

ORDINANCE NO. 1745

AN ORDINANCE AMENDING CHAPTER 6 OF THE CODE OF THE CITY OF NEODESHA, REGULATING THE OWNERSHIP AND CONTROL OF ANIMALS IN THE CITY OF NEODESHA; AND REPEALING OLD CHAPTER 6 OF THE CODE OF THE CITY OF NEODESHA, KANSAS.

WHEREAS, the City Commission desires to create laws and regulations which eliminate the ban on certain breeds of dogs but continues to protect the health, safety and welfare of the City's residents; and

WHEREAS, the City Commission desires to create an environment where dogs, and all animals, residing in the community are not a threat to the community or its residents; and

WHEREAS, a healthy and vibrant community includes standards for humane and proper care of animals which live among us and are part of our families; and

WHEREAS, it is the City Commission's responsibility to protect the health and welfare of the animals residing in the community and to provide standards of care which will promote good pet ownership and proper socialization of all domesticated animals;

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NEODESHA, KANSAS:

Section One: Article 1 of Chapter 6 of the City of Neodesha Code shall be amended to read as follows:

ARTICLE 1. – GENERAL PROVISIONS

Sec. 6-1. – Definitions.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

(a) Abandon means 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) Animal means any live vertebrate creature, domestic or wild, other than humans, and including all fowl.

(c) Animal Control Officer. The use of this title through this chapter shall be a reference to the Animal Control Officer and any staff assigned to work with the Animal Control Officer who may act to perform any duty under this chapter.

(d) Animal shelter means the facility or facilities operated by the city or its authorized agents for the purpose of impounding or caring for animals under the authority of this chapter or state law.

(e) At-large means to be outside of a fence or other enclosure which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable

of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be at-large.

(f) Attack means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person.

(g) Bite means any penetration of the skin by teeth.

(h) Cat means any member of the Felis Catus Family, male or female, regardless of age.

(i) Dangerous or vicious animal means any animal deemed to be dangerous per section 6-8, or vicious per section 6-17.

(j) Dog means any member of the Canis Familiaris, male or female, regardless of age.

(k) Exotic animal means

(1) Any mammal not generally accustomed to living in or near human populations

(2) Poisonous reptiles of any length and non-poisonous reptiles over 8 feet in length etc.

(3) Poisonous arthropods (i.e., poisonous scorpions, poisonous spiders).

(4) All non-human primates.

(5) The definition of exotic animal shall also include, but is not limited to: antelope, badgers, bears, bison, any member of the large cat family (lion, cheetah, etc.), crocodilians, coyotes, deer, elephant, elk, game cock and other fighting birds, hippopotami, hyenas, llama, moose, ostriches, potbellied pigs, raccoons, rhinoceroses, skunks, and wolves.

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

(m) Harboring means any person who shall allow any animal to habitually remain or lodge or be fed within his home, yard, enclosure, place of business or any other premises where he resides or which he controls.

(n) Household means all persons living in the same dwelling unit.

(o) Humane live animal trap means any cage trap that upon activation encloses an animal without placing any physical restraining upon any part of the body of such animal.

(p) Humanely euthanize means the proper injection of a substance that quickly and painlessly terminates the life of an animal. or any method approved by the American Veterinary Medical Association.

(q) Inhumane or cruel treatment or manner means any treatment to any animal which deprives the animal of necessary sustenance, including sufficient and wholesome food, potable water and protection from weather, or any treatment of any animal such as overloading, overworking, tormenting, beating, mutilating or teasing, or other abnormal treatment or neglect that causes suffering to such animal.

(r) Kenel means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than four dogs or four cats.

(s) Large animal means any swine, bovine, goat, sheep, beast of burden or any other domestic or wild animal of similar or larger size.

(t) License tag means any system of animal identification approved by the City Clerk that does not involve alteration or permanent marking of any animal.

(u) Microchip means a small electronic device inserted beneath the skin, between the shoulder blades, of an animal which can be scanned for identification purposes.

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

(w) Owner/custodian means the person owning, keeping, possessing or harboring any animal; or any person who feeds or shelters any stray animal for seventy-two (72) or more consecutive hours without reporting such animal to the animal pound or who professes ownership/custodianship of such animal. If a minor owns or keeps an animal, then any household head of which such minor is a member shall be deemed the owner/custodian of such animal under this chapter and shall be responsible as the owner/custodian, whether or not such household head is himself a minor. If not a member of a household, such minor shall be directly subject to the provisions of this chapter.

(x) Premises means any parcel of land and any structure thereon in which any animal regulated by this chapter is housed and/or confined.

(y) Recovery fines and fees means any fine or fee due and payable prior to the release of any animal from the animal shelter.

(z) Small animal means any animal not within the definition of large animal but including all dogs without reference to size.

(aa) Tethering refers to the practice of fastening a dog to a stationary object or stake, usually in the owner/custodian's backyard, as a means of keeping the animal under control. This term shall not refer to the periods with then animal is being walked or exercised on a leash.

(bb) To permit means to allow, consent, let, to acquiesce by failure to prevent or to expressly assent or agree to the doing of an act.

(cc) 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.

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

(ee) Wild animal means any animal that is predominately free-roaming as opposed to domesticated, and includes those animals defined as exotic animals and any rabies carrying species for which no anti-rabies vaccine has been approved by the Centers for Disease Control.

Sec. 6-2. – Duties of the police department.

It shall be the duty of the Police Department officers to enforce the provisions of this chapter, and to assist the Animal Control Officer in enforcing the provisions of this chapter.

Sec. 6-3. – Duties of the animal control officer.

It shall be the duty of the Animal Control Officer to directly administer and enforce the public health provisions of this chapter. The Animal Control officer shall keep a record of all animal pound transactions and all enforcement and investigative activities conducted by the Animal Control Officer and police officers.

Sec. 6-4. – Enforcement procedures.

(a) The Animal Control Officer, the Chief of Police or any law enforcement officer are hereby authorized to issue a notice to appear to the owner/custodian of any animal in violation of any provision of this chapter, or any regulation issued by the Animal Control Officer. Such person may retain possession of the animal if it is the belief of the officer issuing such notice to appear that such possession is not in conflict with any other provision of this chapter.

(b) The Animal Control Officer, the Chief of Police or any law enforcement officer are hereby authorized to pick up and impound any animal violation of any provision of this chapter if the person owning or caring for such animal cannot be issued a notice to appear because such person is not known or present. Such animal shall be confined at the animal pound in a humane manner and shall be released upon satisfactory proof that the party claiming the animal is entitled to recovery and possession thereof, and upon payment to the City Clerk of all recovery fines described in this chapter and fees for care, feeding and treatment expenses established by resolution.

(c) In the interest of animal welfare, any person owning or caring for any animal in the city, by doing so, does thereby authorize the Animal Control Officer, the Chief of Police or any law enforcement officer to enter upon private property, other than within the residence, at reasonable times, where such animal is kept, if the officer has probable cause to believe the animal is being kept in a cruel or inhumane manner. The Animal Control Officer, the Chief of Police or any law enforcement officer will examine such animal and impound such animal at the animal pound when, in the officer's opinion, it is being kept in an unlawfully cruel or inhumane manner. If entry is refused, the official shall have recourse to the remedies provided by law to secure entry.

