individual has been adjudicated guilty of a violation of

section 2-104(a) regardless of the number of animals involved in such violations. Any person found guilty of a violation of this Section shall be fined a minimum of \$500.00 and a maximum of \$1,000.00 for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof. A person cited for violation of this Section shall be required to appear in municipal court. In addition, thereto, the Municipal Judge shall have the authority to sentence the individual to up to six (6) months in jail. It shall be a defense to an alleged violation of this Section for the defendant to have been adjudged not guilty of a charge of harboring an animal which behaved aggressively while running at large, or that the charge was dismissed without a finding of, or admission of, guilt.

2-106. DESTRUCTION, INJURY TO PROPERTY. (a) It shall be unlawful for any person to permit an animal, with or without the actual knowledge of such person or such animal's owner, to destroy or damage or injure any property in which another person has an interest without such person's authorization. Any animal permitted to engage in the activities prohibited by this section may be impounded as provided by this Code and the owner or harbinger of such animal shall be subject to prosecution for violating this section, and make restitution for all financial harms not exceeding \$500.00.

(b) Any animal, running at large and found causing destruction, damage or injury to property or found trespassing and creating a nuisance upon such property, may be humanely restrained by the owner or occupant of such property or by such owner's or occupant's agent, for a reasonable time, during which time such owner, occupant or agent shall (1) notify animal control of his or her possession of the animal and request the impoundment of the animal; or (2) notify the owner or keeper of his or her possession of the animal and release the animal to the owner or keeper, or (3) release the animal. Impoundment of the animal by the animal control officer will be at the discretion of the officer.

2-107. PROHIBITED ANIMALS. (a) The keeping, pasturing, housing, corralling, or maintaining within the city limits of any swine or other livestock is hereby declared to be a nuisance and is prohibited. Persons or entities keeping, pasturing, housing, corralling, or maintaining within the city limits any swine or other livestock on the effective date of this section may continue to do so provided that:

(1) The property is maintained in a manner that complies with the provisions of the Health and Welfare sections of this code; and

(2) The number of animals does not increase and the type of animal being kept does not change; and

(3) When the keeping, pasturing, housing, corralling or maintaining of swine or livestock discontinues for a period of ninety (90) consecutive days or more, or the property upon which such keeping, pasturing, housing, corralling, or maintaining occurred is sold, the use of the property must thereafter comply with the provisions of this section.

(b) The harboring, keeping, or maintaining within the city, except by a circus or sideshow duly licensed to conduct business within the city, of any nonhuman primate, poison reptile, jaguar, leopard, lynx, tiger, lion, ocelot, bobcat, cheetah, mountain lion, wildcat, panther, coyote, wolf, skunk or bear, (whether or not domesticated) is hereby declared to be a nuisance and is prohibited.

(c) The keeping, harboring or maintaining within the city of any animal, which by any sound or cry, causing of offensive odors, or the dangerous nature thereof shall disturb the peace, safety or comfort of any neighborhood, or interfere with any person in the reasonable and comfortable enjoyment of life or property, is hereby declared to be a nuisance and is prohibited.

(d) Any animal deemed a nuisance pursuant to this section shall be immediately impounded in a manner appropriate to such animal species. Such animal shall remain impounded in conformance with the standards set forth in the vicious animal section of this code.

2-108.

DANGEROUS ANIMALS. (a) Prohibited: It shall be unlawful for a person to keep, possess or harbor any animal within the City which presents a clear and present danger to the public health and safety. Any such animal shall be immediately impounded by an animal control or law enforcement officer.

(b) Impoundment: When the animal control officer has probable cause to believe that an animal poses a danger to the community, the animal control officer shall impound such animal and cite the owner for maintaining a dangerous animal.

(c) Immediate Destruction: Nothing in this article shall prevent or be construed to prevent animal control or any law enforcement officer from taking whatever action is reasonably necessary, including, but not limited to, immediate destruction of any vicious animal without notice to the owner to protect themselves or any other person from injury or danger.

(d) Release from Impoundment: If a complaint charging a violation of this section has been filed in the municipal court against the owner of an impounded animal, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay fees arising from or related to the animal's impoundment or care, such fees to be in addition to any penalties or fines assessed for violation of this article. The judge may also, after notice and hearing, and upon making a finding that such animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by or at the direction of the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, or from liability for the payment of any fees, fines or penalties assessed pursuant to this section.

(e) Notwithstanding any other provision of this Chapter to the contrary and irrespective of whether the animal has been declared vicious pursuant to this Code, the Municipal Judge may order any animal destroyed if the Judge determines that the animal is an immediate threat to public health and safety or that confinement and registration of the animal by the owner or

keeper of the animal as provided in this Chapter will not adequately protect the public health and safety.

