

OSAWATOMIE CITY COUNCIL

REVISED AGENDA

May 23, 2013

6:30 p.m., Memorial Hall

(Changes in Bold Italic)

1. Call to order
2. Roll Call
3. Pledge of Allegiance
4. Consent Agenda
 - Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action*
 - A. Approve May 23 **Revised** Agenda
5. Comments from the Public; Presentations
 - Citizen participation will be limited to 5 minutes. Please stand & be recognized by the Mayor.*
 - A. Presentation on Public Building Commission by Dave Arteberry, Financial Advisor
 - B. Public Comments
6. Public Hearing – none
7. Unfinished Business
 - A. Review of Proposed **Ordinance** - Animal Code and Pit Bull Changes
8. New Business
 - A. Appointments – **Economic & Community Development**
 - ~~B. Fireworks Permit Applications~~
 - C. Proclamation – Business Appreciation Month
 - D. Summer Youth Programs
9. Council Reports
10. Mayor’s Report
11. City Manager’s Report
- 12.** Executive Session – **Security Measures**
13. Adjournment

REGULAR MEETING – June 13, 2013

REGULAR MEETING – June 27, 2013

CHARTER ORDINANCE NO. 16

A CHARTER ORDINANCE OF THE CITY OF OSAWATOMIE, KANSAS, EXEMPTING THE CITY FROM PROVISIONS OF K.S.A. 12-1758, K.S.A. 12-1760 AND K.S.A. 12-1767 RELATING TO PUBLIC BUILDING COMMISSIONS AND REVENUE BONDS AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING THERETO.

WHEREAS, Article 12, Section 5 of the Constitution of the State of Kansas (the "Act") provides that cities may exercise certain home rule powers, including passing Charter ordinances exempting such cities from certain acts of the Kansas Legislature and which may enact substitute or additional provisions on the same subject; and

WHEREAS, the City of Osawatomie, Kansas (the "City") is a city as defined in the Act, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, K.S.A. 12-1758, K.S.A. 12-1760 and K.S.A. 12-1767 are a part of an enactment of the Kansas Legislature (K.S.A. 12-1757 et seq.) relating to public building commissions and the issuance of revenue bonds by such commissions, which enactment is applicable to the City, but is not uniformly applicable to all cities within the State of Kansas; and

WHEREAS, the Governing Body of the City desires, by Charter ordinance, to exempt the City from the provisions of K.S.A. 12-1758, K.S.A. 12-1760 and K.S.A. 12-1767 identified in this ordinance, and provide substitute and additional provisions on the same subject in order to provide (a) additional and alternative methods for financing certain public facilities and buildings in the city, and (b) an exemption from a protest period relating to the authorization of certain revenue bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS AS FOLLOWS:

Section 1. **Exemption from K.S.A. 12-1758 (a).** The City, by the power vested in it by the Act, hereby elects to exempt itself from and make inapplicable to the City the provisions of K.S.A. 12-1758(a) and does hereby provide the following substitute and additional provisions in place thereof:

(a) The City, by appropriate ordinance, may create a public building commission for the purposes of acquiring a site or sites for and constructing, reconstructing, equipping and furnishing, or purchasing or otherwise acquiring, a building or buildings or other facilities of a revenue producing character. Such building or buildings or facilities shall be maintained and operated for (i) City offices or such other purposes as are commonly carried on in connection with such facilities and general city buildings; (ii) public, municipal, community, healthcare or recreational purposes of the city; (iii) educational, recreational or administrative purposes for

school districts, community colleges, technical colleges or other public educational institutions; (iv) county courthouses, the housing and accommodation of county offices or county businesses or such other purposes as are commonly carried on in collection with such facilities and general county buildings; and (v) for housing, accommodations and parking facilities for offices of state and federal agencies.

Section 2. Exemption from K.S.A. 12-1760. The City, by the power vested in it by the Act, elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-1760 and provide substitute and additional provisions in place thereof as follows:

A public building commission authorized under this Charter ordinance and K.S.A. 12-1757 et seq. shall have the power to do all things necessary or incidental to the purpose of constructing or acquiring or enlarging, furnishing and operating and maintaining buildings or facilities to be made available for use by governmental agencies and non-profit corporations organized under the laws of this state.

Section 3. Exemption from K.S.A. 12-1767. The City, by the power vested in it by the Act, elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 12-1767 and provides substitute and additional provisions in place thereof as follows:

(a) Any revenue bonds proposed to be issued by a public building commission created by the City shall be issued as provided in K.S.A. 10-1201 et seq. and amendments thereto, except to the extent that such statutes are in conflict with this Charter ordinance or K.S.A. 12-1757 et seq. Before any revenue bonds are authorized or issued under the provisions of this Charter ordinance and K.S.A. 12-1757 et seq., the public building commission shall adopt a resolution specifying the amount of such bonds and the purpose of the issuance thereof.

(b) Such resolution shall be published once a week for two consecutive weeks in the official City newspaper or in a newspaper having general circulation in the county if the lease is with a county or school district. The resolution may provide, and shall provide, if the lease is with a county or school district, that if within 30 days after the last date of publication of the resolution a petition in opposition to the resolution, signed by not less than five percent of the electors of the city or by not less than five percent of the electors of the county or school district if the lease is with such entity, is filed with the county election officer, the board of county commissioners shall submit the question to the voters at an election called for that purpose or at the next general election.

(c) No construction contract shall be let or approved by a public building commission until after publication of the resolution as provided in subsection (b) of this Section.

Section 4. Severability. If any provision or section of this Charter ordinance is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter ordinance. In such instance, this Charter ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

Section 5. **Effective Date.** This Charter ordinance shall be published once a week for two consecutive weeks in the official city newspaper, and shall take effect 60 days after final publication, unless a petition signed by a number of electors of the city equal to not less than ten percent of the number of electors who voted at the last preceding regular city election is filed in the office of the city clerk, demanding that this Charter ordinance be submitted to a vote of the electors, in which event this Charter ordinance shall take effect when approved by a majority of the electors voting at an election held for such a purpose.

PASSED, APPROVED AND ADOPTED by the Governing Body, not less than two-thirds of the members-elect voting in favor thereof, the 25th day of April, 2013.

CITY OF OSAWATOMIE, KANSAS

By _____
L. Mark Govea, Mayor.

(SEAL)

ATTEST:

By _____
Ann Elmquist, City Clerk

Passed: ___/___/13
Published: ___/___/13
 ___/___/13
Effective: ___/___/13

EXCERPT OF MINUTES

The Governing Body of the City of Osawatomie, Kansas met at the usual place in the city on April 25, 2013, at 6:30 p.m., with the Mayor L. Mark Govea presiding, and the following members of the governing body were present:

and the following members were absent:

Thereupon, and among other business, there was presented to the Governing Body, a Charter Ordinance entitled:

A CHARTER ORDINANCE OF THE CITY OF OSAWATOMIE, KANSAS,
EXEMPTING THE CITY FROM PROVISIONS OF K.S.A. 12-1758, K.S.A. 12-
1760 AND K.S.A. 12-1767 RELATING TO PUBLIC BUILDING
COMMISSIONS AND REVENUE BONDS AND PROVIDING SUBSTITUTE
AND ADDITIONAL PROVISIONS RELATING THERETO.

The Charter Ordinance was considered and discussed; and a motion of _____, seconded by _____, the Charter Ordinance was adopted by a two-thirds majority vote of all members elect of the Governing Body.

The Charter Ordinance was assigned No. __ and directed to be signed by the Mayor and attested by the City Clerk; and the City Clerk was directed to cause the publication of the Ordinance twice as set forth therein and required by law.

CITY CLERK'S
CERTIFICATION OF EXCERPT OF MINUTES

I hereby certify that the foregoing is a true and correct Excerpt of the Minutes of the proceedings at the April 25, 2013 meeting of the Governing Body of the City of Osawatomie, Kansas.

(SEAL)

By _____
Ann Elmquist, City Clerk

Public Building Commissions

City of Osawatomie, Kansas

Overview

Legal and Financing Structure

Public Building Commissions ("PBCs") are separate legal entities that can be created by any county or city in Kansas for the purpose of acquiring land and constructing buildings to be used for municipal purposes. PBCs are governed by a three to nine member board appointed by the creating municipality. In recent years, PBCs have been used to fund new jails, courthouses, city halls, swimming pools, senior centers, and a variety of other public purpose projects.

Once a PBC is created, it will typically issue bonds to pay the cost of the desired project. The project is then leased to a municipality, usually the city or county that created the PBC, via a lease purchase agreement. The municipality makes semiannual lease payments to the PBC that are used to repay the bonds. Once the bonds are repaid, the ownership of the facility reverts back to the municipality.

Authorization

The creation of PBCs are authorized by K.S.A. 12-1757 et seq. Typically, the creation of the PBC, the issuance of its bonds, or the execution of the lease purchase agreement requires a notice and protest period. If a valid petition is filed during the protest period then the matter can be brought to a vote of the public or dropped.

Source of Repayment

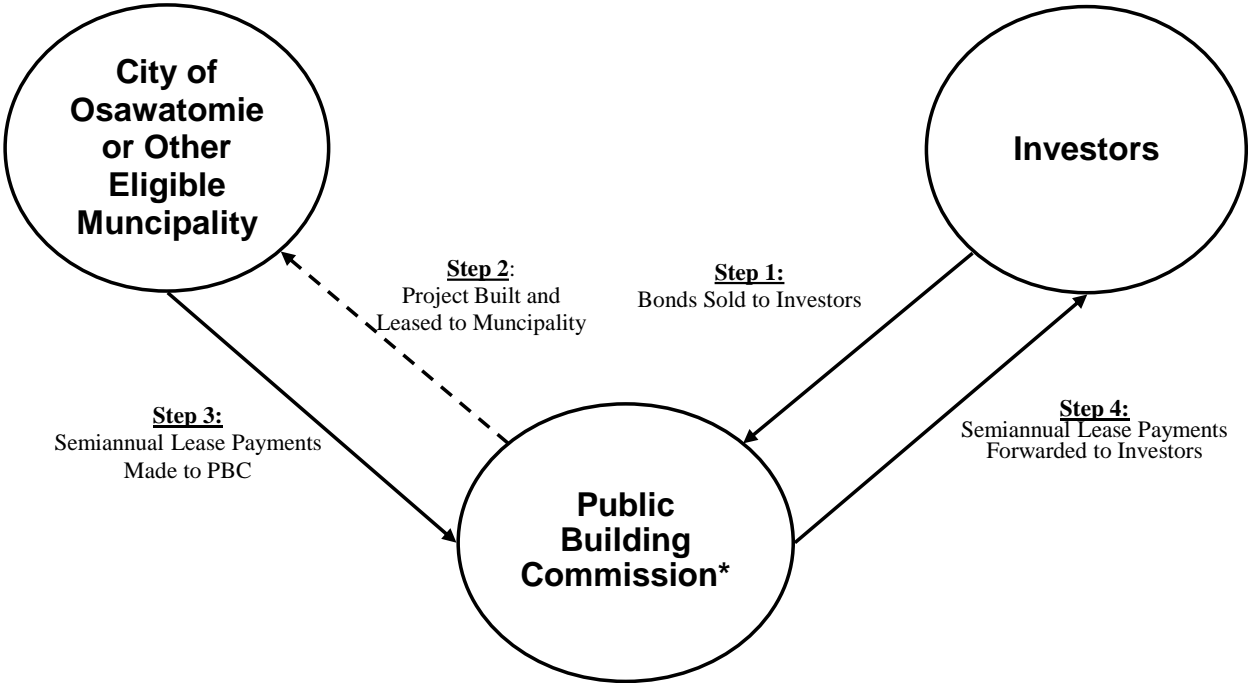
The lease payments made by a municipality to a PBC are typically made out of the general fund and can be derived from any desired revenue source (e.g. property taxes, sales tax, user fees, etc.). Since Kansas statutes allow these lease payments to be exempt from the cash basis law, the municipality's obligation to make the payments is typically absolute and unconditional for the life of the lease. Therefore, the municipality is required to provide for the lease payments from all available funds, even if the anticipated source of revenue is insufficient to cover the entire payment.

Advantages

There are several advantages to utilizing a PBC to finance a municipal project:

1. A municipality's unconditional obligation to make lease payments to a PBC is viewed as a very strong credit factor allowing PBC bonds to sell at low interest rates.
2. PBC bonds are not general obligations of the PBC or the municipality and are not subject to statutory debt limits. This is particularly important for Kansas counties, which have very low debt ceilings.
3. After the appropriate protest period is complete, there are no future public votes required to finance the desired project.
4. A PBC can be created for a single project or for multiple future projects.

Public Building Commission Financing Structure



* In order to administer the payment of project costs and semiannual lease payments, the PBC may utilize the services of the corporate trust department of a bank.