(d) Any animal that has bitten a person may be removed from the property of its owner/custodian by the Animal Control Officer, the Chief of Police or any law enforcement officer, if such animal is in violation of examination or observation requirements prescribed by the Animal Control Officer, or State laws or regulations.

(e) The Animal Control Officer, the Chief of Police or any law enforcement officer are hereby authorized to use any tranquilizer guns or humane live animal traps to capture any animal whose presence on private or public property constitutes a nuisance to persons or a threat to the public health or the health of domestic animals.

(f) The Animal Control Officer, the Chief of Police or any law enforcement officer are authorized to use firearms or other suitable weapons to destroy any rabid animal, any dangerous animal as defined in section 6-8, any vicious animal as defined in section 6-17, or any animal creating a nuisance as defined in section 6-70, where it is impossible or impractical to catch, capture or tranquilize such animal.

(g) It is unlawful for any person to interfere with the duties of the Animal Control Officer, the Chief of Police or any law enforcement officer by removing, or causing to be removed, the identification tag of any dog without the consent of the owner/custodian thereof; refusing to identify himself upon the request of an enforcement officer, when such officer has probable cause to believe that such person has violated this chapter; or in any other manner preventing the lawful discharge of enforcement duties prescribed by this chapter.

Sec. 6-5. – Removal and disposal of dead animals.

(a) The Animal Control Officer, or any law enforcement officer, shall be responsible for coordinating the removal of any dead animal found on public property within the city, except as otherwise provided in this section. In this section the term "dead animal" shall exclude any animal lawfully and humanely killed for food.

(b) No person having in his possession any dead animal shall permit the same to remain in or upon any private or public place.

Sec. 6-6. – Emergency treatment of sick or injured dogs and cats.

(a) Any sick or injured dog or cat found at large in the city and wearing a current city license tag, identification tag or rabies vaccination tag may be taken at once to a veterinarian for examination and treatment, and the owner/custodian of such animal shall be promptly notified. All charges for veterinary services shall be borne by such owner/custodian.

(b) Any sick or injured dog or cat found at large in the city without such identifying tag, tattoo or microchip shall be examined at once by the Animal Control Officer and held at the animal pound as prescribed in Article 6 Impoundment of Animals.

Sec. 6-7. – Penalties.

(a) Wherever, in this chapter, any act is prohibited or is declared to be unlawful or the performance of any act is required or the failure to do any act is declared to be unlawful and no specific penalty or penalty range is provided by another subsection of this section, the violation of any provision in this chapter shall be punished by a fine not less than \$50.00 and not more than \$500.00 in accordance with the proposed penalties in this section, or by imprisonment for a period not exceeding six (6) months, or, by both such fine and imprisonment, at the discretion of the court. Each day any violation of this chapter continues shall constitute a separate offense.

(b) Any pet owner/custodian found guilty of a violation of one of the following code sections shall be punished by a fine not less than \$50.00 for a First Offense, \$100.00 for a Second Offense, and \$175.00 for a Third or Subsequent Offense, up to a maximum of \$500.00.

Sec. 6-5	Removal/disposal of dead animals
Sec. 6-46 (b-e)	Animals prohibited/owning
Sec. 6-68	Running at large prohibited
Sec. 6-69	Animal nuisance activities prohibited
Sec. 6-70	Excessive animal noise prohibited

Sec. 6-75	Removal of animal feces required
Sec. 6-76	Duty to report animal bites
Sec. 6-97	Report of motor vehicles striking animals
Sec. 6-98	Selling of certain animals prohibited
Sec. 6-101	Killing or molesting birds
Sec. 6-102	Retention of animals unlawfully

(c) Any pet owner/custodian found guilty of a violation of one of the following code sections shall be punished by a fine not less than \$75.00 for a First Offense, \$125.00 for a Second Offense, and \$200.00 for a Third or Subsequent Offense, up to a maximum of \$500.00.

Sec. 6-45	Numbers of animals owned
Sec. 6-46 (a)	Prohibited owning
Sec. 6-66	Animal care requirements and prohibition of animal cruelty
Sec. 6-67	Proper identification of dogs and cats required
Sec. 6-71	Proper confinement of dogs and cats in heat required
Sec. 6-73	Rabies vaccination of dogs and cats required
Sec. 6-99	Exposing poison to animals
Sec. 6-120	Licensing of dogs and cats required
Sec. 6-126	Kennel license required

(d) Any pet owner/custodian found guilty of a violation of one of the following code sections shall be punished by a fine not less than \$150.00 for a First Offense, \$250.00 for a Second Offense, and \$350.00 for a Third or Subsequent Offense, up to a maximum of \$500.00.

Sec. 6-95	Dog fighting
Sec. 6-96	Cruelty generally

(e) The number of prior offenses referenced refers to the owner/custodian and not the dog/animal.

(f) If the alleged offender fails to pay the requisite fine or fails to appear in court on the date set by the notice to appear, then a warrant may be issued for the arrest of the alleged offender.

(g) Any person convicted of five (5) or more violations of the provisions of this chapter within a five (5) year period may be prohibited from owning any animal within the city for a period of three (3) years following the date of the fifth or consecutive conviction. Violations shall be tracked as June 1, 2021 for

purposes of determining prior violations and shall not be considered if such prior violation was older than five years on the date the current violation was found to have occurred.

Sec. 6-8. – Dangerous dogs; definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Dangerous dog means:

- (1) Any dog with a known propensity, tendency or disposition to attack, to cause injury, or otherwise threaten the safety of human beings or domestic animals;
- (2) Any dog which in a vicious or threatening manner approaches any person in an apparent attack upon the person while on the streets, sidewalks, or any public grounds or places;
- (3) Any dog which has attacked, bitten, or seriously physically harmed a human being;
- (4) Any dog which has attacked or bitten a domestic animal in an aggressive, vicious or threatening manner; or
- (5) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

Notwithstanding this definition of a dangerous dog, no dog may be declared dangerous if any injury or damage is sustained by a person or animal who at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. No dog may be declared dangerous if an injury or damage was sustained by a person if the dog was responding to pain or injury; protecting itself, its kennel or its offspring; protecting or defending another human being within the immediate vicinity of the dog from an unjustified attack or assault; or involved in playful actions resulting in an unintentional bite wound. No dog may be declared dangerous if an injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog. Nothing in this section shall be deemed to regulate or prohibit the lawful maintenance of dogs by law enforcement agencies.

Sec. 6-9. – Dangerous dogs, Enforcement; Appeal.

(a) It shall be a violation of this section to own, possess, keep, or harbor a Dangerous Animal.

(b) In the event that the Animal Control Officer, or law enforcement officer, has probable cause to believe an animal is dangerous by written complaint of the victim and that victim is willing to testify that the animal has acted in a manner that causes it to fall within the definition of a Dangerous Animal, that officer shall endeavor to issue a citation for a violation of this section.

(c) Any animal impounded under a probable cause belief that it is a Dangerous Animal and which in the judgment of the Animal Control Officer or Animal Shelter would constitute a menace to the health, safety or welfare of the public if released from custody, may be impounded pending a hearing on any

charges or complaints filed in the Municipal Court to determine the disposition thereof. If not so determined, the animal may, after having been lawfully held, be returned to its owner until final determination is made by the Municipal Court as to whether a violation of this Section has occurred. If returned pending the final disposition of the case, the animal must be kept securely confined and must be muzzled while in public until final determination is made as to whether a violation of this Section occurred.