(f) 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 and to pay a fine not to exceed \$1,000.00.

2-109. HORSES. Horses are hereby prohibited on public sidewalks or in public parks except:

- (a) In parking areas;
- (b) In areas designated by special permits issued by the city; or
- (c) In parades sponsored by or authorized by the City of Colwich.

2-110. CLEANLINESS OF PREMISES REQUIRED. It is hereby declared to be a nuisance and shall be unlawful for any person to maintain on any premises owned, occupied, or controlled by such person in the city, any place where animals routinely are maintained in a foul, offensive noxious, or filthy condition. This section specifically includes yards where animals are permitted to exercise and relieve themselves.

2-111. CONFINEMENT OF ANIMALS IN HEAT. Any female animal in the state of estrus, commonly known as "heat," shall be confined during such state in a house, building or secure enclosure so construed that no other animal or animals may gain voluntary access to such animal except for purposes of planned breeding. Any animal in the state of estrus and not confined as required by this section, or any such animal that creates a neighborhood nuisance, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter and all expenses incurred by the city as a result of such removal shall be paid by the owner. Owners of such animal(s) removed to the animal shelter shall be charged at the rate as may be established from time to time by the animal shelter. Failure to comply with an order of the animal control officer with the respect to the confinement of animals in the state of estrus shall be a violation of this article and the animal shall be impounded pursuant to this chapter.

2-112. MISTREATMENT OF ANIMALS. *This Section of this Article is supplemental to those Sections of the Uniform Public Offense Code regarding Harm to Service Animals, Cruelty to Animals, and Cockfighting.*

It shall be unlawful for any person to:

(a) Commit or cause to be committed any intentional act of cruelty, abandonment, harassment, or torture to any animal or to intentionally cause any animal to be wounded, mutilated, strangled or inhumanely killed. Ownership of an animal shall not be a defense to such acts or to a violation of this section.

(b) Neglect or refuse to supply an animal with necessary and adequate care, food, drink, air, light, space, shelter, and protection from the elements as may be necessary for health and well-being of such animal.

(1) Food provided to animals shall be wholesome, free from contamination and of sufficient quantity and nutritive value to maintain

the good health of animals.

(2) Fresh Water. Adequate fresh water shall be available to animals at all times.

(3) Outdoor Shelter. Shelter affording protection from the elements and designed to prevent discomfort shall be provided for all animals kept outdoors.

(c) Without proper prior legal authorization, intentionally poison any domesticated animal or distribute or set out poison in any manner with the intent to poison such animal.

(d) Cause, instigate or encourage any animal to fight with another or to maintain any place where animals are permitted to fight for exhibition, for wager, or for sport.

(e) Leave any animal unattended in a vehicle when such vehicle does not have adequate ventilation and interior temperature to prevent the suffering, disability, or death of such animal.

(f) These provisions shall not apply to the exceptions sanctioned under section 2-113.

(g) In addition to any other penalties imposed, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to the Animal Control Officer or a designated humane society. All such animals taken by the designated agency may be placed with another person or destroyed humanely as soon thereafter as is conveniently possible at the discretion of the humane society.

2-113. SAME; EXCEPTIONS. The provisions of section 2-112 shall not apply to:

(a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;

(b) Bona fide experiments carried on by research facilities recognized by State Certifying Agencies;

(c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;

(d) Rodeo practices accepted by the rodeo cowboys' association;

(e) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;

(f) The humane killing of an animal by the animal control officer, a public health officer or a law enforcement officer in the performance of his or her official duty;

(g) The humane killing of an unclaimed animal after three (3) full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments.

2-114. VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any operator of a motor vehicle which strikes any animal shall immediately stop and report such event to the owner of such animal, or in the event that the owner cannot be ascertained and located, to the animal control officer or any law enforcement

officer. The report required by this section shall include any information concerning the condition, injury or death of any animal involved. This Section specifically exempts vehicular accidents involving reptiles, fish, bees, raccoons, opossums, rabbits or birds regardless of whether such have been tamed, domesticated or captured.

2-115. DEATH OF ANIMAL. All dead animals shall be disposed of by the owner or harbinger within twenty-four (24) hours of such animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped or left on any public or private property.

2-116. TRAPPING OF ANIMALS. (a) The owner or occupant of any property within the city upon which any animal is running at large or creating a nuisance may request the placement, by any animal control or law enforcement officer, of a humane trap or traps on such property for the purpose of capturing such animal. Thereafter, any animal control or law enforcement officer may place such traps if, at and within their discretion, they deem trapping to be necessary for the general health, welfare and safety of any person or persons.