**Public Building Commissions in Kansas
Bond Issues During Last 10 Years**

	Date	Issuer	Issue/Project
1	12/1/2011	ABILENE, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS, SERIES 2011
2	1/5/2012	ABILENE, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS, SERIES 2012
3	11/1/2006	ALLEN COUNTY, KANSAS PUBLIC BUILDING COMMISSION	RFDG
4	12/20/2011	ALLEN COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS, SERIES 2011
5	1/20/2012	ALLEN COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2012 (ALLEN COUNTY HOSPITAL PROJECT)
6	4/1/2008	ANDERSON CNTY KANS PUB BLDG COMMN LEASE REV	LAW ENFORCEMENT CTR PROJ
7	10/15/2003	ANDOVER, KANSAS PUBLIC BUILDING COMMISSION	IMPT-PK FACS PROJ-SER A
8	7/15/2004	ANDOVER, KANSAS PUBLIC BUILDING COMMISSION	IMPT-PARK FACS PJ-A
9	9/1/2004	ANDOVER, KANSAS PUBLIC BUILDING COMMISSION	IMPT-PUB SAFETY FAC-SER C
10	3/15/2006	ANDOVER, KANSAS PUBLIC BUILDING COMMISSION	IMPT-GAZEBO PROJ-SER A
11	8/1/2010	ANDOVER, KANSAS PUBLIC BUILDING COMMISSION	IMPROVEMENT REVENUE BONDS - SERIES A, 2010 (CITY HALL)
12	8/15/2011	ANDOVER, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS, SERIES A, 2011 (CITY HALL)
13	11/2/2011	ANDOVER, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS, SERIES B, 2011 (PARK FACILITIES PROJECT)
14	9/1/2009	ARKANSAS CITY, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2009 (SOUTH CENTRAL REGIONAL MEDICAL CENTER)
15	11/18/2010	AUGUSTA KS PUBLIC BLDG COMMISSION	REFUNDING REVENUE SERIES 2010 TAXABLE SERIES 2010B
16	7/20/2011	BARBER COUNTY, KANSAS	PUBLIC BUILDING COMMISSION REVENUE BONDS, SERIES 2011
17	8/15/2012	BARBER COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2012
18	9/1/2003	BEL AIRE KANSAS PUBLIC BUILDING COMMISSION	SER A & B
19	3/1/2004	BEL AIRE KANSAS PUBLIC BUILDING COMMISSION	SER A
20	12/1/2006	BEL AIRE KANSAS PUBLIC BUILDING COMMISSION	RFDG
21	4/15/2010	BEL AIRE KANSAS PUBLIC BUILDING COMMISSION	TAXABLE REVENUE BONDS SERIES 2010
22	9/15/2011	BELOIT PUBLIC BUILDING COMMISSION, BELOIT, KANSAS	REVENUE BONDS SERIES 2011 (SWIMMING POOL)
23	2/1/2009	BROWN CNTY KANS PUB BLDG COMMN REV	<Issue description not available>
24	4/1/2005	BUTLER CNTY KANS PUB BLDG COMMN REV	CROSSOVER RFDG-PUB FACS PROJS
25	6/1/2005	BUTLER CNTY KANS PUB BLDG COMMN REV	COURTHOUSE PROJ-SER 05-2
26	10/1/2007	BUTLER CNTY KANS PUB BLDG COMMN REV	<Issue description not available>
27	9/29/2009	CARBONDALE KANS PUB BLDG COMMN REV	SWIMMING POOL
28	4/1/2004	CHENEY, KANSAS PUBLIC BUILDING COMMISSION	<Issue description not available>
29	12/15/2011	CHENEY, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS, SERIES 2011
30	4/19/2012	CIMARRON KANSAS PUBLIC BUILDING COMMISSION	PUBLIC BUILDING COMMISSION REVENUE BONDS-SERIES 2012
31	12/15/2004	CLEARWATER KANS PUB BLDG COMMISION REV	RFDG-FAMILY AQUATIC CTR
32	6/15/2012	CLOUD COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS, SERIES 2012 (LAW ENFORCEMENT AND DETENTION CENTER PROJECT)
33	7/1/2008	CLYDE KANS PUB BLDG COMMN REV	RFDG
34	5/15/2012	COFFEYVILLE, KANSAS PUBLIC BUILDING COMMISSION	HEALTH CARE REFUNDING REVENUE BONDS SERIES 2012 (COFFEYVILLE MEDICAL CENTER)
35	7/17/2012	COLDWATER, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2012 (SWIMMING POOL)
36	11/20/2012	COUNCIL GROVE PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2012 (SWIMMING POOL)
37	9/9/2009	CRAWFORD CNTY KANS PUB BLDG COMMN REV	SER B-HOSP DIST NO 1 CRAWFORD CNTY-BUILD AMERICA BND-DIRECT PAYMENT
38	2/11/2009	DICKINSON CNTY KANS PUB BLDG COMMN REV	EMS FAC
39	1/23/2008	DONIPHAN CNTY KANS PUB BLDG COMMN REV	DETENTION CTR FAC
40	9/28/2011	DONIPHAN COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS SERIES 2011 (DETENTION CENTER FACILITY)
41	12/10/2008	EFFINGHAM KANS PUB BLDG COMMN REV	SWIMMING POOL

42	6/1/2005	EUREKA KANS PUB BLDG COMMN REV	<Issue description not available>
43	12/1/2010	FRANKFORT KANSAS	PUBLIC BUILDING COMMISSION REVENUE SERIES 2010
44	5/15/2011	FRANKLIN COUNTY, KANSAS, PUBLIC BLDG COMMISSION	LEASE REVENUE BONDS, SER 2011
45	9/11/2012	GARDNER, KANSAS	PUBLIC BUILDING COMMISSION LEASE REVENUE REFUNDING BONDS, SERIES 2012A
46	6/1/2006	GEARY COUNTY, KANSAS PUBLIC BUILDING COMMISSION	JAIL & CORRECTIONAL FACS PROJ
47	7/1/2006	GEARY COUNTY, KANSAS PUBLIC BUILDING COMMISSION	GEARY CMNTY HOSP PROJ-SER B
48	4/1/2009	GEARY COUNTY, KANSAS PUBLIC BUILDING COMMISSION	RFDG
49	5/1/2012	GEARY COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2012
50	8/15/2008	HARVEY CNTY KANS PUB BLDG COMMN REV	SER A
51	12/15/2010	HARVEY COUNTY PUBLIC BUILDING COMMISSION	REVENUE BONDS, SERIES 2010
52	3/1/2013	HARVEY COUNTY PUBLIC BUILDING COMMISSION	TAXABLE PUBLIC BUILDING COMMISSION REFUNDING REVENUE BONDS SERIES 2013
53	8/10/2010	HERINGTON, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS - SERIES 2010 (LIMITED CARE RESIDENTIAL FACILITY)
54	3/1/2010	HESSTON, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2010
55	8/15/2003	HILLSBORO KANS PUB BLDG COMMN REV	RFDG-CMNTY MED CTR PROJ
56	10/15/2005	HILLSBORO KANS PUB BLDG COMMN REV	IMPT-FAMILY AQUATIC CTR PROJ
57	12/1/2010	HILLSBORO KANS PUB BLDG COMMN REV	RFDG
58	4/18/2011	HILLSBORO KANS PUB BLDG COMMN REV	REFUNDING REVENUE BONDS SERIES 2011
59	3/15/2006	HOISINGTON KANS PUB BLDG COMMN HEALTH CARE FACS REV	RFDG-CLARA BARTON HOSP ASSOC PJ
60	10/8/2008	HUMBOLDT KANS PUB BLDG COMMN REV	SWIMMING POOL
61	6/1/2004	JACKSON CNTY KANS PUB BLDG COMMN REV	COURTHOUSE RENOVATIONS
62	11/1/2003	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	SER A
63	10/1/2004	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	SER A
64	11/15/2005	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	SER A
65	3/1/2007	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	CROSSOVER RFDG-SER B
66	3/1/2007	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	SER A
67	5/1/2008	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	SER A & B
68	11/1/2008	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	SER C
69	5/15/2009	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	SER A
70	6/3/2010	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	LEASE PURCHASE REVENUE REFUNDING BONDS, SERIES 2010B & C
71	6/3/2010	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	TAXABLE LEASE REVENUE BONDS, SERIES 2010A (RECOVERY ZONE BONDS)
72	10/28/2010	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	LEASE PURCHASE REVENUE BONDS, SERIES 2010D (TAXABLE BUILD AMERICA BONDS)
73	4/15/2011	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	LEASE PURCHASE REVENUE BONDS, SERIES 2011A
74	11/10/2011	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	SER B
75	8/15/2012	JOHNSON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	LEASE PURCHASE REVENUE REFUNDING BONDS SERIES 2012A
76	8/15/2004	KECHI KANS PUB BLDG COMMN IMPT REV	CITY HALL PJ
77	11/15/2005	KECHI KANS PUB BLDG COMMN IMPT REV	POLICE STATION PROJ
78	1/1/2010	KECHI, KANSAS-PUBLIC BUILDING COMMISSION	PUBLIC BUILDING COMMISSION REFUNDING REVENUE BONDS-SERIES 2010
79	7/15/2008	KINGMAN COUNTY, KANSAS PUBLIC BUILDING COMMISSION	NINNESCAH VY HEALTH SYS INC
80	2/28/2012	KINGMAN COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS-SERIES 2012 (NINNESCAH VALLEY HEALTH SYSTEMS, INC.)
81	11/1/2009	LA CYGNE PUB BLDG COMMN REV	REVENUE BONDS SERIES 2009 (COMMUNITY SWIMMING POOL PROJECT)
82	12/15/2008	LINCOLN CNTY KANS PUB BLDG COMMN REV	LINCOLN CNTY HOSP PROJ
83	3/1/2010	LYON COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS (NEWMAN MEMORIAL COUNTY HOSPITAL) SERIES 2010-A
84	9/15/2009	LYONS KANS PUB BLDG COMMN REV	<Issue description not available>
85	6/1/2005	MAIZE, KANSAS PUBLIC BUILDING COMMISSION	IMPT-WICHITA ST UNIV PROJ-A
86	5/15/2006	MAIZE, KANSAS PUBLIC BUILDING COMMISSION	RFDG-IMPT-CITY GOVT COMPLEX-SER A

87	4/28/2011	MAIZE, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS SERIES A, 2011 (CITY GOVERNMENT COMPLEX)
88	10/30/2012	MAIZE, KANSAS PUBLIC BUILDING COMMISSION	IMPT-REC FAC ADDITION-SER A
89	2/26/2013	MARYSVILLE, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS, SERIES 2013
90	3/15/2006	MEDICINE LODGE KANS PUB BLDG COMMN REV	FAMILY AQUATIC CTR
91	8/1/2008	MIAMI CNTY KANS PUB BLDG COMMN REV	RFDG
92	4/15/2009	MITCHELL COUNTY KANSAS PUBLIC BUILDING COMMISSION	RFDG
93	10/15/2009	MITCHELL COUNTY KANSAS PUBLIC BUILDING COMMISSION	TAXABLE REVENUE BONDS (BUILD AMERICA BONDS) SERIES 2009-2
94	12/1/2011	MORRIS COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS (MORRIS COUNTY HOSPITAL PROJECT), SERIES 2011A
95	9/15/2009	MULVANE, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS, SERIES 2009 (FIRE/EMS FACILITY)
96	6/1/2004	NEWTON, KANSAS PUBLIC BUILDING COMMISSION	NEWTON ATHLETIC FACS PJ
97	3/1/2005	NEWTON, KANSAS PUBLIC BUILDING COMMISSION	SAND CREEK STA GOLF COURSE PJ
98	12/15/2005	NEWTON, KANSAS PUBLIC BUILDING COMMISSION	SAND CREEK STA GOLF COURSE-B
99	5/1/2012	NEWTON, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS SERIES 2012
100	2/21/2013	NORTON, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2013 (SWIMMING POOL)
101	12/15/2004	OSAGE CITY KANS PUB BLDG COMMN REV	HEALTH CARE PROJECTS SER A, B and C
102	4/1/2007	OSAGE CITY KANS PUB BLDG COMMN REV	DAM PROJ-SER A.
103	12/1/2007	PAOLA, KANSAS PUBLIC BUILDING COMMISSION	<Issue description not available>
104	9/15/2008	PAOLA, KANSAS PUBLIC BUILDING COMMISSION	<Issue description not available>
105	5/10/2012	PAOLA, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2012
106	12/15/2011	PAWNEE COUNTY, KANSAS PUBLIC BUILDING COMMISSION	HOSPITAL REVENUE BONDS (PAWNEE VALLEY COMMUNITY HOSPITAL) SERIES 2011
107	2/15/2012	PAWNEE COUNTY, KANSAS PUBLIC BUILDING COMMISSION	HOSPITAL REVENUE BONDS (PAWNEE VALLEY COMMUNITY HOSPITAL) SERIES 2012
108	9/1/2011	PHILLIPSBURG, KANSAS	PUBLIC BUILDING COMMISSION REVENUE BONDS, SER 2011
109	10/15/2010	PLAINVILLE, KANSAS	PUBLIC BUILDING COMMISSION REVENUE BONDS SERIES 2010
110	9/15/2007	PRATT COUNTY, KANSAS PUBLIC BUILDING COMMISSION	RFDG-PRATT REGL MED CTR-SER A & B
111	10/13/2011	PRATT COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE SERIES 2011
112	11/1/2012	PRATT COUNTY, KANSAS PUBLIC BUILDING COMMISSION	PUBLIC BUILDING COMMISSION REVENUE BONDS SERIES 2012
113	7/15/2009	RAWLINS COUNTY, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2009
114	4/1/2004	RENO CNTY KANS PUB BLDG COMMN REV	RFDG
115	6/1/2007	RENO CNTY KANS PUB BLDG COMMN REV	<Issue description not available>
116	12/15/2006	RICE COUNTY KANSAS PUBLIC BUILDING COMMISSION	HOSP DIST NO 1 RICE CNTY KANS
117	5/15/2008	RICE COUNTY KANSAS PUBLIC BUILDING COMMISSION	RFDG.
118	9/2/2011	RICE COUNTY KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS SERIES 2011
119	11/29/2011	RICE COUNTY KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS, SERIES B, 2011 (HOSPITAL DISTRICT NO. 1)
120	12/15/2006	ROSSVILLE, KANSAS PUBLIC BUILDING COMMISSION	SWIMMING POOL
121	12/19/2012	ROSSVILLE, KANSAS PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS SERIES 2012
122	3/1/2009	SCOTT COUNTY PUBLIC BLDG COMMISSION KANSAS	LAW ENFORCEMENT CTR PROJ
123	10/1/2010	SCOTT COUNTY PUBLIC BLDG COMMISSION KANSAS	REVENUE BONDS SERIES 2010
124	12/1/2003	SEDGWICK COUNTY PUBLIC BUILDING COMMISSION	JUVENILE JUSTICE COMPLEX-SER 1
125	12/1/2003	SEDGWICK COUNTY PUBLIC BUILDING COMMISSION	RFDG-EXPLORATION PLACE PROJ-2
126	12/1/2003	SEDGWICK COUNTY PUBLIC BUILDING COMMISSION	RFDG-PUB SVC ADMIN BLDG PROJ-3
127	1/1/2007	SEDGWICK COUNTY PUBLIC BUILDING COMMISSION	JUVENILE JUSTICE COMPLEX-SER 1
128	12/15/2008	SEDGWICK COUNTY PUBLIC BUILDING COMMISSION	TECHNICAL ED COMPLEX PROJ-1
129	10/1/2011	SEDGWICK COUNTY PUBLIC BUILDING COMMISSION	(SEDGWICK COUNTY PROJECTS), SERIES 2011-1
130	8/15/2012	SEDGWICK COUNTY PUBLIC BUILDING COMMISSION	REFUNDING REVENUE BONDS (JUVENILE JUSTICE COMPLEX) SERIES 2012-1
131	3/15/2007	SENECA KANS PUB BLDG COMMN REV	SWIMMING POOL