(d) In making a determination of whether a dog is dangerous, the municipal judge may consider, but is not limited to the consideration of any one or all of the following factors:

- (1) The seriousness and nature of any attack, bite or physical injury of a human being or domestic animal;
- (2) Whether the dog has any history of attacking or biting a human being or domestic animal;
- (3) Whether the dog has chased or approached a person upon any public or private property in an apparent attitude of attack;
- (4) Whether the dog behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to a human being or domestic animal;
- (5) Whether the dog has a known propensity, tendency or disposition to attack or bite unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals;
- (6) Whether the dog has been previously determined, declared or adjudicated to be dangerous or vicious by another city and which jurisdiction uses substantially the same standards as the city for determination of a dangerous or vicious animal;
- (7) The likelihood of attacks or bites in the future;
- (8) The conditions or circumstances existing at the time of the approach, attack or bite, including, but not limited to:
 - (A) Whether the dog was provoked;
 - (B) Whether the victim was committing a willful trespass or other tort or was committing or attempting to commit a crime upon the premises occupied by the owner of the dog; or
 - (C) Whether the dog was protecting or defending a human being or another animal within the immediate vicinity of the dog from an unjustified attack or assault.
- (9) The conditions under which the dog is kept, enclosed or confined; and
- (10) The status of the dog's license and vaccination as required by the Neodesha City Code.

(e) Upon conviction of owning, keeping, possessing, or harboring, a Dangerous Animal, and the animal returning to its owner, the animal shall be kept in accordance with the requirements of section 6-10.

(f) Any aggrieved party may appeal the decision and findings of the Municipal Court Judge pursuant to K.S.A. 60-2101(d). However, the filing of an appeal under this subsection shall not stay any action taken pursuant to this article.

(g) While the appeal is pending, if the Animal Control Officer, or law enforcement officer, has probable cause to believe the dog in question may pose a threat of serious harm to human beings or other domestic animals, the dog may be impounded pending the determination by the judge. If the judge deems the animal dangerous, the owner/custodian shall be liable to the city for the costs and expenses of keeping such dog.

Sec. 6-10. – Dangerous dogs, control; registration; confinement.

If a dog is dangerous by definition, or the municipal court judge determines that a dog is dangerous pursuant to this article, the owner or keeper of the dangerous dog shall be required to comply with the following:

(a) Registration. The owner or keeper shall annually register the dangerous dog with the city, on such forms designated by the city clerk. The owner or keeper shall pay a \$50.00 annual license fee. The owner or keeper shall be responsible for maintaining with the city clerk the address of the owner or keeper and the dangerous dog. The owner or keeper shall notify the city clerk within seven days of a change in address for the owner or keeper and dangerous dog, or the removal from the city limits or death, loss or theft of a registered dangerous dog.

(b) Confinement. All dangerous dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel outdoors. Said enclosure shall be a fence or structure at least six feet in height, with a secure top suitable to confine a dangerous dog and shall meet the minimum size requirements in Section 6-66(c)(2). If such enclosure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. It is unlawful for any owner or keeper to maintain a dangerous dog upon any premises that does not have a locked enclosure. It is unlawful for any owner or keeper to allow a dangerous dog to be outside of the dwelling of the owner or keeper or outside the enclosure unless it is necessary for the owner or keeper to obtain veterinary care for the dangerous dog or for the limited purposes of allowing the dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be required. In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four feet in length, and shall be under the direct control and supervision of the owner or keeper of the dangerous dog. No person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen. Such dogs may not be leashed to inanimate objects such as trees, posts or buildings. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(c) Microchipping. All dangerous dogs shall have an identification microchip implanted in the dog which is compatible with local veterinarian detection equipment. The applicant shall provide proof of microchipping at the time application or reapplication is made for a dangerous dog license.

(d) Signage. All owners of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public using the words “Beware of Dog”. In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(e) Identification Photos. All owners of dangerous dogs shall provide a current photo of the dog being registered during the registration process for identification purposes.

(f) Spayed/Neutered. The dangerous dog shall be spayed or neutered by a licensed veterinarian. The application or reapplication for a dangerous dog license shall include documentation showing that the dog has been spayed or neutered.

(g) Insurance. Any owner of a dangerous dog shall maintain liability insurance in the single-incident in the amount of \$500,000.00 for bodily injury or death of any person(s), or for damage to property which may result from actions of the dangerous dog, or from action or inactions of the owner related to the dangerous dog. The application or reapplication for a dangerous dog license shall include a certificate of liability insurance that indicates the required insurance level and is valid for the intended registration period.

(h) Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a Dangerous Animal to any person within the City unless the recipient person resides permanently in the same household as the registered owner of such animal, provided that the owner of a Dangerous Animal may sell or otherwise dispose of a dog that has been declared dangerous to persons who do not reside in the same household so long as the owner sells or transfers ownership outside of the City. In that case, the owner shall notify the City Clerk within seven days of the name and address of the transferee. The City Clerk shall report the Dangerous Animal designation to the city in which the animal will be kept.

Sec. 6-11. – Dangerous dogs, violation of requirements.

(a) Penalty; Fines. It is unlawful for any person to violate the provisions of this article. Any person found guilty of violating the provisions of this article shall be assessed, fined, and the animal disposed of, as provided in this subsection:

- (1) Registration. Any dangerous dog that is not properly registered in accordance with Section 6-10 or if any other requirements in Section 6-10 are not met, such dog shall be impounded by animal control or law enforcement, or their designee, until such animal is properly registered or removed from the city limits. In addition to all costs for impoundment, the owner or keeper shall pay a \$100.00 fine.
- (2) At-large. Any dangerous dog that is not confined as required pursuant to this article shall be impounded by animal control or law enforcement, or their designee. In addition to all costs for impoundment, the owner or keeper shall pay a \$150.00 fine. For a second offense within 24 months in which the dog is not confined as required pursuant to this article, in addition to all costs for impoundment, the owner or keeper shall pay a \$300.00 fine, and the animal control or law enforcement, or their designee is empowered to impound the dog, and after the expiration of a five-day waiting period, exclusive of Sundays and holidays, shall destroy the dog. The judge shall have no authority to suspend the fine or any portion thereof.
- (3) Attack on Human. If any dangerous dog shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing of a human being, the owner or keeper shall pay a \$500.00 fine, and the animal control officer, or law enforcement officer, is empowered to impound the dog, and after the expiration of a five-day waiting period, exclusive of Sundays and holidays, shall destroy the dog. The judge shall have no authority to suspend the fine or any portion thereof.
- (4) Attack on Other Animal. If any dangerous dog shall kill or wound, or assist in killing or wounding, any animal, the owner or keeper shall pay a \$250.00 fine, and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a five-day waiting period, exclusive of Sundays and holidays, shall destroy the dog. The judge shall have no authority to suspend the fine or any portion thereof. If the owner or

keeper of a dog impounded pursuant to this article shall believe that there has not been a violation of the provisions of this article, such owner may petition the municipal court, in writing, praying that the impounded dog not be destroyed. The impounded dog shall not be destroyed pending the resolution of such owner's petition if the petition shall have been filed within five days of impoundment of such dog and notice shall be delivered within five days of the impoundment of such dog. The dog shall remain impounded pending the determination of the petition. If the court shall find that there shall not have been a violation, such dog shall be released to the custody of the owner upon the payment of the expenses by the owner or keeper.