(b) Animal control or law enforcement officers are authorized and empowered to use any tranquilizer gun, firearm, humane trap, or other suitable device to subdue, capture or destroy any animal that, at and within their discretion, they determine constitutes a danger to itself or to the general health, welfare and safety of any person or persons.

(c) It shall be unlawful for any person or entity to set or cause to be set within the city any steel-jaw leg hold trap, snare, or any trap other than a humane trap for the purpose of capturing any wild or domesticated animal.

2-117. MUNICIPAL POUND ESTABLISHED. A municipal pound shall be established to carry out the provisions of this chapter. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor. When so contracted, the pound shall have the following services and facilities as a minimum:

(a) Adequate pickup and impounding of all stray and ownerless dogs and animals otherwise in violation of the provisions of this chapter.

(b) Group holding facilities for stray, ownerless and unvaccinated animals impounded for violation of the provisions of this chapter.

(c) Individual isolation facilities for sick, biting, rabid and suspected rabid animals.

(d) Facilities for the humane destruction of animals.

2-118. CAPTURE/DESTRUCTION. When deemed necessary by any law enforcement officer or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their designees may:

(a) Place a humane trap on public property or a requesting resident's private property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;

(b) Use any tranquilizer guns, humane traps, or other suitable

devices to subdue and capture any animal that is deemed by the animal control officer, in his or her discretion, to be a nuisance as defined by this Code.

(c) Lawfully destroy any rabid animal, any vicious animal as defined by this Code, any animal posing a danger to the public health and safety, or any animal where such animal is impossible or impractical to catch, capture or tranquilize.

2-119.

IMPOUNDMENT; DUTY TO IMPOUND. (a) Except as provided in subsection (b), it shall be the duty of the animal control officer to take up and impound all animals found in the city in violation of the provisions of this chapter. All costs of impoundment are to be paid by the individual seeking the release of such animal prior to such animal being released. Such impoundment costs shall be in addition to any costs associated with citations issued to the owner, harbinger, or keeper of such animal.

(b) As an alternative to the provisions of subsection (a) of this section, if the individual who owns such animal is present at the time such animal is discovered to be running at large, a law enforcement or animal control officer may issue a citation to such person for any violation of this chapter and release the animal into the custody of such owner.

(c) No animal may be destroyed during the first seventy-two (72) consecutive hours of such impoundment unless a licensed veterinarian determines that the destruction is necessary by virtue of serious injury, illness, disease or suffering. The owner of any impounded animal may be charged impound and food fees established by this code together with any other costs associated with impound including, but not limited to, costs to the city for veterinary care, and all such fees and costs shall be paid to the city before an animal is released to the owner from impound.

(d) The animal control officer or animal shelter shall take reasonable steps to identify the owner of any animal impounded pursuant to this article and shall notify such owner as soon as may be practical after impoundment.

(e) No animal impounded pursuant to the provisions of this article shall be released until its owner has paid all fees and charges due and arising from such impoundment, including, but not limited to, impoundment, boarding and veterinary costs and fees.

(f) Any animal remaining impounded after seventy-two (72) consecutive hours of impoundment and which the owner thereof has failed to claim and make release arrangements, including the payment of all costs and fees provided for by this article, may be disposed of as determined by the animal shelter at and within its discretion. Any such disposal shall be accomplished in compliance with all applicable laws. Animals may be released to an animal shelter for adoption. Disposal by euthanasia shall be accomplished in a humane manner. Any owner who fails to claim an impounded animal after it has been confined for seventy-two (72) consecutive hours shall not, by virtue of such failure, be released from liability for the payment of all fees and costs provided for by this article including, but not limited to, costs and fees arising from the disposal by euthanasia of such animal.

2-120. BREAKING POUND. (a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.

(b) It shall be unlawful for any person or persons other than those duly authorized to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.

ARTICLE 2. DOGS

2-201. DOG REGISTRATION AND RABIES VACCINATION REQUIRED.

(a) All owners of dogs 1) of at least six (6) months in age and 2) which are owned, kept, maintained or harbored within the city shall register the ownership of each such dog with the city. Such registration shall be done on an annual basis and all registration fees shall be paid as established by this code. It shall be unlawful for any such owner to fail to register, to maintain a current registration for each such dog, or fail to register such dog no later than thirty (30) days following the date of acquiring or bringing a dog into the city. The failure to register within the time limits established by this section shall result in the assessment of the penalty fee established by this code and such fee shall be in addition to, and not in lieu of, the registration fees required by this section and any fines or penalties that may be assessed for violations of this article.