132	5/1/2013	SENECA KANS PUB BLDG COMMN REV	REFUNDING REVENUE BONDS SERIES 2013
133	12/15/2009	SMITH COUNTY, KANSAS	PUBLIC BUILDING COMMISSION REVENUE BONDS SERIES 2009
134	5/1/2013	SMITH COUNTY, KANSAS	PUBLIC BUILDING COMMISSION REFUNDING REVENUE BONDS SERIES 2013
135	11/15/2007	TOPEKA KANS PUB BLDG COMMN REV	RFDG-10TH & JACKSON PROJS-SER A
136	11/15/2007	TOPEKA KANS PUB BLDG COMMN REV	RFDG-DEPT SOCIAL & REHAB PJ-B
137	9/15/2005	WAMEGO KANS PUB BLDG COMMN REV	RECREATION COMPLEX PROJ
138	12/15/2006	WAMEGO KANS PUB BLDG COMMN REV	WAMEGO CITY HOSP
139	9/30/2004	WASHBURN UNIV TOPEKA KANS BLDG REV	RFDG-LIVING LEARNING CTR PROJ
140	3/1/2006	WASHINGTON CNTY KANS PUB BLDG COMMN REV	REVENUE BONDS SERIES 2006
141	3/7/2013	WASHINGTON CNTY KANS PUB BLDG COMMN REV	REVENUE BONDS (LAW ENFORCEMENT CENTER AND HOSPITAL PROJECT) SERIES 2013
142	7/22/2009	WASHINGTON PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2009 (SWIMMING POOL)
143	12/15/2007	WELLINGTON, KANSAS PUBLIC BUILDING COMMISSION	<Issue description not available>
144	3/1/2010	WELLINGTON, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS, SERIES 2010
145	9/15/2010	WHITEWATER, KANSAS PUBLIC BUILDING COMMISSION	REVENUE BONDS SERIES 2010 (WHEAT STATE MANOR, INC.)
146	6/1/2003	WICHITA KANS PUB BLDG COMMN REV	SPORTS HALL OF FAME PJ-M
147	7/30/2003	WICHITA KANS PUB BLDG COMMN REV	RFDG-ST OFFICE BLDG PROJ
148	3/14/2013	WYANDOTTE CNTY/KCK UNI GOVT PUB BLDG COMMN REV	EMERGENCY COMMUNICATIONS PJ-A



STAFF AGENDA MEMORANDUM

DATE OF MEETING: May 23, 2013

AGENDA ITEM: Proposed Animal and Pit Bull Code Amendments

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: At the April 25, 2013 meeting, the Council received a presentation from several individuals about repealing the Pit Bull ban in our municipal code. As a result of this presentation Councilwoman Maichel and Councilwoman LaDuex were tasked with meeting to create a revised code to present to the City Council. They met with me we reviewed portions of Topeka and Lawrence's animal codes to adopt the changes they deemed important. In summary those changes included:

- a. Removing the Pit Bull ban
- b. Strengthening our current vicious/dangerous dog provisions
- c. Create anti-tethering provisions
- d. Adding habitual violator provisions
- e. Strengthening our animal cruelty provisions

Because changes to one section of the animal code can send ripples through the rest of the sections, I found it simpler to just recreate the code from top to bottom so that the end result would be readable and easier to use for our animal control and law enforcement staff.

Summary of Changes

Pit Bull Ban. We have removed the breed specific ban against pit bulls.

Vicious and Dangerous Dogs and Animals. As an alternative to the Pit Bull ban, we have strengthened our vicious and dangerous dog provisions. Our current provisions require that the owner of any ruled vicious by the court be required to provide signage, muzzling, and insurance. The new provisions will require the owner to also register the dog annually with a

\$50 fee, have the dog micro-chipped, and require a secure enclosure as well as sterilization if it hasn't been done. There are some very significant fines and penalties for owners that do not comply with these requirements. The provisions now refer to dogs as dangerous, instead of vicious. I believe this better fits the intent of these laws.

The code also provides a catch-all provision for dangerous or vicious animals in general. It gives the animal control, law enforcement and the judge the ability to move quickly on an animal that is a danger to the public. The exotic animal section is move to our dangerous animals section since that is the general reason for the law.

Anti-tethering. A major change in the code is the addition of the anti-tethering provisions. The provision as proposed applies to both dogs and cats. Under the code, an owner is prohibited from tether an animal in the following manner:

1. Unsupervised for more than 15 minutes
2. With a tether that is more than 1/8th the weight of the animal
3. So that the animal could injure or strangle itself
4. Without protection from the weather
5. Without securing a water supply from being knocked over
6. Tethered in an area where it can be attacked by other animals or teased by people
7. In an area of bare earth where no steps have been taken to keep it from being wet or muddy

Tethering under these conditions is defined as animal cruelty and will fall under those penalties and fines.

Animal Cruelty Provisions. The code expands animal cruelty provisions to prohibit the following:

1. Not adequately caring for an animal in a person's custody
2. Not providing food of an adequate quality
3. Not making water regularly available
4. Not providing adequate protection from the weather
5. Tethering a dog or cat as provided in the tethering section
6. Harboring an animal on a non-residential property
7. Failure by a driver to report the injury or death of an animal struck by his or her vehicle
8. Leaving an animal in a vehicle for more than five minutes

9. Allowing an animal to be injured if transporting it in an open bed of a vehicle
10. Cropping and animals ears or docking a tail without a veterinary license
11. Using implements to knock over a horse for sport or entertainment
12. Training or fighting animals against other animals or humans

The provisions allow a person convicted of animal cruelty to be fined, sentenced to six months in jail and possibly be prohibited from owning all or specific animals as determined by the judge.

At Large and Habitual Violators. Animal at large provisions are amended to provide for an aggressive animal at large. Additionally, any owner receiving more than four animal at large violations or four aggressive animals at large violations are subject to additional fines as a habitual violator.

Licensing of Animals. The licensing of animals was expanded to include ferrets. We only currently license dogs and cats. Most of the changes in this section are administrative only. The provision for service animals was modernized and also expanded to all certified and trained assistance animals.

Animals in City Limits. Several other provisions were added that needed to be addressed. The additions are:

1. Clarification of the prohibition of riding of livestock on the City right of way
2. Creating an odor provision in the nuisance section
3. A specific section on the removal of animal excrement
4. Allowing livestock on 10 acre tracts or more and used exclusively for agricultural purposes. We may have to consider a grandfather provision on this.
5. Allowing for on-site burial of animals with certain limitations. We may also want to consider some changes to this provision.

COUNCIL ACTION NEEDED: Review and discuss.

STAFF RECOMMENDATION TO COUNCIL: We have drafted this in both a review form and in ordinance form should you wish to pass it this evening. However, there is nothing preventing you from further amending the ordinance as presented and passing it, or amending it and sending staff back to provide a clean version for consideration at a later meeting.

CHAPTER II. ANIMAL CONTROL AND REGULATION

- Article 1. General
- Article 2. Animal Control Officer and Municipal Pound
- Article 3. Licensing and Health of Domesticated Animals
- Article 4. Dangerous Animals

ARTICLE I. GENERAL

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, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.

(c) "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.

(d) "Assistance Dog" means a dog trained and certified, or undergoing training, to aid or assist a person with a disability and includes guide dogs for the visually impaired, hearing dogs for the deaf or hard of hearing, and service dogs for mobility assistance, seizure alert, therapy, or psychiatric service. The owner of an assistance dog must be able to provide adequate documentation, upon demand of an animal control officer or law enforcement officer, that the service dog is an animal trained by an accredited institution which trains dogs for assistance work.

(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.

(1) Animals are not considered to be at-large if they are on the property of the owner and under the supervision or voice control of the owner.

(f) "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.

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

(h) "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; or

(2) Any dog which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places; or on private property; or

(3) Any dog which attacks or bites, or has attacked or bitten a human being or domestic animal; or

(4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(5) Notwithstanding the definition of a dangerous dog above in paragraphs (1) through (4) above:

(A) 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.

(B) No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(C) No dog may be declared dangerous if the injury or damage was sustained by a rabbit, bird or fowl that was not in a fenced or enclosed area on its owner's premises.

(D) Nothing in this article shall be deemed to regulate or prohibit the lawful maintenance of dogs by law enforcement agencies.

(i) "Dangerous or Vicious Animal" means:

(1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

(2) Any animal which attacks a human being or domestic animal without provocation.

(3) Any animal which is urged by its owner or harbinger to attack, or whose owner or harbinger threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

(4) A rabid animal, either deemed to be rabid by the animal control officer or a law enforcement officer based upon an animal's physical appearance or actions, or an animal later determined to be rabid through testing or determination made by a licensed veterinarian.

(j) "Dog" means any member of the species *canis familiaris*, regardless of sex.

(k) "Exposed to Rabies" means an animal which has been bitten by or subjected to danger, attack or harm by any creature known to have been infected with rabies.

(l) "Fowl" means those animals in the zoological class *aves*, which can be generally defined as domestic birds commonly kept for the production of meat, eggs or feathers, which shall include, but not limited to, chickens, ducks, geese, swans, turkeys, pigeons, pea fowl, guinea fowl, ostriches and emus.

(m) "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.

(n) "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.

(o) "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.

(p) "Immediate Control" means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(q) "Kennel" means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than six dogs.

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

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

(t) "Own" means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

(u) "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.

(v) "Secure enclosure" means a fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous dog. An enclosure shall be securely enclosed and locked and designed to prevent the animal from escaping from the enclosure. The secure enclosure must be at least six feet from any public sidewalk or street. The secure enclosure, other than a residence, must be locked with a key or combination lock when animals are within the enclosure. All secure enclosures must comply with all zoning and building regulations of the city. All secure enclosures must provide such food, potable water, protection from the elements, opportunity for exercise adequate to maintain health, adequate light and ventilation, a clean and sanitary environment, and provide for other care as is needed for the health or well-being of the enclosed animal.

(w) "Secure six-sided enclosure" means a secure enclosure, such as a pen, kennel or structure with secure sides, a secure top attached to the sides and a secure bottom or floor attached to the sides of the pen, or if such enclosure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot.

(x) "Service Animal" means dogs, or other animals, that are trained by an accredited institution to do work or perform tasks for people with disabilities and covered by the Americans with Disabilities Act (ADA). Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog, or animal, has been trained to provide must be directly related to the person's disability. Animals whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

(1) Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go.

(2) Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices.

(y) "Supervision" means within visual and auditory range of the owner.

(z) "Tether", when used as a verb, shall mean fastening a dog or cat to a stationary object, pulley run line or a stake. When used as a noun, shall mean a chain, leash, rope, cable, chain, string, leather or nylon strap, or any other material used to fasten a dog or cat to a stationary object, pulley run line or a stake.

(aa) "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.

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

(cc) "Vicious" means a cross, ferocious or dangerous disposition or a habit, tendency or disposition to snap, attack or bite any person or domestic animal.

2-111
2-102

KEEPING ANIMALS.

(a) Except as allowed by subsection (d) of this section, it shall be unlawful for any person to own, keep, maintain or have in his possession or under his control, within the city limits, any live mammal, bird or reptile.

(b) Except as allowed by subsection (d) of this section, it shall be unlawful for any person to willfully sell, offer for sale, trade or offer for trade, within the city limits, any live mammal, bird or reptile.

(c) Except as allowed by subsection (d) of this section, it shall be unlawful for any person to willfully buy or accept in trade, within the city limits, any live mammal, bird or reptile.