(b) Jail Sentence. In addition to the fines provided in this section, the municipal judge shall have the authority to sentence the person adjudicated guilty of this article to serve up to a maximum of six months in jail.

(c) Ownership or Possession of Dog Following Conviction. It is unlawful for any person who has been twice convicted of violating these dangerous dog requirements to own or possess any dog, whether or not found to be a dangerous dog, for a period of three (3) years following the date of such second conviction.

Sec. 6-12. – Running-at-large; dangerous.

Any dog found running at large that appears dangerous, fierce or vicious, and cannot be safely apprehended and impounded without endangering some person, the Animal Control Officer or a law enforcement officer is authorized to use that force reasonably necessary to restrain or put down the dog.

Sec. 6-13. – Dangerous dogs, threats to public safety.

Notwithstanding any other provision of this article to the contrary, and irrespective of whether the dog has been declared dangerous pursuant to this article, the municipal judge may order any dog destroyed if the judge determines that the dog is an immediate threat to public health and safety and that confinement and registration of the dog by the owner or keeper of the dog as provided in this article will not adequately protect public health and safety. No person shall harbor, own or possess a dog that is an immediate threat to public health and safety. In making such determination, the judge may consider the severity of the attack and other relevant information. The municipal judge shall have the authority to sentence the person adjudicated guilty of this article to serve up to a maximum of six months in jail and to pay a fine not to exceed \$1,000.00.

Sec. 6-14. – Dangerous dogs, duty of owners; failure to comply.

The purpose of the requirements in this article governing dangerous dogs is to prevent attacks, injuries or death by mandating use of control methods. It is the affirmative duty of any owner of a dangerous dog to take all necessary steps to comply with this article. Any dog found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. If the dog is not immediately seized and impounded, the officer shall instruct the owner to keep said dog confined in a securely closed and locked pen or kennel until such time as the court may order seizure and impoundment. Neither the owner, nor any other person may remove said dog from said secure pen or kennel without the written permission of either the animal control officer or judge of the municipal court. Failure to comply with any provision of this article shall also be considered good cause for the revocation of any license issued allowing for the keeping of the subject dog, resulting in the immediate removal from the city by the owner, or the impoundment of the dog.

Sec. 6-15. – Dangerous dogs, costs to be paid by responsible persons.

All reasonable costs incurred by the city in seizing, impounding, confining or disposing of any dangerous dog pursuant to the provisions of this article shall be charged against the owner of such animal and shall be subject to collection by any lawful means. If the owner of the animal is found guilty of a violation of this article, said above-mentioned expenses shall be assessed as costs in said court action.

Sec. 6-16. – Dangerous dogs, penalties.

Whenever in this article any act is prohibited or is declared to be unlawful or the performance of any act is required or the failure to do any act is declared to be unlawful, the violation of any provision of this article shall be punished by a fine of not more than \$1,000.00, or by imprisonment for a period not exceeding six months, or by both fine and imprisonment, at the discretion of the court. Each day any violation of this article continues shall constitute a separate offense.

Sec. 6-17. – Vicious dogs, definitions.

The city hereby finds that certain dogs, because of a combination of their physical attributes and disposition or training for aggression, fighting or attack, pose a clear and present threat to public safety. Although relatively few in number, such dogs represent a threat to all persons, particularly those persons who cannot protect and defend themselves, such as children and the elderly. Regardless of the procedures taken to confine such dogs, their mere presence creates an unacceptable risk to the public because such dogs may escape or be released at any time. Because of the clear and present threat to public safety, such dogs are found to be a public nuisance. As a result, the city hereby prohibits the ownership and possession of these vicious dogs within the city limits of the city and imposes related regulations, as set forth in this article.

Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Vicious dog means:

(a) Any dog which:

- (1) Kills a human being;
- (2) Inflicts severe injury to a human being through a sustained or vicious attack;
- (3) Has been trained to fight and possess physical attributes such as size, build, or bite strength to inflict severe injury to a human being. For this purpose, the following shall be presumed to have been trained to fight:
 - (A) Any dog involved in a staged fight;
 - (B) Any dog exhibiting wounds or bodily disfigurements commonly associated with dog fighting;
 - (C) Any dog found or kept on premises at which equipment is located that is commonly associated with training dogs to fight; or
 - (D) Any dog found or kept with other dogs that:
 - (i) Have been trained to fight; or

- (ii) Are presumed to have been trained to fight.
 - (4) Because of its disposition and physical attributes, such as size, build, or bite strength, poses a substantial threat to the life and safety of public safety and emergency response personnel (such as law enforcement officers, firefighters and paramedics) who are seeking or may seek lawful access to any property in order to perform their duties; or
 - (5) Has the propensity, tendency or disposition to attack a human being without provocation and possesses physical attributes such as size, build, or bite strength to inflict severe injury to a human being.
- (b) Exceptions. No dog shall be deemed or declared a vicious dog:
- (1) Solely because it inflicted severe injury on a human being if the human being was, at the time the severe injury was sustained:
 - (A) Assaulting the owner or possessor of the dog; provided, the owner or possessor of the dog was not the aggressor;
 - (B) Committing a willful trespass upon the premises of the owner or possessor of the dog; or
 - (C) Provoking, tormenting abusing, or assaulting the dog, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the dog at other times.
 - (2) Solely because it inflicted severe injury on a human being if the dog was, at the time the substantial injury was sustained:
 - (A) Responding to pain or injury;
 - (B) Protecting itself; its kennel, its offspring, or its owner or possessor's property; or
 - (C) Protecting or defending another human being within the immediate vicinity of the dog from an unjustified attack or assault.
 - (3) Is owned or possessed by a federal, state, or local law enforcement agency.

Sec. 6-18. – Vicious dogs, unlawful acts.

(a) Vicious Dogs as Public Nuisance. Vicious dogs are declared to be a public nuisance and are hereby prohibited within the city.

(b) Ownership or Possession of Vicious Dog. It is unlawful to own or possess a vicious dog in the city. An owner or possessor of a dog that falls within the definition of “vicious dog” shall be strictly liable under this article and a conviction shall not require proof of any criminal intent or the owner or possessor’s knowledge of any particular propensity, tendency or disposition of the dog. Each vicious dog owned or possessed in violation of this article shall constitute a separate offense.

(c) Citation. In the event that the Animal Control Officer, or law enforcement officer, has probable cause to believe an animal is vicious by written complaint of the victim and that victim is willing to testify

that the animal has acted in a manner that causes it to fall within the definition of a Vicious Animal, that officer shall endeavor to issue a citation for a violation of the section.

(c) **Ownership or Possession of Dog Following Conviction.** It is unlawful for any person convicted of owning or possessing a vicious dog in violation of subsection (b) of this section to own or possess any dog, whether or not found to be a vicious dog, for a period of three (3) years following the date of such conviction.