(b) There shall be collected by the city, pursuant to the means specified in this section and in the amounts established by this code, an annual registration fee for each neutered or spayed dog, or a fee for each unneutered or unspayed dog.

(c) The owner of any service dog as defined by the U.S. Department of Justice ADA Regulations shall be subject to all provisions of this article.

(d) Owners of dogs may tender such fees to the city clerk, together with the forms prescribed by this section which shall have been completed by an authorized veterinarian.

(e) A tag of durable material shall be issued to the owner of any dog vaccinated for rabies and which is subject to the annual license fee requirements of this article and for which such fees have been paid. Such tags shall also be issued to the owner of any animal expressly excepted from the fee requirement by this article. Any owner to whom such tags are issued shall thereafter cause such tags to be attached to a suitable collar or harness which shall bear an identification number unique to the tag and animal.

2-202. RABIES CONTROL, IMMUNIZATION AND CONFINEMENT. (a) All dogs exceeding six (6) months in age and kept, maintained, or harbored within the city shall have a current inoculation by a licensed veterinarian against rabies. An owner acquiring a dog shall have such dog inoculated against rabies within thirty (30) days after acquiring such animal or within thirty (30) days after such animal reaches six (6) months of age, whichever

occurs last, and shall obtain a rabies vaccination tag in accordance with this article. Any person moving into the city from a location outside the city shall comply with this section no later than thirty (30) days after having moved to the city.

(b) All owners of dogs kept, harbored or maintained within the city shall maintain upon each such animal they own a collar or harness to which its rabies tag shall be attached.

(c) It is unlawful for any person to harbor any dog which has not been vaccinated for rabies as provided by this article or which cannot be identified as having a current vaccination against rabies.

(d) No person shall affix to the collar or harness of any dog, or permit to remain so affixed, a tag evidencing inoculation for any other dog.

(e) The owner of any domesticated animal other than a rodent, rabbit, fowl, insect or reptile that has bitten any person or animal so as to cause an abrasion of the skin shall immediately report such bite to an animal control or law enforcement officer. The officer to whom such report is made shall consult with a licensed veterinarian or the county health department and shall thereafter direct the confinement of such animal for a period, which shall not be less than ten (10) consecutive days, as deemed warranted by the consulting veterinarian or county health department. Such confinement may be on the premises of the owner at the discretion of the animal control officer, but must be within the city. If confinement does not occur on the premises of the owner, confinement shall be at the animal shelter or in a veterinary hospital of the owner's choice. Any confinement shall be at the owner's expense. In the case of an animal whose owner cannot be located, such confinement shall be at the animal shelter.

(f) The owner of any animal reported to have inflicted a bite on any person shall, on demand of the animal control or law enforcement officer, produce the animal for examination and confinement, as prescribed by this section. The owner of any such animal who refuses to produce it shall be subject to immediate arrest if there is probable cause to believe the animal has inflicted a bite upon a person, and such owner is keeping or harboring the animal and willfully refuses to produce the animal upon demand. Such person shall be taken before a judge of the municipal court, who may order the immediate production of the animal. If the owner of any animal shall willfully or knowingly hide or refuse to produce such animal, each day of such refusal constitutes a separate violation of this article. It shall be unlawful to destroy or remove any such animal from the city before it can be properly confined pursuant to this article.

(g) Every physician or healthcare provider who treats a person for animal bites shall report such treatment to the animal control officer. Such reports shall include the identity and address of any person so treated, and information regarding the animal suspected of having inflicted the bite and the owner thereof.

(h) All owners of dogs who present, or cause to be presented, any such animal to a veterinarian for vaccination against rabies shall notify such veterinarian if the animal is under confinement or subject to confinement pursuant to this article, or has bitten any person within the ten (10) calendar days immediately preceding such presentation. Whenever under any

circumstance a licensed veterinarian shall determine that any animal is rabid, such veterinarian shall immediately report the diagnosis to the county health department. Such report shall include, but not limited to, the animal's description and, if known, its location the identity and address of such animal's owner; and the identity and address of any person believed to have been in contact with such animal. In the event any animal confined pursuant to this article shall die, the animal control officer shall immediately cause a pathological examination and a search of the inoculation records of such animal to occur, arrange to receive a complete report of the results of such examination and search, and report the same to the county health department, together with any information concerning the identity and address of any person believed to have had contact with such animal.