(d) Exceptions. Persons may buy, own, accept in trade, keep, maintain, possess, sell, offer for sale, trade or offer for trade:

(1) Domestic dogs,

(2) Domestic cats,

(3) Domesticated rodents,

(4) Domesticated European ferrets.

(5) Rabbits, except that no more than three (3) rabbits over the age six months shall be permitted in or on a property that is residentially zoned.

(6) Birds, except for species protected by state or federal law and fowl as defined in this chapter.

(7) Nonvenomous snakes less than eight (8) feet in length, except that such snakes shall be required to be maintained on the owner's premises or property.

(8) Nonvenomous lizards.

(9) Turtles, except for species protected by state or federal law.

(10) Amphibians.

(11) Fish.

(12) Invertebrates.

(13) Domesticated Hedgehogs.

(14) Service animals as defined in this chapter.

(e) Exceptions: The prohibitions in subsections (a) through (c) of this section shall not apply to:

(1) A bona fide zoo, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums.

(2) A stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;

(3) Livestock located on property that has been zoned for agricultural purposes or is property owned by the city which is being held in reserve for industrial purposes and has yet to be developed, where any such property is more than ten (10) acres in size; and the property is used solely for agricultural operations,

(i) Any such livestock shall be maintained on the property at a rate so that the property cannot be considered a confined animal feeding operation under the regulations of the State of Kansas.

(ii) Any residentially zoned property over ten (10) acres in size that legally maintained livestock on the property as of January 1, 2013 shall be allowed to continue the maintenance of livestock until such time that the current owner transfers the ownership of all or a portion of the property to a new owner, by sale, inheritance or other means, but under no circumstance shall the owner maintain more livestock on the property than were in existence on January 1, 2013 or than allowed under agricultural zoning regulations.

(4) A veterinary clinic operated by a licensed veterinarian.

(5) A person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department.

(6) A bona fide medical institution or accredited educational institution.

(7) A carnival, circus, if properly licensed or approved by the city.

(8) A person or business exhibiting an animal for sale, show or other temporary purpose on public property as part of a community event that has been authorized by the city.

(9) A facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals and legally zoned or permitted within the City to operate such a facility.

(10) Any person, business or institution listed under this subsection (e) who are temporarily transporting such animals through the city by ordinary and customary means, except that circuses and carnivals need not be licensed by the city if merely temporarily transporting an otherwise prohibited animal through the city.

(f) Sanitary Requirements. All persons, businesses and institutions listed in subsections (d) and (e) of this section must ensure that all animals and animal quarters conform to the provisions of the nuisance ordinances of the city and are kept in a clean and sanitary condition and so maintained as to limit objectionable odors; and shall ensure that all animals are maintained in quarters which are adequately constructed so as to prevent their escape.

(g) Licensing. All persons and institutions listed in subsection (e) of this section must be properly licensed, if so required, by any rule or regulation promulgated under the authority of federal statute enacted by the United States, or by any statute enacted by the state, or by any rule or regulation promulgated by any agency or department as authorized by state statute.

(h) Violations.

(1) Any animal found in violation of the provisions of this article shall be subject to impoundment by the city and subsequent fees for such impoundment in accordance with Section 2-209 of this chapter.

(2) A violation of any provision of this section shall constitute a new and separate offense each calendar day the violation continues to exist.

(i) Destruction or Removal of Prohibited Animals. Upon conviction of a violation of this section, the judge of the municipal court of the city may order the owner, harbinger, keeper or possessor to destroy or remove from the city any animal prohibited under this section.

2-1N1
2-103

INJURING OR KILLING OF WILD ANIMALS.

(a) It shall be unlawful for any person to injure, kill, maim, molest, torture or destroy any wild or undomesticated animal in the city; provided, that upon complaint to the police department that any wild or undomesticated animal has caused or is causing damage or destruction of property upon any private premises in the city, such animal may be taken into custody and destroyed by a pest control firm or company; provided, however, that rats, mice, moles and like rodents infesting any private premises may be controlled and destroyed at any time without a permit.

(b) Notwithstanding the prohibition of subsection (a) of this section, it shall be lawful to kill wild or undomesticated deer or turkeys by bow and arrow provided the bow hunting is done on Kansas Department of Wildlife, Parks and Tourism (KDWPT) owned or managed property.

~~(c) Notwithstanding the prohibition in subsection (a) of this section, it shall be lawful to kill wild or undomesticated migratory birds, game birds and turkeys by shotgun provided the hunting is done on Kansas Department of Wildlife, Parks and Tourism (KDWPT) owned or managed property during the hunting season by an individual participating in a mentor youth hunting program administered by KDWPT to whom KDWPT has issued a hunting license, hunting permit and special access permit for that specific tract of land.~~

2-112
2-104

ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of humane live animal traps that are so designed to trap and hold animals without injuring the animals.

(a) Individuals shall be required to regularly check such live animal traps so that the animal is not injured or neglected in a manner which would subject the person using, placing or deploying the trap would be subject to animal cruelty provision under Section 2-107 of this article.

(b) Nothing in this section shall be construed to prohibit the use of lethal traps for the control or removal of rats, mice, moles, like rodents or other pests infesting any private premises by a person or pest control company.

2-109
2-107

CRUELTY TO ANIMALS.

(a) It shall be unlawful for any person to:

(1) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

(2) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;

(3) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition, unless under continuing veterinary care.

(4) Abandon or leave any animal in any place without ensuring provisions for its proper care;

(5) Have physical custody of any animal and fail to provide such food, potable water, protection from the elements, opportunity for exercise adequate to maintain health, or other care as is needed for the health or well-being of such animal;

(A) Food. Food shall be wholesome, free from contamination, and of sufficient quantity and nutritive value to maintain the animal(s) good health. Animals shall be fed at least once a day except as dictated by veterinary treatment, normal fasts or other accepted practices. All food receptacles shall be kept clean.

(B) Potable Water. Adequate fresh water shall be made available to animals on a regular basis.

(C) Protection from the Elements. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and prevent severe discomfort of such animals. When sunlight is likely to cause overheating, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight. Owners of animals kept outdoors or in an unheated enclosure shall provide the animal with the following minimum standards of shelter:

(i) It shall include a moisture proof and windproof structure of suitable size to accommodate the animal and allow retention of body heat and shall be made of durable material with a solid floor.

(ii) It shall be provided with a sufficient quantity of clean, suitable bedding material consisting of hay, straw, cedar shavings, or the equivalent, to promote insulation and protection against cold and dampness and promote retention of body heat.

(6) Tether a dog or cat in a manner that violates Section 2-110 of this chapter.

(7) Keeping or harboring an animal on property upon which no person resides in a manner that violates Section 2-111 of this chapter.

(8) Failure of any operator of a motor vehicle to report an injury or death of an animal struck by the operator's vehicle in the manner required in Section 2-112 of this chapter.

(9) Knowingly leave any animal confined in a vehicle, without the appropriate heat or air conditioning, for more than five minutes in extreme weather conditions, defined as more than 80 degrees Fahrenheit or less than 15 degrees Fahrenheit ambient air temperature, shall create a legal, rebuttable presumption of violation of this act; or to transport an animal in the trunk of a

vehicle;

(10) Allow an animal to sustain injury as a result of being transported in the open bed of a truck unless said animal is restrained in a cage or on a leash that will prevent the animal from jumping from or falling off of a moving vehicle;

(11) Except a licensed veterinarian, to crop animal ears or dock animal tails;

(12) Use of a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(13) Cause, instigate, stage, or train any animal to fight or permit any animal to fight any other animal or human; or

(14) Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl under two months of age in any quantity less than 12; or to sell, offer for sale, barter, give away, or display animals or fowls as specified in this section which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; or give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter a place of amusement, or offer such vertebrate as an incentive to enter into any business agreement where the offer was for the purpose of attracting trade. This subsection shall not be construed to prohibit the sale of animals or fowls as specified in this subsection, in proper facilities, by hatcheries or persons engaged in raising and selling such animals and fowls for recognized animal husbandry purposes;

(15) Cause, instigate, stage, or train any animal to fight or permit any animal to fight any other animal or human; or promote, stage, hold, manage, in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves, any other animal or human;

~~(16) Cause any physical injury to an animal other than the acts described in this section.~~

(17) These provisions shall not apply to the exceptions sanctioned under Section 2-108.

2-110

2-108

SAME; EXCEPTIONS. The provisions of Section 2-107 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 licensed research facilities;

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

(f) The humane euthanization 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 euthanization an unclaimed animal after three 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.

2-1N2
2-109

PROCEDURES FOR CRUELTY TO ANIMALS; FINES.

(a) Any animal control officer, public health officer, law enforcement officer or licensed veterinarian, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in Section 2-107 of this chapter and subsections thereto. Such officer or veterinarian may inspect, care for or treat such animal or place such animal in the care of the City, a duly incorporated humane society or licensed veterinarian for treatment, boarding and other care or, if it appears, as determined by an officer of such humane society or by such veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, the humane euthanization thereof.

~~(b) The owner or keeper of an animal destroyed pursuant to subsection (a) above shall not be entitled to recover damages for the destruction of such animal unless the owner proves that such destruction was unreasonable and unwarranted.~~

(b) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (a) above pending prosecution of the owner or keeper of such animal for the crime of cruelty to animals as defined in this chapter shall be assessed to the owner or keeper as a cost of the case if the owner or keeper is adjudicated guilty of such crime.

(c) If a person is adjudicated guilty of the crime of cruelty to animals as defined in Section 2-107 of this chapter and the court determines that such animal owned or possessed by such person would be in the future subject to any cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale, adoption or other disposition.

(d) Unless the animal obtained pursuant to this Section is the evidentiary subject of a pending prosecution, the owner or keeper of the animal shall have a maximum of twenty (20) days after the animal is taken into custody to obtain the animal from the City, veterinarian or a duly incorporated humane society having custody of the animal. The City shall notify the owner or keeper of the animal, if known or reasonably ascertainable. The failure of the owner or keeper to obtain custody of the animal in the time provided shall provide the authority for the Municipal Judge to declare that the animal be disposed of by the City, veterinarian or duly incorporated humane society by adoption or destruction.

(e) Violation of Section 2-107 shall be a municipal offense and upon conviction, the defendant shall be fined a minimum fine of \$100.00 and a maximum fine of \$1,000.00 per offense. The Municipal Judge shall not have authority to suspend the minimum fine. In addition, to the Municipal Judge shall have authority to sentence the convicted defendant to a maximum six (6) month sentence in jail.

(1) A municipal judge shall have authority as a condition of sentence or probation to enter an order that prohibits the convicted defendant from owning, keeping or being allowed to obtain a license in the city for any or specific animals for a period of time to be determined by such judge.

(2) In addition to the penalties provided in this section, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.

**2-1N3
2-110**

TETHERING OF DOGS AND CATS. It shall be unlawful for any person to attach chains or other tethers, restraints or implements directly to a dog or cat 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. No person shall:

(a) Continuously tether a dog or cat for more than 15 minutes without supervision.

(b) Use a tether or any assembly or attachments thereto to tether a dog or cat that shall weigh more than one-eighth of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area tethered.

(c) Tether a dog or cat on a choke chain or in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, or other manmade or natural obstacles.

(d) Tether a dog or cat without access to shade when sunlight is likely to cause overheating, or appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below 40 degrees Fahrenheit, or to tether a dog without securing its water supply so that it cannot be tipped over by the tether.

(e) Tether a dog or cat in an open area where it can be teased by persons or an open area that does not provide the dog or cat protection from attack by other animals.

(f) Tether a dog or cat in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

**2-1N4
2-111**

KEEPING ANIMALS ON UNINHABITED PROPERTY.

(a) It shall be unlawful for any person to confine, harbor, keep or maintain an animal on property uninhabited by humans within the city limits.

(b) The prohibition of this section shall not apply to:

(1) A bona fide zoo, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums.

(2) A stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;

(3) A veterinary clinic operated by a licensed veterinarian.

(4) A bona fide medical institution or accredited educational institution.

(5) A carnival, circus, if properly licensed or approved by the city.

(6) A facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals and legally zoned or permitted within the City to operate such a facility.

(7) Any person, business or organization engaged in the commercial business of buying, selling, training or boarding animals.

(8) Animals maintained on nonresidential commercial properties for security purposes.

(9) Livestock maintained on tracts of ten (10) acres that is zoned for agricultural use, or otherwise allowed pursuant to this chapter, and adequate food and water is available.

2-123
2-112

VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer.

2-113
2-115

NUISANCE; ANIMAL ACTIVITIES PROHIBITED.

(a) It shall be unlawful for the owner of any animals to keep or maintain such animals in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as:

(1) Any animal which molests or interferes with persons in the public right-of-way, **including the riding of livestock on public the public right of way or any other public property, unless as part of a community event that has been authorized by the city.**

(2) Any animal which attacks or injures persons, or other domestic animals.

(3) Any animal which damages public or private property other than that of its owner.

(4) Any animal which scatters refuse that is bagged or otherwise contained.

(5) **Any owner which allows by the nature of maintenance of property or by the number of animals on a property to create an offensive odor so as to be objectionable to surrounding residences.**

(6) Any animal or owner which causes any condition which threatens or endangers the health or well- being of persons or other animals.

(7) Any owner which fails to confine a dog or cat in heat to a secure and sufficiently enclosed area.