Sec. 6-19. – Vicious dogs, removal; euthanization.

In addition to the penalties prescribed by this Chapter, upon conviction, the Municipal Court shall order that the animal be removed from the city or humanely euthanized, and direct the Animal Control Officer, law enforcement officer, Animal Shelter or its veterinary designee to ensure that the order is enforced. If the Municipal Court orders a Vicious Animal to be humanely euthanized pursuant to this Section, that decision shall be final unless the owner applies to a court of competent jurisdiction for any remedies that may be available within the applicable appeal period, or other timeframe. If an appeal is timely filed, the Municipal Court shall suspend the Euthanasia order pending the final determination of the court in which the appeal is under review. If the animal is sold or transferred out of the city, the owner shall notify the City Clerk within seven days of the sale or transfer. The City Clerk shall report the Vicious Animal determination to the city in which the animal will be kept. If the animal is ordered removed from the city, the address in which the animal will reside shall be reported to the City Clerk within seven days of the move.

Sec. 6-20. – Vicious dogs, impoundment.

Any animal impounded under a probable cause belief that it is a Vicious Animal and which in the judgment of the Animal Control Officer, or law enforcement officer, would constitute a menace to the health, safety or welfare of the public if released from custody, may be impounded pending a hearing on any charges or complaints filed in the Municipal Court to determine the disposition thereof.

Sec. 6-21. – Vicious dogs, criminal penalties.

Any person who violates the provisions of this section shall be subject to the following penalties:

(a) **Violation of Vicious Dog Provisions.** Any person who owns or possesses a vicious dog in violation of Section 6-18(b) shall be guilty of a misdemeanor, punishable as follows:

- (1) First offense, a fine, which shall be set at \$500.00. The fine shall be mandatory, and the court shall have no authority to suspend the fine or any portion thereof. In addition, the court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 90 days.
- (2) Second or subsequent offense, committed within three years of a prior offense, a fine, which shall be set at \$1,000.00. The fine shall be mandatory, and the court shall have no authority to suspend the fine or any portion thereof. In addition, the court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of six months.

(b) **Violation of Provisions Regarding Unauthorized Removal of Impounded Dogs.** Any person who removes or attempts to remove a dog from the custody of the animal control officer, law enforcement officer, or designee, or any animal shelter at which the dog is impounded, in violation of Section 6-20, shall be guilty of a misdemeanor, punishable by a fine in the amount of \$1,000.00. The court shall have no

authority to suspend the fine or any portion thereof. In addition, the court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of six months.

(c) Violation of Other Provisions. Any person, who owns or possesses a dog in violation of Section 6-18(b) or violates any other provision of this article, shall be guilty of a misdemeanor, punishable by a fine in the amount of \$250.00. The court shall have no authority to suspend the fine or any portion thereof. In addition, the court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 30 days.

Sec. 6-22. – Vicious dogs, costs to be paid by responsible persons.

All reasonable costs incurred by the city in seizing, impounding, confining or disposing of any vicious dog pursuant to the provisions of this article shall be charged against the owner of such animal and shall be subject to collection by any lawful means. If the owner of the animal is found guilty of a violation of this article, said above-mentioned expenses shall be assessed as costs in said court action.

Secs. 6-23—6-44. - Reserved.

Section Two: Article 2 of Chapter 6 of the City of Neodesha Code shall be amended to read as follows:

ARTICLE 2. RESTRICTIONS ON OWNING ANIMALS

Sec. 6-45. – Number of animals; exceptions.

It shall be unlawful for any person or household to own or harbor more than four dogs of six months of age or older or more than one litter of pups, or more than four cats of more than six months of age or more than one litter of kittens, or more than a total of four dogs and cats more than six months of age in any combination. This prohibition shall not apply to:

(a) Individuals possessing a kennel license in accordance with section 6-126.

(b) Zoos, circuses, carnivals, fairs, veterinarian clinics in possession of such animals during treatment, educational institutions or medical institutions.

(c) Persons temporarily transporting such animals through the city.

(d) Individuals selling or giving away pups or kittens. Such individuals shall have six months from the date of birth of these pups or kittens to comply with this section.

Sec. 6-46. – Prohibited owning; exceptions.

(a) The owning, harboring, keeping, possessing or selling of any wild, exotic, poisonous or vicious animal within the city limits is hereby prohibited. This prohibition shall not apply to:

(1) Those wild or exotic animals kept under a rehabilitation or scientific and exhibition permit of the Kansas Wildlife and Parks Department.

(2) Zoos, circuses, carnivals, veterinarian clinics in possession of such animals during treatment, educational institutions or medical institutions.

(3) Persons temporarily transporting such animals through the city.

(b) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 6-66 of this chapter.

(c) The owning or keeping of any fowl within the city limits is hereby prohibited; except:

(1) Caged birds kept as pets within a residential structure.

(d) No livestock, including but not limited to horses, mules, cattle, sheep and goats shall be owned, kept or maintained within the city limits, except:

(1) Livestock in conjunction with veterinarian clinics, livestock auctions, livestock shows, rodeos, and fairs are permitted.

(2) On property totaling two fenced acres or greater. Livestock may be kept in a ratio of one animal per fenced acre. Acres must be contiguous and owned by the same person.

(e) 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 the offspring born to any animal permitted to be kept in the city which is bred to any other animal of a different species; offspring born to wild animals bred to domestic dogs or cats. It is specifically unlawful for any person to keep, harbor, own or possess within the corporate limits of the city, and breed of dog which is in any part a mixture of dog and coyote, or dog and wolf.

Sec. 6-47. – Limitation on numbers of animals owned; exceptions.

When animals in excess of the limits established in the Neodesha code are found at a residence, all of the animals found at the residence may be removed by the Animal Control officer, or law enforcement officer, and impounded, except that the person in charge of the residence may designate and retain up to those limits established in the Code.

Sec. 6-48. – Keeping bees.

(a) It is hereby declared to be a nuisance for any person to own or keep on his premises or upon premises under his control, within the city, bees in such a manner and to such an extent as to become offensive, dangerous or annoying to the public or to persons residing in the vicinity thereof.

(b) Each day such person keeps or harbors bees deemed to be a nuisance shall constitute a separate offense.

Secs. 6-49—6-64. - Reserved.

Section Three: Article 3 of Chapter 6 of the City of Neodesha Code shall be amended to read as follows:

ARTICLE 3. RESPONSIBILITIES OF PERSONS OWNING ANIMALS

Sec. 6-65. – Duty of all animal owners/custodians to be responsible owner/custodians.

It shall be the positive duty of every owner/custodian or any animal or anyone having an animal in possession or custody, to exercise reasonable care and to take all necessary steps and precautions to protect other people, property and animals from injury or damage which might result from their animal's behavior. In the event that the owner/custodian or keeper of any animal is a juvenile, the parent or guardian of such juvenile shall be responsible to ensure compliance with all provisions of this chapter.

Sec. 6-66. – Animal care requirements and prohibition of animal cruelty.

(a) Shelter.