(i) Animals known or believed to have been bitten or exposed to a rabid animal shall be immediately confined by the animal control or law enforcement officer and shall thereafter be destroyed or released upon proof of immunization and booster injection given by a licensed veterinarian at the expense of the owner of such animal. The owner of any animal so released shall be required to keep the animal under quarantine for a period of six (6) months or such other period as may deemed necessary by the county health officer.

2-203. TRAINED GUARD DOGS. No guard dog shall be placed, kept or maintained at any location within the city for the protection of persons or property unless:

(a) Such guard dog is under the complete control of its handler at all times, or such dog is confined to an enclosed area sufficient in design and construction to ensure such dog shall not escape; provided that any such dog placed, kept or maintained in a residential area shall be confined within a six (6) foot high fence with an enclosed top which is separated from any property line fence, and such enclosure has been approved by the animal control officer; and

(b) Warning signs shall be conspicuously posted indicating the presence of guard dogs and such signs shall plainly identify a telephone number by which to contact at all times a person or entity responsible for controlling such guard dogs.

2-204. DOG FECES. When any dog defecates upon any property not belonging to its owner or keeper, including common areas of condominiums, townhouses or apartments, it shall be the duty of the owner or keeper of such dog to promptly remove and dispose of such feces. The fine for violation of this section shall be \$25 per incident.

2-205. KENNEL LICENSES. (a) No person, entity or household shall own or harbor more than four (4) dogs individually exceeding six (6) months of age; more than four (4) cats individually exceeding six (6) months of age; in any combination, more than a total of four (4) dogs and cats individually exceeding six (6) months of age; or engage in the commercial business of breeding, buying, selling, trading, training, or boarding cats or dogs or both cats and dogs, without having first obtained a kennel license from the State of

Kansas.

(b) Kennel licenses shall be renewed annually with the State of Kansas.

(c) The animal control code enforcement or law enforcement officer shall have the right to inspect any premises licensed under this section at any time. Nothing shall prevent their entry onto private property for the purpose of making such inspection and all applicants for kennel licenses shall be deemed to have consented to such entry and inspection by virtue of, and from and after the time of, making application to the city for such license. In the event such entry for the purpose of making an inspection authorized by this section is denied to the animal control ~~code enforcement~~ or law enforcement officer, the officer or officers so denied may apply to a court of competent jurisdiction for an order authorizing entry for the purposes of enforcing or administering this section including, but not limited to, inspection of such premises.

(e) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital or clinic.

2-206.

TETHERING OR PICKETING OF DOGS. (a) No person, entity or household shall continuously picket a dog for more than one (1) continuous hour, except that picketing of the same dog may resume after a hiatus of three (3) consecutive hours, for up to three (3) hours total time on picket per day.

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

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

(d) 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.

(e) 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.

2-207.

BARKING DOGS. (a) It shall be unlawful for the owner, possessor or keeper of any dog to permit such dog, by loud and persistent or habitual barking, howling or yelping, to disturb any person or neighborhood, and the same is hereby declared to be a public nuisance.

(b) Either the animal control or law enforcement officer may issue a citation for violation of subsection (a) above upon receiving two (2) complaints within two (2) weeks for excessive barking by the same dog, or upon receiving one (1) complaint and personally observing such excessive barking.

(c) Complainants shall sign a written complaint noting the date and time of the barking, the length of the barking episode(s), the animal believed/known to be barking, and any additional relevant information

concerning the excessive barking.

(d) Animals who are found to bark excessive following teasing or harassment by neighbors or other animals shall not be found to have violated this section.

ARTICLE 3. VICIOUS DOGS

2-301. DEFINITIONS. (a) Irrespective of whether a criminal complaint is filed pursuant to a separate section of this Code, a separate administrative action may be commenced to impose a heightened standard of care upon the owners of dogs that are potentially vicious. A vicious animal is an animal that commits a vicious act as defined in subsection (b) of this section. Owners/harborers of animals which commit such acts shall be subject to the provisions of this Article.

(b) For the purpose of this Article, the following shall be prima facie evidence of viciousness and shall subject the dog and the owner(s)/harborer(s) of such dog to the provisions of 2-304:

(1) to attack without provocation, to cause injury by any means, or to otherwise threaten the safety of a human being or domesticated animal;

(2) to be owned or harbored primarily or in part for the purpose of dog fighting;

(3) to be trained for dog fighting;

(4) to chase or approach a person upon the streets, sidewalks or any public or private property, without provocation and in a menacing fashion or apparent attitude of attack; or

(5) to have been declared vicious by any other court, within or outside the State of Kansas.