(8) **Any person who shall own on their premises, more than five dogs of more than six months of age, or more than five cats of more than six months of age, or more than five total of dogs, cats or ferrets, more than six months of age in any combination, unless such premises is licensed as a commercial kennel.**

(b) If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.

2-114
2-116

NOISY ANIMALS. The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.

2-1N5
2-117

ANIMAL OWNER RESPONSIBLE FOR REMOVAL OF ANIMAL EXCREMENT.

(a) It shall be unlawful for any person to appear with an animal upon the public right-of-way, within public places or upon the property of another, absent that person's consent, without some means for removal of excrement that may be deposited by the animal.

(b) It shall be unlawful for any person who is an owner or possessor of an animal in their care to fail to remove any excrement deposited by the animal upon any public or private property, other than the property of the owner of the animal.

(c) The provisions of this section shall not apply to persons who have a physical disability or visual impairment, who are using service dogs, and can provide adequate documentation, upon demand of an animal control officer or law enforcement officer, that the service dog is an animal trained by an accredited institution which trains dogs for service work for the physically disabled or visually impaired.

(d) Violation of this section shall be punished by a fine of not less than \$10.00, plus applicable court costs. The Municipal Judge shall have no authority to suspend the fine or any portion thereof.

2-115
2-120

ANIMAL CONFINES; SHELTERS.

(a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

(b) Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.

(e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on properties for which an agricultural classification permit is held or where the barbed wire fence or electrically charge fence is protected by an exterior fence.

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

2-115A
2-121

SAME; STOCKYARDS; COMMERCIAL HOLDING PENS. Animal shelters

owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

(a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.

(b) Grain or protein feed shall be stored in tightly covered rodent- proof metal containers or rodent-proof bins.

(c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601:608 of this code.

(d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.

(e) Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(f) Enclosures including fences where animals such as horses, cows, sheep and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property.

(g) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight- fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(h) Holding lots, pens and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into watercourses and such drainage system shall be subject to the approval of the health officer. The health officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses or sheep.

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer.

2-116
2-124

DEAD ANIMALS; REMOVAL OF DISPOSITION.

(a) The animal control officer shall be responsible for the removal of all dead animals found within the city.

(b) All dead animals shall be removed by the owner or proprietor of the premises within 12 hours after the death of such animal. If not so removed, such animal shall be removed by the animal control officer, and the costs arising

therefrom may be charged to the animal's owner or custodian or property owner or proprietor.

(c) Charges for dead animal removal as required in subsections (b) of this section are due and payable upon billing by the city's administration services department, **but payment shall be made in advance of animal removal if reasonably possible.** Unpaid bills shall become a lien against the property when certified and processed as provided by law. The animal control officer may refuse to collect dead animals from commercial establishments as provided in subsection (c) for failure to pay previous billings.

(d) On occupied property, the owner and/or tenant thereof shall provide easy access to the subject animal for purposes of its removal.

(e) **On-site burial of licensed animals shall be allowed on residential property which is owned and occupied by the resident, for domestic animals approved under Section 2-102(d) of this chapter, under 80 pounds in weight, and owned and licensed by the property owner prior to the animal's death.**

ARTICLE II. ANIMAL CONTROL OFFICER AND POUND

2-104
2-201

ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION ALTERNATIVE.

(a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. Any person employed by the city as an animal control officer and commissioned by the chief of police of the city shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal control officers shall be subject to the supervision and direction of the chief of police of the city.

(b) Except as provided in subsection (c), 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.

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within twenty (20) days, appear in the municipal court of the city to answer the charged violation of this chapter.

2-105
2-202

SAME; CAPTURE/DESTRUCTION. When deemed necessary by law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

(a) Place a humane trap on public or a requesting resident's 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 of a danger to itself or to the public health and safety.

(c) Use firearms or other suitable weapons to destroy any rabid animal, any animal deemed a threat to public safety as defined in Section 2-404, or any animal creating a nuisance as defined in Section 2-115, where such animal is impossible or impractical to catch, capture or tranquilize.

2-106
2-203

SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE.

(a) The animal control officer or any law enforcement officer shall have the right of entry upon any private lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

2-107
2-205

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

cats 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.

2-108

2-206

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.

2-119

2-209

IMPOUNDMENT; FEE; NOTICE; RECORD.

(a) The animal control officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

(b) Any animal, licensed or unlicensed, as required in this article may be claimed by its owner upon payment to the City of a [pickup fee and boarding fee, or any other costs associated with the impoundment of the animal.](#)

(c) Fees.

(1) Boarding Fee: A fee for maintaining and caring for the animal shall be established in the City's annual fee resolution.

(2) Pickup Fee: [The fee for picking up, transporting or placing the animal in the municipal pound, regardless of the issuance of a citation, which shall be established in the City's annual fee resolution.](#)

(3) Vaccination Deposit: [A deposit shall be established in the City's annual fee resolution](#) for rabies vaccination, redeemable when proof of vaccination is received from any veterinarian approved by the city if proof of vaccination is not received by the city's administrative services department within five consecutive business days commencing the day following the making of the deposit. An absence of proof of vaccination shall be deemed evidence that no rabies vaccination has been obtained.

(d) The city shall attempt to recover all costs incurred in caring for any animal impounded or held pursuant to the provisions of this article, including but not limited to the cost for necessary veterinarian care. The fees shall be in addition to any fine impounded for violation of the provisions of this article.

(e) All animals impounded for reasons or suspected disease may be reclaimed by their owners upon evaluation, treatment and approval by a licensed veterinarian approved by the city.

(f) In case the identity of the owner of the impounded animal or fowl cannot

be ascertained, the animal control officer or police officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code.

2-120

2-210

REDEMPTION OF IMPOUNDED ANIMALS. At any time before the sale or destruction of any animal impounded under the provisions of this article, **except for animals impounded as a dangerous, rabid, or for protection from cruelty under this chapter**, the owner thereof may redeem the animal by paying the animal control officer or any person in charge, **any established fees** and all costs incurred as a result of such impoundment.

2-215

2-212

GENERAL POLICY REGARDING ADOPTION. The city's main concerns with respect to adoption of a cat or dog from the shelter are:

(a) That the dog or cat be in good health, that all dogs be immunized against rabies, licensed, not vicious by nature; and

(b) That the dog or cat will be **provided** of a good home under the control of a responsible person.

2-216

2-213

SAME; DOGS.

(a) Qualifications for adoption:

(1) Good health.

(2) Not vicious.

(3) Immunized.

(4) Licensed (when place of residence is within the city).

(5) In the case of a licensed dog turned in at the shelter by the owner or record or his or her authorized representative, the owner or representative must give a release in writing for the animal's disposal or adoption.

(6) In the case of a licensed dog picked up by the animal control officer as a stray or while running at large, or in response to a complaint, the dog will not be available for adoption (other qualifications being met) until the prescribed waiting period of seven (7) days has expired and the owner of record has failed to claim it; or the owner has given written consent to the adopter for its adoption; or the adopter (after the waiting period) certifies that his or her efforts to locate the owner were unsuccessful.

(7) In the case of an unlicensed dog picked up by the animal control officer as a stray or while running at large, or in response to a complaint, the dog will not be available for adoption (other qualifications being met) until the prescribed waiting period of three days has expired and the owner has failed to claim it.

(b) Fees associated with adoption: The adopter will be required to pay the following fees to a City employee at City Hall.

(1) A license fee equal to the amount described in **Section 2-301**. Such fee shall be collected even if the adopter is a nonresident.

(2) An adoption fee set annually by the governing body.

2-217
2-214

SAME; CATS.

(a) Qualifications for adoption:

- (1) Good health.
- (2) Not vicious.
- (3) Immunized.
- (4) Licensed.

(5) In the case of a cat turned in at the shelter by its owner or its authorized representative, the owner or representative must give a release in writing for the animal's disposal or adoption.

(6) In the case of a cat suitable for adoption which is picked up by the animal control officer, or brought in by any other person not the owner, the cat will not be available for adoption until expiration of a waiting period of seven days, during which time its owner may claim it.

(b) Fees associated with adoption: The adopter will be required to pay the following fees to a City employee at City Hall.

(1) A license fee equal to the amount described in **Section 2-301**.
Such fee shall be collected even if the adopter is a nonresident.

(2) An adoption fee set annually by the governing body.

2-218
2-215

SAME; HOLDING ANIMAL IN SHELTER. An animal considered by the animal control officer to be suitable for adoption may be held in the shelter for at least seven calendar days following the mandatory retention period if not claimed by the owner during the retention period. The animal control officer may hold the animal in the shelter beyond seven days if there is sufficient capacity and ability to do so.

ARTICLE III. LICENSING AND HEALTH OF DOMESTICATED ANIMALS

2-102
2-301

IMMUNIZATION AND LICENSING OF DOGS, CATS AND FERRETS.

(a) No person shall own any dog, cat or ferret, six (6) months of age or older, within the city limits if such animal is not currently vaccinated against rabies.

(b) Any person owning, keeping, harboring, or having custody of any dog, cat or ferret, three (3) months of age or older within the city must register and obtain a license as herein provided. Application for a license must be made within 30 days after obtaining a dog, cat or ferret over three months, except that this requirement will not apply to a non-resident keeping a dog, cat or ferret within the city for no longer than 60 days.

(1) Any person owning a dog within the City shall cause such dog to wear a collar or harness at all times when off the premises of the owner to which shall be attached a current tag reflecting that the dog is vaccinated against rabies. The tag shall be situated on the collar or harness in such a manner that it may be easily visible at all times.

(2) Owners of cats and ferrets shall retain proof of current rabies vaccination on their person or premises.

(c) Registration and licensing of animals in the city shall require the following:

(1) Registration and application for licenses shall be made to the city clerk or other authorized person and shall include name and address of applicant, description of the animal and the appropriate fee.

(A) The city shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public.

(2) 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 such animal over three months of age to fail to maintain effective rabies immunization of such dog.

(3) The owner of any such animal shall, at the time of registration, present to the city clerk a certificate from an accredited veterinarian showing that the animal to be licensed has been neutered or spayed, if the animal has been neutered or spayed.

(4) The city clerk shall collect an annual registration fee for each ~~spayed or neutered animal and for each un-neutered or un-spayed~~ animal. The registration fee shall be set annually by the governing body in its annual fee resolution.

(5) The registration year shall be from January 1st through December 31st of each year. The fee shall be payable before March 1st of each year without penalty. The owner of such animals who shall fail to register the same prior to the 1st day of March of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration.

(6) Upon acceptance of the license application and fee, the city shall issue a durable tag or identification collar, stamped with an identifying number and the year of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the animal's collar or harness.

(A) A duplicate license may be obtained upon payment of a

replacement fee as may be set by the city council in the annual fee resolution.

(B) It shall be unlawful for any person to place on any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof.

(C) No person may use any license for any animal other than the animal for which it was issued.

(d) Registration fees may be prorated for newly acquired animals required to be licensed and owned by a person or persons moving to and establishing a home in the city during a calendar year.

(1) Although a license is required, license fees shall not be required for assistance dogs or governmental police dogs.

2-103
2-302

LICENSE AND PERMIT ISSUANCE AND REVOCATION. Provisions relating to the issuance of licenses and permits and revocation of same shall be as follows:

(a) The city may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this article, the regulations promulgated by the city, or any law governing the protection and keeping of animals.

(b) Any person whose permit or license is revoked shall, within 10 days thereafter, humanely dispose of all animals owned, kept, or harbored by such person and no part of the permit or license fee shall be refunded.

(c) It shall be a condition of the issuance of any permit or license that the city shall be permitted to inspect all animals and the premises where animals are kept at any time and shall, if permission for such inspections is refused, revoke the permit or license of the refusing owner.

(d) If the applicant has withheld or falsified any information on the application, the city shall refuse to issue a permit or license.

(e) The city may refuse to issue a permit or license, or to revoke such permit or license, if the owner is subject to a judicial order from any jurisdiction prohibiting the owning of all or certain animals.

(f) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.

(g) Any person having been denied a license or permit may not reapply for a period of 90 days

2-118
2-305

ANIMALS AT LARGE; FINES.

(a) It shall be unlawful for any person to own or keep a dog or cat or other animal which runs at large in the City. Knowledge or acquiescence by the owner or keeper is not an element of the offense. Any animal or found at large shall be impounded as provided in this chapter.

(b) An animal shall not be deemed to be running at large if:

(1) The animal is firmly attached to a leash or chain under the physical control of its owner or keeper

(2) The animal is within a structure or within a fence enclosure with the permission of the owner or keeper of the structure or fence enclosure

(3) The animal has an operating electronic collar and is under the charge, care or control, of its owner or keeper who is operating an electronic pet containment system or electronic training system for the animal.

(4) The animal is a dog and, under the supervision of its owner or keeper, is using the City's off-leash dog park in accordance with the City's rules and regulations for any City off-leash dog parks.

(c) Any animal on property without the permission of the property owner shall be deemed to be an animal at large and the owner of such animal shall be in violation of this Section.

(d) The provisions of this Section shall not apply to persons who are the owners of assistance dogs, as defined in this chapter.

(e) Any person found guilty of animal at large as defined herein shall be fined as follows: \$30.00 for the first offense within a twelve (12) month period; \$40.00 for the second offense within a twelve (12) month period; \$60.00 for the third offense within a twelve (12) month period; and \$100.00 for the fourth and subsequent offense(s) within a twelve (12) month period. The Municipal Judge shall have no authority to suspend the fine or any portion thereof of fine established by this Section. The fine shall be in addition to any applicable court costs or impoundment fees. The animal control officer, other City employee, or employees or custodians of an impoundment facility where such impounded is held shall not release an animal to an owner if the owner has failed to pay a fine or has failed to appear in municipal court for the adjudication of a violation of this section.