- (1) Any animal that is habitually kept outside or repeatedly left outside unattended shall be provided shelter which is sanitary, of sound construction, and provide adequate protection from the cold and heat. Shelter must be placed in a dry area free of debris, feces, and standing water. It must have at least three sides and a weather proof roof; have a solid, sanitary floor, be adequately ventilated; provide shelter from wind, rain, sun and the elements at all times. Suitable drainage must be provided so that water is not standing in or around the shelter.
- (2) Shelter must be large enough to accommodate the animal, but not so large that it would not retain body heat adequately.
- (3) When outdoor temperatures reach freezing levels or below, pet owners/custodians shall take extraordinary measures to ensure their animals are protected from the extreme weather conditions and that they have unfrozen water to drink.
- (4) All areas where animals are kept shall be cleaned regularly so that fecal matter is disposed of so not to attract insects or rodents, become unsightly or cause objectionable odor.
- (5) An Animal Control Officer, or law enforcement officer, may remove an animal that is living in conditions that do not meet the standards outlined above.
- (6) If multiple animals are present in one location each animal must have access to shelter and the owner/custodian must meet all standards as outlined in this section.

(b) Nutrition.

- (1) All animals kept or harbored shall be provided with sufficient, wholesome food suitable for the animal's size, age, and physical condition and in sufficient quantities to maintain an adequate level of nutrition.
- (2) Animals shall be provided a regular supply of clean, fresh water.

(c) Exercise.

- (1) The enclosure or confinement area for an animal shall encompass sufficient useable space to keep the animal in good condition.
- (2) When a dog is confined outside by means of an enclosure, the following minimum space requirements shall be met:

Number of Dogs

Under 50 lbs.

Over 50 lbs.

1	6x10 (60 sq. feet)	8x10 (80 sq. feet)
2	8x10 (80 sq. feet)	8x12 (96 sq. feet)
3	8x12 (96 sq. feet)	10x14 (140 sq. feet)

(d) It shall be unlawful cruelty to animals for any person to own or keep any animal and:

- (1) Tether or chain the animal as a primary means of stationary confinement. Dogs may be tethered or chained for no longer than eight (8) hours in any 24-hour period. Any chain or tether must be attached to a properly fitting collar or harness worn by the animal.
- (2) Fail to provide such sufficient and wholesome food, fresh water, shade and protection from the weather, opportunity for exercise, veterinary care when needed to treat injury or illness, (unless the animal is instead humanely euthanized) or other care as is needed for the health or well-being of such kind of animal. The dog’s fur provides insulation from heat and cold, regulating the animal’s body temperature. Allowing the dog’s fur to become matted due to filth and neglect shall be a violation of this code.
- (3) Abandon or leave any animal in any place. For the purpose of this provision, “abandon” means for the owner/custodian or keeper to leave any animal without demonstrated or apparent intent to recover or to resume custody; leave any animal for more than eight (8) hours without providing for adequate food, fresh water, and shelter for the duration of the absence; or turn loose or release any animal for the purpose of causing it so be impounded.
- (4) Leave any animal unattended in a vehicle when such vehicle does not have adequate ventilation and temperature to prevent suffering, disability or death to such animal.

(e) Any animal impounded for being kept in violation of this section or section 6-96 may be humanely euthanized by a veterinarian if he deems it necessary to relieve suffering. The owner/custodian of any animal that is not euthanized shall be entitled to regain custody of such animal only after such custody is authorized by the court. All expenses accrued for the treatment or care of such animal shall be paid by the owner/custodian, whether or not he seeks to regain custody of such animal.

Sec. 6-67. – Proper identification of dogs and cats required.

It shall be unlawful for any person owning or keeping any dog or cat to permit such animal to be outside the premises of such owner/custodian without a current city license tag and a current rabies vaccination tag attached to the collar or harness of such animal. It shall be unlawful for any person to permit a city licensing or rabies vaccination tag to be worn by any animal other than the animal for which such tag is issued.

Sec. 6-68. – Running-at-large prohibited; defined, enforcement.

(a) It shall be unlawful for any dog or dogs, whether licensed or unlicensed, to run at large within the City; provided that any dog within the City not confined to a vehicle or automobile or to the lead of its owner, harbinger or keeper, or kept on the premises of its owner, harbinger or keeper shall be considered, for the purposes of this section, to be running at large.

(b) The owner, harbinger or keeper of any dog shall be responsible for keeping his or her dog or dogs from running at large within the City and, in the event such dog or dogs is found running at large by the

Animal Control Officer, or law enforcement officer, the owner, harbinger or keeper of the dog or dogs shall be issued a warning or citation as set out in this section.

(c) Impounding and enforcement: It shall be the duty of the Animal Control Officer, or any law enforcement officer employed by the City, to apprehend any dog found running at large in violation of this section and to: (A) Impound such dog in accordance with article 6 of this chapter, and/or (B) If the owner, harbinger or keeper of the dog can be determined, issue a warning or citation.

Sec. 6-69. – Animal nuisance activities prohibited.

The owner/custodian of any animal shall take all reasonable measures to keep such animal from becoming a nuisance. It shall be unlawful for the owner/custodian 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 activity. For the purpose of this provision, “animal nuisance activity” is defined as any animal which:

(a) When unprovoked, chases or approaches a person or domestic animal upon public property, public rights-of-way, or private property, owned or kept by any person other than the owner/custodian, in a menacing fashion or apparent attitude of attack. Menacing shall mean the display by an animal of a disposition, determination or intent to attack or inflict injury or harm to a human being or other domestic animal, including displays of growling, charging, lunging, snapping or biting;

(b) When unprovoked, engages in a menacing behavior causing a person lawfully on abutting or adjoining private or public property or rights-of-way to reasonably believe the safety of the person is threatened. Particular attention shall be paid to threatened safety of children. Such menacing behavior may include displays of growling, snapping or biting, or behaviors such as charging or lunging at or against a fence or other barrier separating the owner/custodian’s premises from other public or private property. Attempts by an animal to cross outside the owner/custodian’s premises through, over or under a fence or barrier may constitute menacing behavior;

(c) Damages public or private property by its activities or with its excrement;

(d) Scatters refuse that is bagged or otherwise contained;

(e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.

If a notice to appear is issued charging violation of this section, a subpoena may also be issued to a complainant, witness or other person to testify under oath as to the animal nuisance activity.

Sec. 6-70. – Excessive animal noise prohibited.

It shall be unlawful for the owner/custodian of any animal to permit such animal to make noise which is so loud or continuous that it disturbs a person or normal sensibilities. If a notice to appear is issued charging violation of this section, a subpoena may also be issued to the person who has been disturbed to testify to the disturbance under oath.

Sec. 6-71. – Proper confinement of dogs and cats in heat required.

It shall be unlawful for the owner/custodian of any female dog or cat, during the period that such animal is in heat, to fail to keep it securely confined and enclosed within a building except when out upon such person's premises briefly for toilet purposes.

Sec. 6-72. – Annual licensing of dogs and cats required; exception.

It shall be unlawful for any person owning or keeping any dog or cat over six (6) months of age to fail to obtain a license for such dog or cat as prescribed in Article 5 of this chapter.

Sec. 6-73. – Rabies vaccination of dogs and cats required.