2-302. EXCLUSIONS. The provisions of this article shall not apply to any animal control shelter or facility, veterinarians licensed by the state of Kansas, or to any dog utilized by any law enforcement agency or law enforcement officer in the performance of official duties. For the purposes of this section, "law enforcement agency" shall mean the city, county, state or federal entity empowered, authorized or charged with enforcing the criminal laws of its jurisdiction and "law enforcement officer" shall mean any employee or volunteer of a law enforcement agency having the power of arrest and to carry firearms in the discharge of their official duties.

2-303. KEEPING OF VICIOUS DOGS. (a) Except as provided in subsection (d) below, the keeping of dogs determined to be vicious pursuant to section 2-304 shall be subject to the following standards:

(1) Control. Such dogs shall be within the control of the owner, harborer or keeper at all times. There shall be a rebuttable presumption that an owner, harborer or keeper is not in control of such animal if it attacks or bites a human being or domesticated animal without provocation; or chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack without provocation.

(2) Leash or muzzle. No person or entity shall permit such dog to be outside a kennel or pen unless such dog is securely leashed with a leash having a tensile strength of at least three hundred (300) pounds and which does not exceed four (4) feet in length. No person shall permit such dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person of eighteen (18) years of age is in actual physical control of the leash. Such dogs shall not be leashed outside their kennels or pens to inanimate objects. When outside their pens or kennels, all such dogs must, in addition to the leash requirements of this subsection, be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(3) Confinement. All such dogs shall at all times be securely confined indoors or in an enclosed and locked pen, kennel or structure which shall be located upon the premises of such dog's owner. Such pens, kennels or structures shall have secure sides and secure tops which shall be attached to the sides and shall be locked at all times with a key lock or combination lock. Such structures shall also have secure bottoms or floors attached to the sides thereof or the sides of such structures shall be embedded in the ground at a depth of at least two (2) feet. In addition, all such structures shall at all times comply with all zoning, building and other laws, ordinances or regulations of the city or any other applicable laws, and shall be adequately lighted, ventilated and maintained in clean and sanitary condition. Such structures shall also protect dogs confined therein from the weather and elements.

(4) Signs. All owners, keepers or harborers of such dogs shall, no later than fourteen (14) days following the determination by the court that a dog is vicious, cause to be displayed in a prominent place on any premises whereupon such dogs are owned, kept or harbored, a sign bearing the phrase "Beware of Vicious Dog" which shall be conspicuously located so as to provide adequate warning of the presence of such dog. An identical sign shall at all times be posted on the kennel or pen of such dog.

(5) Insurance. All owners, keepers or harborers of such dogs shall, no later than thirty (30) days following the determination by the court that a dog is vicious, provide proof to the city clerk of having current public liability insurance in a single incident amount of \$250,000 for bodily injury to, or death of, any person or persons or for damage to the property of any person that may result from such owner's dogs. Such insurance policy shall provide that not policy cancellation shall be made and be effective unless ten (10) days written notice thereof is first provided to the city clerk.

(6) Reporting requirements. All owners, keepers or harborers of such dogs must, within ten (10) days following any incident identified in this subsection, report in writing the following information to the city clerk:

- (i) the removal from the city or death of any such dog;
- (ii) the birth of offspring of any such dog, and
- (iii) the new address of such dog's owner should such owner change addresses within the city.

(7) Registration and vaccination requirements. All owners, keepers or harborers of such dogs must ensure that such dogs are properly registered and vaccinated.

(8) Transfer of ownership prohibited. No person shall sell, barter, gift, give away or in any other way transfer to or dispose of any such dog to any person within the city unless the person receiving such animal is a permanent resident of the same household residing at the same premises as the registered owner; provided, that the registered owner of such dog may sell, transfer, barter, gift, give away, transfer or otherwise dispose of such a dog or the offspring thereof to persons who do not reside within the city and who shall not keep, maintain or harbor such animal within the city.

(9) Animals born of such dog. All offspring born of such registered dogs must be removed from the city within eight (8) weeks of their birth.

(10) Rebuttable presumption. There shall be a rebuttable presumption that any dog registered with the city as a vicious dog as defined by this code is in fact a dog subject to the requirements of this article.

(b) Failure to comply. It shall be unlawful for the owner, keeper or harborer of a vicious dog registered with the city to fail to comply with the requirements and conditions of this article or of any other applicable law. Any dog found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment by an animal control or law enforcement officer and shall remain impounded pending the hearing to be held pursuant to this section. The owner or keeper of the dog shall be liable to the city for the costs and expenses of keeping the dog if such dog is determined by the court to be vicious.