2-3N1
2-306

HABITUAL VIOLATOR; ANIMAL AT LARGE.

(a) It shall be a separate municipal offense for any person to receive four (4) or more citations for violation of Section 2-305 within a twenty-four (24) month consecutive period. Such person shall be cited as a habitual violator. Any person found guilty of violation of this Section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof.

(b) 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, or the charge dismissed, of Section 2-305 for a specific citation issued under Section 2-305.

2-3N2
2-307

AGGRESSIVE ANIMAL AT LARGE DEFINED; PENALTIES

(a) An "aggressive animal at large" means any animal at large that without provocation, exhibits aggression or combativeness toward a person or another domestic animal, whether or not said person or animal is attacked, bitten, or scratched by the aggressive animal at large.

(b) Any person found guilty of animal at large as defined in Section 2-305, where such animal is an aggressive animal shall be fined as follows: \$50.00 for the first offense within a twelve (12) month period, or by imprisonment, for not more than 10 days, or by both such fine and imprisonment; \$75.00 for the second offense within a twelve (12) month period, or by imprisonment, for not more than 10 days, or by both such fine and imprisonment; \$100.00 for the third offense within a twelve (12) month period, or by imprisonment, for not more than 14 days, or by both such fine and imprisonment; and \$150.00 for the fourth and subsequent offense(s) within a twelve (12) month period, or by imprisonment, for

not more than 30 days, or by both such fine and imprisonment. The Municipal Judge shall have no authority to suspend the fine or any portion thereof of the fine established by this Section 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 animal control officer, other City employee, or employees or custodians of an impoundment facility where such impounded is held shall not release an animal to an owner if the owner has failed to pay a fine or has failed to appear in municipal court for the adjudication of a violation of this section.

2-3N3
2-308

HABITUAL VIOLATOR; AGGRESSIVE ANIMAL AT LARGE.

(a) It shall be a separate municipal offense for any person to receive four (4) or more citations for violation of Section 2-307 within a twenty-four (24) month consecutive period. Such person shall be cited as a habitual violator. Any person found guilty of violation of this Section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof.

(b) 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, or the charge dismissed, of Section 2-307 for a specific citation issued under Section 2-307.

2-121
2-314

KENNEL LICENSES.

(a) No person or household shall own or harbor more than five dogs of six months of age or older or more than one litter of pups, or more than five cats of more than six months of age or more than one litter of kittens, or more than a total of five dogs, cats or ferrets more than six months of age in any combination, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding cats, dogs or ferrets or both cats, dogs and ferrets, without having obtained a kennel license from the city clerk.

(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.

(e) The annual kennel license fee shall be set by the governing body in its annual fee resolution. 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.

2-214

2-315

GENERAL PENALTIES.

(a) Unless otherwise specified by any section of this chapter for a specific violation, any person violating or permitting the violation of any provision of this chapter shall, upon conviction, be fined a sum not less than \$50 nor more than \$500.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days.

(b) Should a person refuse to remove an animal found to unlawfully be in the city, the court shall find the owner of the animal in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this article continues shall be deemed a separate offense.

(c) In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including those relating to shelter, food, handling, veterinary care, witness fees and court costs necessitated by the enforcement of this chapter.

ARTICLE IV. DANGEROUS ANIMALS

2-4N1
2-401

PROCEDURE FOR DETERMINATION OF A DANGEROUS DOGS

(a) In the event that an animal control officer or law enforcement officer has probable cause to believe that a dog is dangerous, as defined by Section 2-101, the municipal judge shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared dangerous as defined by Section 2-101. The animal control officer or law enforcement officer may order the dog to be impounded at the municipal pound, a licensed veterinary clinic or duly incorporated humane society pending the determination of whether the dog is dangerous. The owner or keeper of the dog shall be liable for the costs of keeping such dog.

(1) Dogs seized in connection with dog fighting or that have caused a severe or fatal injury to a human shall be housed in a secure enclosure with proper exercise and care and held as evidence in the case until the conclusion of the case and order from the court on the disposition of the dogs. Disposition and release of dogs is determined in accordance to K.S.A. 21-4311 and 21-4316 and any amendments thereto.

(b) The animal control officer or law enforcement officer shall notify the owner or keeper of the dog that the hearing will be held in municipal court, at which time evidence will be presented that the dog is dangerous and at which time the owner or keeper of the dog may present evidence to rebut evidence presented by the City and present such other evidence as may be relevant.

(1) In making a determination, the municipal judge shall consider the following:

- (A) The seriousness of the attack or bite;
- (B) Past history of attacks or bites;
- (C) Likelihood of attacks or bites in the future;
- (D) The condition and circumstances under which the animal is kept or confined;
- (E) Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

(2) The failure of the owner or keeper to attend or participate in the hearing shall not keep the judge from making the appropriate determination concerning the dog. The hearing shall be held promptly within no less than five (5) nor more than twenty (20) days after service of notice upon the owner or keeper of the dog. The City shall have the burden of proof to show that the dog is dangerous pursuant to Section 2-101.

(c) If a determination is made at the hearing that the dog is dangerous, the owner or keeper shall comply with the provisions of this Article within fifteen (15) days. If the owner fails to comply with the provisions of this Article within the time provided, the dog shall be destroyed. If the owner or keeper of the dog contests the determination, he or she may appeal within ten (10) days to the district court pursuant to law.

(d) It shall be an affirmative defense to charges issued under this article that the dog was provoked, teased, injured and was protecting itself, its owner, its offspring or another human being.

2-4N2
2-402

CONTROL OF DANGEROUS DOG; REGISTRATION AND CONFINEMENT.

(a) If 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:

(1) **Registration.** The owner or keeper shall annually register the dangerous dog with the City, on such forms designated by the City Clerk, and shall have a microchip inserted into the dog by a licensed veterinarian or a duly incorporated humane society. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. The owner or keeper shall pay an annual registration fee to be established by the city council in the annual fee resolution and shall pay all costs associated with the microchip procedure and registration of the dog. 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 (7) days of a change in address for the owner or keeper and dangerous dog.

(2) **Confinement.** All dangerous dogs shall be confined in a secure enclosure. It shall be unlawful for any owner or keeper to maintain a dangerous dog upon any premises that does not have a locked enclosure. It shall be unlawful for any owner or keeper to allow a dangerous dog to be outside of the dwelling of the owner or keeper or outside of a secure 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 said dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be required.

(A) In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner or keeper of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(3) **Sterilization.** The owner shall pay for a licensed veterinarian to spay or neuter the dangerous dog before it will be released to the owner.

(4) **Signs.** The owner of a dangerous dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(5) **Insurance.** No dangerous dog shall be licensed by the city for any licensing period unless the owner or keeper of such dangerous dog shall present to the city clerk proof that the owner or keeper has procured liability insurance in the amount of at least \$100,000, covering any damage or injury which may be caused by such dangerous dog during the 12 month period for which licensing is sought.

(A) Such policy shall contain a provision requiring the city to be named as additional insured for the sole purpose of the city to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

(B) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the 12 month period for which licensing is sought, unless the owner or keeper shall cease to own or keep

2-4N3
2-403

the dangerous dog prior to expiration of such license.

VIOLATION OF REQUIREMENTS FOR DANGEROUS DOG.

(a) It shall be 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 below:

(1) **At-Large.** Any dangerous dog that is not confined or registered as required pursuant to this Article shall be impounded by an animal control officer or a law enforcement officer. In addition to all costs for impoundment, the owner or keeper shall pay a Two Hundred Fifty Dollar (\$250.00) fine and may require the owner to provide a secure six-sided enclosure before the dog may be returned. For a second offense within twenty-four (24) months, in which the dog is not confined or registered as required pursuant to this Section, in addition to all costs for impoundment, the owner or keeper shall pay a Five Hundred (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a ten (10) day waiting period, exclusive of Sundays and holidays, shall dispose of the dog in a manner to be determined by the animal control officer. The judge shall have no authority to suspend the fine or any portion thereof.

(2) **Attack on Human.** If any dangerous dog shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, the owner or keeper shall pay a Five Hundred Dollar (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a ten (10) day waiting period, exclusive of Sundays and holidays, shall humanely euthanize said dog. The judge shall have no authority to suspend the fine or any portion thereof.

(3) **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 Two Hundred Fifty Dollar (\$250.00) fine, and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a ten (10) day waiting period, exclusive of Sundays and holidays, shall destroy said dog. The judge shall have no authority to suspend the fine or any portion thereof.

(b) If the owner or keeper of a dog impounded pursuant to this Section shall believe that there shall not have been a violation of the provisions of this Section, such owner may petition the Municipal Court, on forms approved by the Municipal Judge, petitioning 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 (5) days of impoundment of such dog and notice shall be have been delivered within five (5) 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.

(c) 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 (6) months in jail.

(d) Nothing in this Article shall be construed to limit the Municipal Judge's authority to impose other fees or fines appropriate with other provisions of this chapter or the city code.

**2-4N4
2-404**

ANIMALS; THREATS TO PUBLIC SAFETY.

(a) No person shall harbor, own, or possess any animal that is an immediate threat to public health and safety.

(b) Nothing in this chapter shall be construed to prevent the animal control officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any dangerous or vicious animal without notice to the owner.

(c) If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is dangerous or 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 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, nor to the fees and fines which may result from a violation of this section.

(d) 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.

(e) Notwithstanding any other provision of this article or chapter to the contrary and irrespective of whether an animal has been declared dangerous pursuant to this article, the Municipal Judge may order any animal destroyed if the Judge determines that the animal is an immediate threat to public health and safety and that confinement and registration of an animal by the owner or keeper of the animal as provided in this article will not adequately protect public health and safety. In making such determination the Judge may consider the severity of any attack by the animal or any such other relevant information.

**2-121
2-406**

IMPOUNDMENT OF RABIES SUSPECTS.

(a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be humanely euthanized and examination made by the state board of health or a privately certified or publicly accredited laboratory authorized to provide such testing.

(b) In lieu of the provisions of subsection (a), the owner of any such animal

may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.

2-122
2-407

ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

(a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and

(b) If the bitten animal has a current vaccination, it shall be confined for **ninety (90)** days; and

(c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

2-124
2-408

RABIES EMERGENCY; PROCLAMATION. The animal control officer is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof.

2-301
2-410

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 saimangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cheetahs.
- (9) Crocadians, 30 inches in length or more.
- (10) Constrictor snakes, eight feet in length or more.
- (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:

- (1) A bona fide zoo, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums;
- (2) A veterinary clinic operated by a licensed veterinarian;
- (3) A licensed medical institution or accredited educational institution;
- (4) A carnival or circus properly licensed or approved by the city;
- (5) A person or business exhibiting an animal for show or other temporary purpose on public property as part of an educational or community event that has been authorized by the city.
- (6) A facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals and legally zoned or permitted within the City to operate such a facility.

(d) The exemptions in subsection (c) above shall be valid only 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.
- (3) Animals are maintained in quarters so constructed as to prevent their escape.
- (3) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city.

OSAWATOMIE FEE SCHEDULE
Proposed Change
For New Animal Ordinance

CODE REF.	DESCRIPTION	PREVIOUS FEE(S)	LAST CHANGED	CURRENT FEE	PROPOSED
PUBLIC SAFETY:					
ANIMALS					
	Dog or Cat License				
	sexually altered	\$6.00	13-Dec-07	\$7.00 per animal per year	\$5.00 per animal per year
	unaltered	\$10.00		\$10.00 per animal per year	\$10.00 per animal per year
	updated micro-chip discount (must provide proof)				Free, one tag
	duplicate tag	\$2.00		\$2.50	\$2.50
	Dangerous Dog Registration				\$50.00
	Impoundment fee				
	1st impoundment	\$50.00		\$60.00	<i>delete</i>
	2nd impoundment (within 24 months of 1st)	\$75.00		\$85.00	<i>delete</i>
	3rd impoundment (within 24 months of 1st)	\$100.00		\$110.00	<i>delete</i>
	4th & subsequent impoundment (within 24 months of 1st)	\$200.00		\$210.00	<i>delete</i>
	Pickup Fee per licensed non-aggressive animal (in lieu of court)				
	1st Pickup per animal				\$0 (Warning)
	2nd Pickup (within 12 months of 1st)				\$10.00
	3rd Pickup (within 12 months of 1st)				\$20.00
	4th Pickup (within 12 months of 1st)				\$35.00
	5th Pickup (within 12 months of 1st)				n/a - Subject to Citation
	Unlicensed Animal Pickup Fee				
	1st Pickup per owner				\$25 + license
	2nd Pickup (within 24 months of 1st)				\$35 + license
	3rd Pickup (within 24 months of 1st)				\$50 + license
	4th Pickup (within 24 months of 1st)				n/a - Subject to Citation
	Pickup fee (with citation)	\$20.00	13-Dec-07	\$25.00	\$25.00
	Boarding fee	\$15.00 per day	13-Dec-07	\$20.00 per day	\$7.00 per day
	Euthanize	\$20.00		\$50.00	\$50.00
	Vaccination fee	\$10.00		\$15.00 per animal	\$15.00 per animal
	Vaccination deposit				\$10.00
	Dead Animal Removal				
	Small animal from private property (commercial operation)		14-Dec-06	\$30.00 per animal	Not Available
	Small animal from private property		14-Dec-06	\$25.00	\$25.00
	Large animal from private property (over 50 lbs)			Actual cost of removal	\$50.00 or Actual Cost if higher
	Animal Adoption, dog or cat				
	License Fee			Same as above	Same as above
	Adoption fee	\$20.00 per animal	14-Dec-06	\$25.00 per animal	\$25.00 per animal
	Spay/neuter fee		14-Dec-06	\$100.00	\$100.00
	Vaccination fee	Same as above		Same as above	Same as above

ORDINANCE NO. ____

AN ORDINANCE REGULATING THE OWNERSHIP AND CONTROL OF ANIMALS IN THE CITY OF OSAWATOMIE BY AMENDING CHAPTER TWO OF THE MUNICIPAL CODE OF THE CITY OF OSAWATOMIE OF KANSAS.