It shall be unlawful for any person owning or keeping any dog or cat over one hundred twenty (120) days of age to fail to have such animal currently immunized against rabies. For the purpose of this chapter, "currently immunized or vaccinated against rabies" shall mean that such dog or cat has been inoculated against rabies by a licensed veterinarian within the past thirty-six (36) months. However, dogs and cats under one year of age which are inoculated must receive a second rabies inoculation within twelve (12) months.

Sec. 6-74. – Animals in public buildings prohibited; exceptions.

No animal shall be allowed to enter any theatre, store, or other public building in the city, whether accompanied by its owner/custodian or person in charge or otherwise, except with the approval of the building's owner or manager. Formally trained assist dogs and police dogs engaged in law enforcement are exempt from this provision.

Sec. 6-75. – Removal of animal feces required.

The owner/custodian of any animal, when such animal is off the owner/custodian's property, shall be responsible for the removal of any feces deposited by such animal on public walks, streets, recreation areas, or private property and it shall be a violation of this section for such owner/custodian to fail to remove or provide for the removal of such feces before taking such animal from the immediate area where such defecation occurred.

Sec. 6-76. – Duty to report animal bites.

(a) The owner/custodian, as defined in this chapter, of any animal shall immediately report to the animal pound, health department, hospital or police department any incident in which the animal has actually bitten any person or domestic animal, regardless of circumstances, and shall cause the animal to be confined in a secure enclosure or building until an investigation is conducted by the proper authority.

(b) In the case where the animal is not current on its rabies vaccinations, the animal will be impounded and confined in the city pound for a period of ten (10) days for observation. The cost for this confinement will be borne by the animal's owner/custodian.

Secs. 6-77—6-94. - Reserved.

Section Four: Article 4 of Chapter 6 of the City of Neodesha Code shall be amended to read as follows:

ARTICLE 4. ANIMAL PROTECTION RESPONSIBILITY OF ALL PERSONS

Sec. 6-95. – Dog fighting.

It shall be unlawful for any person to, by words, signs or otherwise, intentionally set any dog or pup to attack any other dog or pup or any other animal, or aid, abet or encourage any dog or pup to fight; or by words, signs or otherwise permit or encourage any dog or pup to fight.

Sec. 6-96. – Cruelty generally.

It shall be unlawful for any person to willfully and wantonly kill, beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse any animal, or cause, instigate or permit any dog fight, cock fight, or other combat between animals or between animals and humans, nor shall any person attend such unlawful exhibition or be umpire or judge at such.

Sec. 6-97. – Report of motor vehicle striking animals.

The operator of a motor vehicle that strikes any animal shall, as soon as possible, report the accident to the Animal Control Officer or the Police Department.

Sec. 6-98. – Selling of certain animals prohibited.

(a) It shall be unlawful for any person to sell or display within the city any animal or fowl that has been artificially dyed or colored.

(b) No wild, exotic, poisonous or vicious animal may be sold within the city limits, except as allowed under section 6-46(a).

Sec. 6-99. – Exposing poison to animals.

It shall be unlawful for any person to expose any known poisonous substance whether mixed with food or not, so that the same shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to expose, on his own property, poison mixed with only vegetable substances.

Sec. 6-100. – Spring steel traps restricted.

It shall be unlawful for any person to use a spring steel trap in the city limits except rat, mice, gopher and mole traps.

Sec. 6-101. – Killing or molesting birds.

It shall be unlawful for any person to willfully kill any songbird or to molest the nest of such birds.

Sec. 6-102. – Retention of animals unlawfully.

It shall be unlawful for any person, without the knowledge of consent of the owner/custodian, to hold or retain possession of any animal of which he is not the owner/custodian for more than twenty-four (24) hours without first reporting the possession of such animal to the Animal Control Officer, the Police Department, or the animal pound; nor shall any person feed or shelter any unowned animal for seventy-two (72) hours or more consecutive hours without reporting such animal to the animal pound.

Secs. 6-103—6-119. - Reserved.

Section Five: Article 5 of Chapter 6 of the City of Neodesha Code shall be amended to read as follows:

ARTICLE 5. LICENSING OF DOGS AND CATS

Sec. 6-120. – License required.

It shall be unlawful for any person to own, possess, keep, harbor, or house a dog or cat within the city without properly registering the animal and obtaining a dog or cat license from the city as provided in this article, or to violate any of the provisions of this article.

Sec. 6-121. – Dogs or cats temporarily in the city.

The provisions of this article with respect to licensing shall not apply to any dog or cat owned or kept by any person temporarily remaining within the City of Neodesha less than fourteen (14) days, or any dog or cat brought into the City of Neodesha for less than fourteen (14) days. The owner/custodian shall keep such dogs, cats, pups or kittens under restraint.

Sec. 6-122. – License procedure.

(a) Every owner of any dog or cat over six (6) months of age shall register with the city clerk his or her name and address with the name, sex and description of each animal owned and kept within the city limits.

(b) It shall be unlawful for the owner of any newly acquired dog or cat, or any dog or cat brought into the city to fail to register such animal within fourteen (14) days from an animal reaching the age of required licensing, within fourteen (14) days of acquisition, or within fourteen (14) days of bringing the animal into the City.

(c) Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document, and it shall be unlawful for the owner of any dog or cat over six (6) months of age to fail to maintain effective rabies immunization of such animal.

(d) The owner, custodian, or harbinger of any dog or cat shall, at the time of registering such animal, present to the Clerk a certificate from an accredited veterinarian showing that a male dog or cat has been neutered or a female dog or cat has been spayed, if the animal has been neutered or spayed.

(e) The city clerk shall collect an annual registration fee as established in section 16-6 (Fees; Animals).

(f) The registration year shall be from January 1st through December 31st of each year. The fee shall be due and payable on or before March 1st of each year without penalty.

(g) The owner/custodian shall be responsible for providing the city with current rabies immunization of such dog or cat at the time of registration and subsequent thereto as long as the dog or cat remains and is kept within the City.

(h) The owner/custodian shall be responsible for providing the city with a current address of such dog or cat as long as the animal remains and is kept within the City. The owner/custodian shall be

responsible for notifying the city of the animal's death or removal from the city which will terminate such license.

(i) Upon change of owner/custodianship, any person acquiring a dog or cat currently licensed with the city shall apply to the City Clerk to transfer such license to his/her name and no fee shall be charged.

Sec. 6-123. – Same; exceptions.

(a) Any other section of this chapter notwithstanding, the license provision of this chapter, shall not apply to any nonresident owner/custodian or any dog or cat while such person is passing through the city, provided such dog or cat shall remain on a leash or otherwise effectively restrained while within the City.

(b) Animals which have been declared dangerous pursuant to Neodesha City Code shall be registered pursuant to Section 6-10, requiring an annual registration and payment of a license fee and other registration requirements.

Sec. 6-124. – Tags.

(a) It shall be the duty of the City Clerk or designated agent, upon a showing of current rabies immunization and other information required by Section 6-122, to keep in a book suitable for the registration of dog or cat, the time of the registration, the name of the owner/custodian, the number of the registration, and shall deliver to the owner/custodian of the animal a certificate in writing, stating that the person has registered the dog or cat and the number by which the dog or cat is registered, and shall also deliver to the owner/custodian of the animal a tag with the registration number which shall be, by the owner/custodian, attached to the collar to be used on the animal so registered.