(c) Violations and Penalties. Any person violating or permitting the violation of any provision of this section shall upon conviction be fined a sum of not less than \$200 and not more than \$1,000. In addition to such fine, the court may sentence the defendant to imprisonment for a period not to exceed six (6) months and shall order the registration of the dog subject to the violations revoked and the dog removed from the city. Should the defendant refuse to remove or cause the removal of such dog from the city, the court shall find such defendant in contempt of court and order the immediate confiscation and impoundment of such dog. Failure to comply with any one (1) of the requirements set out in subsection (1) through (12) shall constitute a separate violation and offense. Each day that a violation of this article continues shall be deemed a separate violation and offense. In addition to, and not as an alternative to, the penalties prescribed by this subsection, any person violating any provision of this article shall be liable to the city for the payment of all expenses, including shelter, food, handling, and veterinary care necessitated by or incidental to the enforcement of this article.

(d) Vicious Dogs may not be relocated to Colwich. Dogs declared vicious by either administrative action or the action of a state or local court outside of Colwich shall not be permitted to relocate within the City of Colwich. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment by the animal control or law

enforcement officer and shall remain impounded pending a hearing to establish violation of this section, in the same manner as set forth within this article. The owner or keeper of the dog shall be liable to the city for the costs and expenses of keeping the dog if such dog is determined by the court to be within the City in violation of this section. Additionally, the owner or harbinger shall be cited for violation of this section, and subject to the penalty provisions set forth in subsection (c) above, and the dog shall be either removed from the City or humanely destroyed.

2-304.

DETERMINATION THAT A DOG IS VICIOUS; PROCESS. (a)

Whenever an animal control or law enforcement officer determines that there exists probable cause to believe a dog is vicious, such officer shall petition the municipal court for a hearing to determine whether such dog should be declared vicious. Whenever practical, any complaint/petition received from a member of the public which serves in whole or in part as the evidentiary basis supporting a finding of probable cause that a dog is vicious shall be sworn to and verified by the complainant and attached to the officer's petition. Failure to attach such verified complaints shall not be grounds for dismissing the complaint or finding that the dog is not vicious, but such complainants shall be present at the hearing to offer evidence upon the matter.

(b) The owner or keeper of the dog shall be notified that a hearing will be held by the municipal court, at which time such owner or keeper may present evidence that the dog is not vicious. Such owner or keeper shall be served with notice of the hearing and a copy of the complaint, either personally or by certified mail with return receipt requested. If the certified letter is refused or not delivered, the animal shall be immediately impounded if not already impounded. The owner shall be notified by first class mail that the animal will be turned over to the humane society for disposal seventy-two (72) hours following the mailing of the letter unless the owner requests the City continue to hold the animal for an administrative hearing pursuant to this article. If the owner does not respond to the letter the animal shall be deemed abandoned and subject to disposal as deemed appropriate by the animal control officer.

(c) If an animal control or law enforcement officer determines that probable cause exists to believe a dog with respect to which a complaint has been filed pursuant to this section poses an immediate threat to public safety, such officer may seize and impound the dog pending the hearing to be held pursuant to this section. The owner, harbinger, or keeper of the dog shall be liable to the city for the costs and expenses associated with caring for the dog while it is impounded if the dog is determined by the court to be vicious.

(d) If, following notice and hearing, the court determines that the dog is vicious beyond a reasonable doubt as described within this article, the owner or keeper shall comply with the provisions of this article within the time established in an order prepared by the court.

(e) No dog may be declared vicious if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of such dog, or was teasing, tormenting, abusing, or

assaulting the dog, or was committing or attempting to commit a crime.

(f) No dog may be declared vicious if such dog was protecting or defending a person within the immediate vicinity of such dog from an unjustified attack or assault.

(g) No dog may be declared vicious if an injury or damage was sustained by a domestic animal which at the time the injury or damage was sustained was at large, including cats, or if the animal was the aggressor in causing the altercation.

ARTICLE 4. OTHER ANIMALS

2-401.

EXOTIC ANIMALS. (a) It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.

(b) It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the city any of the following animals:

- (1) All poisonous animals including rear-fang snakes.
- (2) Apes: Chimpanzees; gibbons; gorillas, orangutans; and siamangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cheetahs.
- (9) Crocodilians.
- (10) Constrictor snakes.
- (11) Coyotes.
- (12) Deer: includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
- (13) Elephants.
- (14) Game cocks and other fighting birds.
- (15) Hippopotami.
- (16) Hyenas.
- (17) Jaguars.
- (18) Leopards.
- (19) Lions.
- (20) Lynxes.
- (21) Monkeys.
- (22) Ostriches.
- (23) Pumas; also known as cougars, mountain lions and panthers.
- (24) Raccoons.
- (25) Rhinoceroses.
- (26) Skunks.