WHEREAS, the City Council 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 Council 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 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 OSAWATOMIE, KANSAS:

Section 1. Article 1 of Chapter 2 of the Code of the City of Osawatomie is hereby amended to read as follows:

ARTICLE 1. GENERAL

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, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.

(c) "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.

(d) "Assistance Dog" means a dog trained and certified, or undergoing training, to aid or assist a person with a disability and includes guide dogs for the visually impaired, hearing dogs for the deaf or hard of hearing, and service dogs for mobility assistance, seizure alert, therapy, or psychiatric service. The owner of an assistance dog must be able to provide adequate documentation, upon demand

of an animal control officer or law enforcement officer, that the service dog is an animal trained by an accredited institution which trains dogs for assistance work.

(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.

(1) Animals are not considered to be at-large if they are on the property of the owner and under the supervision or voice control of the owner.

(f) “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.

(g) “Cat” means any member of the species felis catus, regardless of sex.

(h) “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; or

(2) Any dog which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places; or on private property; or

(3) Any dog which attacks or bites, or has attacked or bitten a human being or domestic animal; or

(4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(5) Notwithstanding the definition of a dangerous dog above in paragraphs (1) through (4) above:

(A) 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.

(B) No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(C) No dog may be declared dangerous if the injury or damage was sustained by a rabbit, bird or fowl that was not in a fenced or enclosed area on its owner’s premises.

(D) Nothing in this article shall be deemed to regulate or prohibit the lawful maintenance of dogs by law enforcement agencies.

(i) “Dangerous or Vicious Animal” means:

(1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

(2) Any animal which attacks a human being or domestic animal without provocation.

(3) Any animal which is urged by its owner or harbinger to attack, or whose owner or harbinger threatens to provoke such animal to attack, any law

enforcement officer while such officer is engaged in the performance of official duty.

(4) A rabid animal, either deemed to be rabid by the animal control officer or a law enforcement officer based upon an animal's physical appearance or actions, or an animal later determined to be rabid through testing or determination made by a licensed veterinarian.

(j) "Dog" means any member of the species *canis familiaris*, regardless of sex.

(k) "Exposed to Rabies" means an animal which has been bitten by or subjected to danger, attack or harm by any creature known to have been infected with rabies.

(l) "Fowl" means those animals in the zoological class *aves*, which can be generally defined as domestic birds commonly kept for the production of meat, eggs or feathers, which shall include, but not limited to, chickens, ducks, geese, swans, turkeys, pigeons, pea fowl, guinea fowl, ostriches and emus.

(m) "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.

(n) "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.

(o) "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.

(p) "Immediate Control" means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(q) "Kennel" means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than six dogs.

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

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

(t) "Own" means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

(u) "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.

(v) "Secure enclosure" means a fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous dog. An enclosure shall be securely enclosed and locked and designed to prevent the animal from escaping from the enclosure. The secure enclosure must be at least six feet from any public sidewalk or street. The secure enclosure, other than a residence, must be locked with a key or combination lock when animals are within the enclosure. All secure enclosures

must comply with all zoning and building regulations of the city. All secure enclosures must provide such food, potable water, protection from the elements, opportunity for exercise adequate to maintain health, adequate light and ventilation, a clean and sanitary environment, and provide for other care as is needed for the health or well-being of the enclosed animal.

(w) “Secure six-sided enclosure” means a secure enclosure, such as a pen, kennel or structure with secure sides, a secure top attached to the sides and a secure bottom or floor attached to the sides of the pen, or if such enclosure has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot.

(x) “Service Animal” means dogs, or other animals, that are trained by an accredited institution to do work or perform tasks for people with disabilities and covered by the Americans with Disabilities Act (ADA). Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog, or animal, has been trained to provide must be directly related to the person’s disability. Animals whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

(1) Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go.

(2) Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal’s work or the individual’s disability prevents using these devices.

(y) “Supervision” means within visual and auditory range of the owner.

(z) “Tether”, when used as a verb, shall mean fastening a dog or cat to a stationary object, pulley run line or a stake. When used as a noun, shall mean a chain, leash, rope, cable, chain, string, leather or nylon strap, or any other material used to fasten a dog or cat to a stationary object, pulley run line or a stake.

(aa) “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.

(bb) “Veterinarian” means a doctor of veterinary medicine licensed by the State of Kansas.

(cc) “Vicious” means a cross, ferocious or dangerous disposition or a habit, tendency or disposition to snap, attack or bite any person or domestic animal.

2-102 KEEPING ANIMALS.

(a) Except as allowed by subsection (d) of this section, it shall be unlawful for any person to own, keep, maintain or have in his possession or under his control, within the city limits, any live mammal, bird or reptile.

(b) Except as allowed by subsection (d) of this section, it shall be unlawful for any person to willfully sell, offer for sale, trade or offer for trade, within the city limits, any live mammal, bird or reptile.

(c) Except as allowed by subsection (d) of this section, it shall be unlawful for any person to willfully buy or accept in trade, within the city limits, any live mammal, bird or reptile.

(d) Exceptions. Persons may buy, own, accept in trade, keep, maintain, possess, sell, offer for sale, trade or offer for trade:

- (1) Domestic dogs,
- (2) Domestic cats,
- (3) Domesticated rodents,
- (4) Domesticated European ferrets.
- (5) Rabbits, except that no more than three (3) rabbits over the age six months shall be permitted in or on a property that is residentially zoned.
- (6) Birds, except for species protected by state or federal law and fowl as defined in this chapter.
- (7) Nonvenomous snakes less than eight (8) feet in length, except that such snakes shall be required to be maintained on the owner's premises or property.
- (8) Nonvenomous lizards.
- (9) Turtles, except for species protected by state or federal law.
- (10) Amphibians.
- (11) Fish.
- (12) Invertebrates.
- (13) Domesticated Hedgehogs.
- (14) Service animals as defined in this chapter.

(e) Exceptions: The prohibitions in subsections (a) through (c) of this section shall not apply to:

(1) A bona fide zoo, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums.

(2) A stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;

(3) Livestock located on property that has been zoned for agricultural purposes or is property owned by the city which is being held in reserve for industrial purposes and has yet to be developed, where any such property is more than ten (10) acres in size; and the property is used solely for agricultural operations,

(i) Any such livestock shall be maintained on the property at a rate so that the property cannot be considered a confined animal feeding operation under the regulations of the State of Kansas.

(ii) Any residentially zoned property over ten (10) acres in size that legally maintained livestock on the property as of January 1, 2013 shall be allowed to continue the maintenance of livestock until such time that the current owner transfers the ownership of all or a portion of the property to a new owner, by sale, inheritance or other means, but under no circumstance shall the owner maintain more livestock on the property than were in existence on January 1, 2013 or than allowed under agricultural zoning regulations.

(4) A veterinary clinic operated by a licensed veterinarian.

(5) A person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department.

(6) A bona fide medical institution or accredited educational institution.

(7) A carnival, circus, if properly licensed or approved by the city.

(8) A person or business exhibiting an animal for sale, show or other temporary purpose on public property as part of a community event that has been authorized by the city.

(9) A facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals and legally zoned or permitted within the City to operate such a facility.

(10) Any person, business or institution listed under this subsection (e) who are temporarily transporting such animals through the city by ordinary and customary means, except that circuses and carnivals need not be licensed by the city if merely temporarily transporting an otherwise prohibited animal through the city.

(f) Sanitary Requirements. All persons, businesses and institutions listed in subsections (d) and (e) of this section must ensure that all animals and animal quarters conform to the provisions of the nuisance ordinances of the city and are kept in a clean and sanitary condition and so maintained as to limit objectionable odors; and shall ensure that all animals are maintained in quarters which are adequately constructed so as to prevent their escape.

(g) Licensing. All persons and institutions listed in subsection (e) of this section must be properly licensed, if so required, by any rule or regulation promulgated under the authority of federal statute enacted by the United States, or by any statute enacted by the state, or by any rule or regulation promulgated by any agency or department as authorized by state statute.

(h) Violations.

(1) Any animal found in violation of the provisions of this article shall be subject to impoundment by the city and subsequent fees for such impoundment in accordance with Section 2-209 of this chapter.

(2) A violation of any provision of this section shall constitute a new and separate offense each calendar day the violation continues to exist.

(i) Destruction or Removal of Prohibited Animals. Upon conviction of a violation of this section, the judge of the municipal court of the city may order the owner, harborer, keeper or possessor to destroy or remove from the city any animal prohibited under this section.

2-103 INJURING OR KILLING OF WILD ANIMALS.

(a) It shall be unlawful for any person to injure, kill, maim, molest, torture or destroy any wild or undomesticated animal in the city; provided, that upon complaint to the police department that any wild or undomesticated animal has caused or is causing damage or destruction of property upon any private premises in the city, such animal may be taken into custody and destroyed by a pest control firm or company; provided, however, that rats, mice, moles and like rodents infesting any private premises may be controlled and destroyed at any time without a permit.

(b) Notwithstanding the prohibition of subsection (a) of this section, it shall be lawful to kill wild or undomesticated deer or turkeys by bow and arrow provided the bow hunting is done on Kansas Department of Wildlife, Parks and Tourism

(KDWPT) owned or managed property.

2-104 ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of humane live animal traps that are so designed to trap and hold animals without injuring the animals.

(a) Individuals shall be required to regularly check such live animal traps so that the animal is not injured or neglected in a manner which would subject the person using, placing or deploying the trap would be subject to animal cruelty provision under Section 2-107 of this article.

(b) Nothing in this section shall be construed to prohibit the use of lethal traps for the control or removal of rats, mice, moles, like rodents or other pests infesting any private premises by a person or pest control company.

2-107 CRUELTY TO ANIMALS.

(a) It shall be unlawful for any person to:

(1) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

(2) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;

(3) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition, unless under continuing veterinary care.

(4) Abandon or leave any animal in any place without ensuring provisions for its proper care;

(5) Have physical custody of any animal and fail to provide such food, potable water, protection from the elements, opportunity for exercise adequate to maintain health, or other care as is needed for the health or well-being of such animal;

(A) Food. Food shall be wholesome, free from contamination, and of sufficient quantity and nutritive value to maintain the animal(s) good health. Animals shall be fed at least once a day except as dictated by veterinary treatment, normal fasts or other accepted practices. All food receptacles shall be kept clean.

(B) Potable Water. Adequate fresh water shall be made available to animals on a regular basis.

(C) Protection from the Elements. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and prevent severe discomfort of such animals. When sunlight is likely to cause overheating, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight. Owners of

animals kept outdoors or in an unheated enclosure shall provide the animal with the following minimum standards of shelter:

(i) It shall include a moisture proof and windproof structure of suitable size to accommodate the animal and allow retention of body heat and shall be made of durable material with a solid floor.

(ii) It shall be provided with a sufficient quantity of clean, suitable bedding material consisting of hay, straw, cedar shavings, or the equivalent, to promote insulation and protection against cold and dampness and promote retention of body heat.

(6) Tether a dog or cat in a manner that violates Section 2-110 of this chapter.

(7) Keeping or harboring an animal on property upon which no person resides in a manner that violates Section 2-111 of this chapter.

(8) Failure of any operator of a motor vehicle to report an injury or death of an animal struck by the operator's vehicle in the manner required in Section 2-112 of this chapter.

(9) Knowingly leave any animal confined in a vehicle, without the appropriate heat or air conditioning, for more than five minutes in extreme weather conditions, defined as more than 80 degrees Fahrenheit or less than 15 degrees Fahrenheit ambient air temperature, shall create a legal, rebuttable presumption of violation of this act; or to transport an animal in the trunk of a vehicle;

(10) Allow an animal to sustain injury as a result of being transported in the open bed of a truck unless said animal is restrained in a cage or on a leash that will prevent the animal from jumping from or falling off of a moving vehicle;

(11) Except a licensed veterinarian, to crop animal ears or dock animal tails;

(12) Use of a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment;

(13) Cause, instigate, stage, or train any animal to fight or permit any animal to fight any other animal or human; or

(14) Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl under two months of age in any quantity less than 12; or to sell, offer for sale, barter, give away, or display animals or fowls as specified in this section which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; or give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter a place of amusement, or offer such vertebrate as an incentive to enter into any business agreement where the offer was for the purpose of attracting trade. This subsection shall not be construed to prohibit the sale of animals or fowls as specified in this subsection, in proper facilities, by hatcheries or persons engaged in raising and selling such animals and fowls for recognized animal husbandry purposes;

(15) Cause, instigate, stage, or train any animal to fight or permit any animal to fight any other animal or human; or promote, stage, hold, manage, in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves, any other animal or any human;

(16) These provisions shall not apply to the exceptions sanctioned under Section 2-108.