(b) A replacement tag shall be issued for a replacement fee as established in section 16-6 (Fees; Animals).

(c) It shall be unlawful for any person to take off or remove the City registration tag from any dog belonging to another or remove the strap or collar on which the same is fastened.

Sec. 6-125. – Licensed in name of household head.

All dogs maintained in any household shall be licensed in the name of the household head. Such household head shall be deemed the owner/custodian of the dog as that term is defined in Section 6-1(w) of this chapter.

Sec. 6-126. –Kennel license required.

(a) No person or household shall own or harbor more dogs or cats than allowed under section 6-45, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding cats or dogs or both dogs and cats, without having obtained a kennel license from the city clerk. Except that the city will allow residents to keep the number of animals that they have at the time of publication of this section as long as each animal is registered every year. The number of animals the owner has will be reduced by attrition to the maximum number allowed under this subsection (a) over time as residents shall not be able to replace animals that die or are given away. Once they reach the maximum number four they will not be allowed to exceed it again.

(b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the animal control officer certifying approval of the kennel and

compliance with the applicable laws of the city and the State of Kansas, and a certificate by the zoning code enforcement officer has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the city clerk has not received any protest against the kennel, the city clerk may issue a renewal of an existing kennel license at the same location without any report from the animal control officer and zoning code enforcement officer. If the animal control officer or the zoning code enforcement officer finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the city clerk, and the license shall not be renewed except after a public hearing before the governing body.

(c) The animal control officer, the zoning enforcement officer, or any law enforcement officer shall have the right to inspect any premises licensed under this section at any reasonable time and nothing shall prevent the entry onto private property for the purpose of inspection. The application for a kennel shall constitute consent to such entry and inspection.

(d) The governing body may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following:

- (1) The kennel is maintained in violation of any applicable law of the State of Kansas, or of the city.
- (2) The kennel is maintained so as to be a public nuisance.
- (3) The kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

(e) The city clerk shall collect an annual kennel license fee as established in section 16-6 (Fees; Animals). Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this chapter.

(f) 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.

Sec. 6-127. – Denial, revocation and reinstatement.

(a) Withholding or falsifying information on a license application shall be grounds for denial or revocation of such license.

(b) Any person having been denied a license may not reapply for a period of thirty (30) days.

(c) No person who has been convicted of cruelty to animals shall be issued a license or permitted to own/keep any animal within the City.

(d) It shall be a condition of the issuance of any license that the Animal Control Officer shall be permitted to inspect all animals and all premises where animals are kept at any reasonable time. If permission for such inspection is refused, the Animal Control Officer shall report the same to the City Administrator. The City Administrator shall have the authority to revoke the license.

(e) Any license issued shall be subject to revocation in the event such license shall fail to comply with the terms and conditions of such license, or if the activity licensed becomes a nuisance, health hazard, or detriment to the safety and welfare to residents of the City.

(f) Any person whose license is revoked shall, within ten (10) days thereafter remove the animals owned or kept from the limits of this City, or surrender any animal owned or kept to the Animal Control Officer, who shall determine its disposition.

(g) Any person aggrieved by the denial or revocation of a license may appeal to the City Commission, who may issue, reinstate, or affirm the denial of such license or licensing.

Secs. 6-128—6-144. - Reserved.

Section Six: Article 6 of Chapter 6 of the City of Neodesha Code shall be amended to read as follows:

ARTICLE 6. IMPOUNDMENT OF ANIMALS

Sec. 6-145. – Notification of capture and impoundment.

Upon the taking and impoundment of any dog or cat wearing a current city licensing and/or rabies vaccination tag, the Animal Control Officer shall notify the owner/custodian of such animal of its impoundment and conditions under which the animal can be recovered. Such notice shall be given within forty-eight (48) hours of the impoundment of such animal. Any owner/custodian so notified who fails to reclaim such animal within one business day or such notice shall be issued a notice to appear for failure to reclaim.

Sec. 6-146. – Owner/custodian of impounded animal may be processed against for violation of any applicable section or sections.

The owner/custodian of any impounded animal who does not recover such animal may still be processed against for violation of any applicable section or sections of this chapter.

Sec. 6-147. – Period for holding animals.

(a) Any impounded dog or cat not recovered by its owner/custodian within a holding period of three (3) business days shall become the property of the city and may be offered for adoption or humanely euthanized.

(b) When any dog or cat not having proper identification arrives at the shelter in such a condition that, in the judgement of the veterinarian, compassion requires that such animal be promptly and humanely euthanized.

Sec. 6-148. – Procedure and fees for recovery of animals.

(a) Any owner/custodian of an impounded dog or cat shall be entitled to recover such animal if, within the prescribed holding period, such person shall appear to claim such animal and shall make payment of the required fees and any veterinary expenses. The required fees shall be as established in section 16-6 (Fees; Animals).

(b) If an owner/custodian cannot validate current rabies immunization for his/her animal, then such owner/custodian shall, within three (3) business days, accomplish such vaccination with a licensed veterinarian or shall be issued a notice to appear for validation of this section.

Sec. 6-149. – Adoption of animals.

(a) The city may transfer or place any unclaimed or surrendered animals for adoption with a suitable home, duly licensed humane society, animal shelter, or a "breed rescue" organization.

(b) There shall be an adoption fee for all animals, as specified in section 16-6 (Fees; Animals).

(c) No dog or cat may be transferred to the permanent custody of a prospective owner unless:

(1) Such dog or cat has been surgically spayed or neutered before the physical transfer of the dog or cat occurs; or

(2) The prospective owner signs an agreement to have the dog or cat spayed or neutered and deposits with the city not less than the lowest nor more than the highest cost of spaying or neutering in the community as determined by the city. Any funds deposited pursuant to such an agreement shall be refunded to such person upon presentation of a written statement signed by a licensed veterinarian that the dog or cat has been spayed or neutered. If such person does not reclaim the deposit within six months after receiving custody of the dog or cat, the city shall keep the deposit and may reclaim the unspayed or unneutered dog or cat.

(d) The animal control officer shall provide the new owner with a statement of ownership terminating all interest and rights of former owners when its representative is satisfied that all provisions of this section have been met.

(e) Nothing in this section shall be construed to require sterilization of a dog or cat which is being held by the city and which may be claimed by its rightful owner within the holding period established in section 6-147.

Sec. 6-150. – Breaking pound or shelter.

It shall be unlawful for any person other than a duly authorized officer to break open or attempt to break open any enclosure in which dogs, pups, cats, kittens, or any other impounded animals are confined or held pursuant to the provisions of this article or take or let out any dog, pup, cat, kitten or any other impounded animals placed therein by an officer of this city, or take or attempt to take from an officer of this city any dog, pup, cat, kitten or any other impounded animal taken by such an officer, or in any manner interfere with or hinder any officer of this city in catching or taking up any animal.

Secs. 6-151—6-169. - Reserved.

Section Seven: EFFECTIVE DATE. This ordinance shall be in full force and effect after its publication in the official city newspaper.

Passed by the Governing Body of the City of Neodesha, Kansas and signed by the Mayor this 12th day of May, 2021.

ATTEST:

/s/ Devin Johnson

Devin Johnson, Mayor

/s/ Stephanie Fyfe

Stephanie Fyfe, City Clerk

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