- (27) Tigers.
- (28) Wolves.

(c) The prohibitions of this section shall not apply to bona fide pet shops, zoos, circuses, carnivals, educational institutions, or medical institutions, if:

- (1) Their location conforms to the provisions of the zoning ordinance of the city.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors, and
- (3) Animals are maintained in quarters so constructed as to prevent their escape.

(d) In conformance with this and other articles of this Chapter, the municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city.

ARTICLE 5. GENERAL PENALTY PROVISIONS AND MISCELLANEOUS PROVISIONS

2-501. **SUMMONS AND COMPLAINTS.** Every summons and complaint charging a violation or violations of this chapter shall state the name of the defendant, the code section number or numbers alleged to have been violated, the general type of the offense to which each section or ordinance relates, the date and place of each alleged violation and that the defendant is required to appear to answer the charges on a date and at a time and place designated in the complaint or summons. The complaint or summons shall be signed by the person alleging the violation and shall be verified by the complainant before the municipal judge, clerk of the court, or deputy clerk of the court, unless the complainant is a law enforcement officer, code enforcement officer, or animal control officer, in which case no verification shall be required. Complainants shall be notified of the duty to testify about the matter of which they have alleged violation of this chapter.

2-502 **GENERAL PENALTY PROVISION.** Unless otherwise provided, any violation of this Chapter shall be punished in accordance with the General Penalty Provisions set forth in Chapter 1 Administration, Section 116 of this Code.

2-503. **FINE SCHEDULE.** The following minimum fines are hereby adopted in association with the following offenses set forth within this chapter, maximum fine for each listed offense \$500.00 unless otherwise shown, and all such fines are in addition to court costs:

<u>Dog at large</u>	
First offense (determined by dates of offense not convictions)	\$50.00
Second offense, within a twelve month period	\$75.00
Third offense, within a twelve month period	\$100.00
Fourth and subsequent offense, within the same twelve months	\$200.00

<u>Barking dog</u>		\$25.00
<u>No tag attached</u>	(rabies or registration)	\$25.00
<u>Rabies vaccination required</u>		\$50.00
<u>Registration required</u>		\$25.00
<u>Mistreatment or Neglect</u>	(not cruelty)	Mandatory Minimum \$100.00
		Maximum \$1000.00

First and second violations of the above offenses shall be categorized as infractions; however, any third or subsequent violation shall be classified as a class "C" misdemeanor, subject to the penalties as set forth within the General Penalty Provision.

2-504. **DOG LICENSES.** The annual licensing fee for any license required to be obtained by section 2-201 of this code shall be as provided for by this section, shall expire on January 1st of each year and shall be renewed with the city between December 15th and January 15th of each calendar year. Such licensing fees shall be as follows:

(a) Unspayed females. The annual license fee for each unspayed female dog shall be twenty dollars (\$20.00).

(b) Spayed females. The annual license fee for each properly spayed female dog shall be ten dollars (\$10.00).

(c) Non-neutered males. The annual license fee for each non-neutered male dog shall be twenty dollars (\$20.00).

(d) Neutered males. The annual license fee for each neutered male dog shall be ten dollars (\$10.00).

(e) If thirty (30) or more days have elapsed since the registration was required or thirty (30) or more days have elapsed since the dog became six (6) months old or thirty (30) or more days have elapsed since the dog was acquired, a penalty fee shall be assessed in the amount of two dollars (\$2.00) for each month, or portion of month, during which the animal was not licensed pursuant to this code.

(f) Failure to respond to communications from the City regarding the renewal of dog tags by April 1st of each year will result in the city filing a complaint with the municipal court with complainant fined as set forth in Section 2-503.

(g) Registration and fee collection associated with this Chapter, including this section, shall be carried out by the city clerk

2-505. **CONFLICT WITH OTHER PROVISIONS.** Nothing in this chapter shall be construed so as to prohibit the passage of zoning regulations affecting this chapter. All provisions contained within this chapter are subject to any additional rights or prohibitions provided for in any Colwich zoning ordinance, including zoning ordinances with protective overlays.

2-506. **INTERLOCAL AGREEMENTS FOR PROVISION OF ANIMAL CONTROL SERVICES.** The Governing Body of the City may enter into an Interlocal agreement with another governmental agency for the provision of animal control services to the City. In addition to animal control services such

interlocal agreement may transfer jurisdiction of the prosecution of any offenses of this code, or the code of the enforcement agency, to the court of such enforcement agency.