2-108 SAME; EXCEPTIONS. The provisions of Section 2-107 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 licensed research facilities;
- (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 euthanization of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane euthanization of animals for population control, by an authorized agent such as a licensed veterinarian, at the request of the owner;
- (f) The humane euthanization 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 euthanization an unclaimed animal after three 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.

2-109 PROCEDURES FOR CRUELTY TO ANIMALS; FINES.

- (a) Any animal control officer, public health officer, law enforcement officer or licensed veterinarian, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in Section 2-107 of this chapter and subsections thereto. Such officer or veterinarian may inspect, care for or treat such animal or place such animal in the care of the City, a duly incorporated humane society or licensed veterinarian for treatment, boarding and other care or, if it appears, as determined by an officer of such humane society or by such veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, the humane euthanization thereof.
- (b) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (a) above pending prosecution of the owner or keeper of such animal for the crime of cruelty to animals as defined in this chapter shall be assessed to the owner or keeper as a cost of the case if the owner or keeper is adjudicated guilty of such crime.
- (c) If a person is adjudicated guilty of the crime of cruelty to animals as defined in Section 2-107 of this chapter and the court determines that such animal owned or possessed by such person would be in the future subject to any cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale, adoption or other disposition.
- (d) Unless the animal obtained pursuant to this Section is the evidentiary subject of a pending prosecution, the owner or keeper of the animal shall have a maximum of twenty (20) days after the animal is taken into custody to obtain the animal from the City, veterinarian or a duly incorporated humane society having

custody of the animal. The City shall notify the owner or keeper of the animal, if known or reasonably ascertainable. The failure of the owner or keeper to obtain custody of the animal in the time provided shall provide the authority for the Municipal Judge to declare that the animal be disposed of by the City, veterinarian or duly incorporated humane society by adoption or destruction.

(e) Violation of Section 2-107 shall be a municipal offense and upon conviction, the defendant shall be fined a minimum fine of \$100.00 and a maximum fine of \$1,000.00 per offense. The Municipal Judge shall not have authority to suspend the minimum fine. In addition, to the Municipal Judge shall have authority to sentence the convicted defendant to a maximum six (6) month sentence in jail.

(1) A municipal judge shall have authority as a condition of sentence or probation to enter an order that prohibits the convicted defendant from owning, keeping or being allowed to obtain a license in the city for any or specific animals for a period of time to be determined by such judge.

(2) In addition to the penalties provided in this section, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.

2-110 TETHERING OF DOGS AND CATS. It shall be unlawful for any person to attach chains or other tethers, restraints or implements directly to a dog or cat 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. No person shall:

(a) Continuously tether a dog or cat for more than 15 minutes without supervision.

(b) Use a tether or any assembly or attachments thereto to tether a dog or cat that shall weigh more than one-eighth of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area tethered.

(c) Tether a dog or cat on a choke chain or in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, or other manmade or natural obstacles.

(d) Tether a dog or cat without access to shade when sunlight is likely to cause overheating, or appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below 40 degrees Fahrenheit, or to tether a dog without securing its water supply so that it cannot be tipped over by the tether.

(e) Tether a dog or cat in an open area where it can be teased by persons or an open area that does not provide the dog or cat protection from attack by other animals.

(f) Tether a dog or cat in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

2-111 KEEPING ANIMALS ON UNINHABITED PROPERTY.

(a) It shall be unlawful for any person to confine, harbor, keep or maintain

an animal on property uninhabited by humans within the city limits.

(b) The prohibition of this section shall not apply to:

(1) A bona fide zoo, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums.

(2) A stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;

(3) A veterinary clinic operated by a licensed veterinarian.

(4) A bona fide medical institution or accredited educational institution.

(5) A carnival, circus, if properly licensed or approved by the city.

(6) A facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals and legally zoned or permitted within the City to operate such a facility.

(7) Any person, business or organization engaged in the commercial business of buying, selling, training or boarding animals.

(8) Animals maintained on nonresidential commercial properties for security purposes.

(9) Livestock maintained on tracts of ten (10) acres that is zoned for agricultural use, or otherwise allowed pursuant to this chapter, and adequate food and water is available.

2-112 VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer.

2-115 NUISANCE; ANIMAL ACTIVITIES PROHIBITED.

(a) It shall be unlawful for the owner of any animals to keep or maintain such animals in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as:

(1) Any animal which molests or interferes with persons in the public right-of-way, including the riding of livestock on public the public right of way or any other public property, unless as part of a community event that has been authorized by the city.

(2) Any animal which attacks or injures persons, or other domestic animals.

(3) Any animal which damages public or private property other than that of its owner.

(4) Any animal which scatters refuse that is bagged or otherwise contained.

(5) Any owner which allows by the nature of maintenance of property or by the number of animals on a property to create an offensive odor so as to be objectionable to surrounding residences.

(6) Any animal or owner which causes any condition which threatens or endangers the health or well- being of persons or other animals.

(7) Any owner which fails to confine a dog or cat in heat to a secure

and sufficiently enclosed area.

(8) Any person who shall own on their premises, more than five dogs of more than six months of age, or more than five cats of more than six months of age, or more than five total of dogs, cats or ferrets, more than six months of age in any combination, unless such premises is licensed as a commercial kennel.

(b) If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.

2-116 NOISY ANIMALS. The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.

2-117 ANIMAL OWNER RESPONSIBLE FOR REMOVAL OF ANIMAL EXCREMENT.

(a) It shall be unlawful for any person to appear with an animal upon the public right-of-way, within public places or upon the property of another, absent that person's consent, without some means for removal of excrement that may be deposited by the animal.

(b) It shall be unlawful for any person who is an owner or possessor of an animal in their care to fail to remove any excrement deposited by the animal upon any public or private property, other than the property of the owner of the animal.

(c) The provisions of this section shall not apply to persons who have a physical disability or visual impairment, who are using service dogs, and can provide adequate documentation, upon demand of an animal control officer or law enforcement officer, that the service dog is an animal trained by an accredited institution which trains dogs for service work for the physically disabled or visually impaired.

(d) Violation of this section shall be punished by a fine of not less than \$10.00, plus applicable court costs. The Municipal Judge shall have no authority to suspend the fine or any portion thereof.

2-120 ANIMAL CONFINES; SHELTERS.

(a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

(b) Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining

animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.

(e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on properties for which an agricultural classification permit is held or where the barbed wire fence or electrically charge fence is protected by an exterior fence.

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

2-121 SAME; STOCKYARDS; COMMERCIAL HOLDING PENS. Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

(a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.

(b) Grain or protein feed shall be stored in tightly covered rodent- proof metal containers or rodent-proof bins.

(c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601:608 of this code.

(d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.

(e) Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(f) Enclosures including fences where animals such as horses, cows, sheep and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property.

(g) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight- fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(h) Holding lots, pens and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste

from draining into watercourses and such drainage system shall be subject to the approval of the health officer. The health officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses or sheep.

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer.

2-124 DEAD ANIMALS; REMOVAL OF DISPOSITION.

(a) The animal control officer shall be responsible for the removal of all dead animals found within the city.

(b) All dead animals shall be removed by the owner or proprietor of the premises within 12 hours after the death of such animal. If not so removed, such animal shall be removed by the animal control officer, and the costs arising therefrom may be charged to the animal's owner or custodian or property owner or proprietor.

(c) Charges for dead animal removal as required in subsections (b) of this section are due and payable upon billing by the city's administration services department, but payment shall be made in advance of animal removal if reasonably possible. Unpaid bills shall become a lien against the property when certified and processed as provided by law. The animal control officer may refuse to collect dead animals from commercial establishments as provided in subsection (c) for failure to pay previous billings.

(d) On occupied property, the owner and/or tenant thereof shall provide easy access to the subject animal for purposes of its removal.

(e) On-site burial of licensed animals shall be allowed on residential property which is owned and occupied by the resident, for domestic animals approved under Section 2-102(d) of this chapter, under 80 pounds in weight, and owned and licensed by the property owner prior to the animal's death.

Section 2. Article 2 of Chapter 2 of the Code of the City of Osawatomie is hereby amended to read as follows:

ARTICLE 2. ANIMAL CONTROL OFFICER AND MUNICIPAL POUND

2-201 ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION ALTERNATIVE.

(a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. Any person employed by the city as an animal control officer and commissioned by the chief of police of the city shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal control officers shall be subject to the

supervision and direction of the chief of police of the city.

(b) Except as provided in subsection (c), 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.

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within twenty (20) days, appear in the municipal court of the city to answer the charged violation of this chapter.

2-202 SAME; CAPTURE/DESTRUCTION. When deemed necessary by law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

(a) Place a humane trap on public or a requesting resident's 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 of a danger to itself or to the public health and safety.

(c) Use firearms or other suitable weapons to destroy any rabid animal, any animal deemed a threat to public safety as defined in Section 2-404, or any animal creating a nuisance as defined in Section 2-115, where such animal is impossible or impractical to catch, capture or tranquilize.

2-203 SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE.

(a) The animal control officer or any law enforcement officer shall have the right of entry upon any private lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

2-205 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 cats 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.

2-206 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.

2-209 IMPOUNDMENT; FEE; NOTICE; RECORD.

(a) The animal control officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

(b) Any animal, licensed or unlicensed, as required in this article may be claimed by its owner upon payment to the City of a pickup fee and boarding fee, or any other costs associated with the impoundment of the animal.

(c) Fees.

(1) Boarding Fee: A fee for maintaining and caring for the animal shall be established in the City's annual fee resolution.

(2) Pickup Fee: The fee for picking up, transporting or placing the animal in the municipal pound, regardless of the issuance of a citation, which shall be established in the City's annual fee resolution.

(3) Vaccination Deposit: A deposit shall be established in the City's annual fee resolution for rabies vaccination, redeemable when proof of vaccination is received from any veterinarian approved by the city if proof of vaccination is not received by the city's administrative services department within five consecutive business days commencing the day following the making of the deposit. An absence of proof of vaccination shall be deemed evidence that no rabies vaccination has been obtained.

(d) The city shall attempt to recover all costs incurred in caring for any animal impounded or held pursuant to the provisions of this article, including but not limited to the cost for necessary veterinarian care. The fees shall be in addition to any fine impounded for violation of the provisions of this article.

(e) All animals impounded for reasons or suspected disease may be reclaimed by their owners upon evaluation, treatment and approval by a licensed veterinarian approved by the city.

(f) In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the animal control officer or police officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code.

2-210 REDEMPTION OF IMPOUNDED ANIMALS. At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded as a dangerous, rabid, or for protection from cruelty under this

chapter, the owner thereof may redeem the animal by paying the animal control officer or any person in charge, any established fees and all costs incurred as a result of such impoundment.

2-212 GENERAL POLICY REGARDING ADOPTION. The city’s main concerns with respect to adoption of a cat or dog from the shelter are:

- (a) That the dog or cat be in good health, that all dogs be immunized against rabies, licensed, not vicious by nature; and
- (b) That the dog or cat will be provided of a good home under the control of a responsible person.

2-213 SAME; DOGS.

- (a) Qualifications for adoption:
 - (1) Good health.
 - (2) Not vicious.
 - (3) Immunized.
 - (4) Licensed (when place of residence is within the city).
 - (5) In the case of a licensed dog turned in at the shelter by the owner or record or his or her authorized representative, the owner or representative must give a release in writing for the animal’s disposal or adoption.

- (6) In the case of a licensed dog picked up by the animal control officer as a stray or while running at large, or in response to a complaint, the dog will not be available for adoption (other qualifications being met) until the prescribed waiting period of seven (7) days has expired and the owner of record has failed to claim it; or the owner has given written consent to the adopter for its adoption; or the adopter (after the waiting period) certifies that his or her efforts to locate the owner were unsuccessful.

- (7) In the case of an unlicensed dog picked up by the animal control officer as a stray or while running at large, or in response to a complaint, the dog will not be available for adoption (other qualifications being met) until the prescribed waiting period of three days has expired and the owner has failed to claim it.

- (b) Fees associated with adoption: The adopter will be required to pay the following fees to a City employee at City Hall.

- (1) A license fee equal to the amount described in Section 2-301. Such fee shall be collected even if the adopter is a nonresident.
 - (2) An adoption fee set annually by the governing body.

2-214 SAME; CATS.

- (a) Qualifications for adoption:
 - (1) Good health.
 - (2) Not vicious.
 - (3) Immunized.
 - (4) Licensed.
 - (5) In the case of a cat turned in at the shelter by its owner or its authorized representative, the owner or representative must give a release in writing for the animal’s disposal or adoption.

- (6) In the case of a cat suitable for adoption which is picked up by the

animal control officer, or brought in by any other person not the owner, the cat will not be available for adoption until expiration of a waiting period of seven days, during which time its owner may claim it.

(b) Fees associated with adoption: The adopter will be required to pay the following fees to a City employee at City Hall.

(1) A license fee equal to the amount described in Section 2-301. Such fee shall be collected even if the adopter is a nonresident.

(2) An adoption fee set annually by the governing body.

2-215 SAME; HOLDING ANIMAL IN SHELTER. An animal considered by the animal control officer to be suitable for adoption may be held in the shelter for at least seven calendar days following the mandatory retention period if not claimed by the owner during the retention period. The animal control officer may hold the animal in the shelter beyond seven days if there is sufficient capacity and ability to do so.

Section 3. Article 3 of Chapter 2 of the Code of the City of Osawatomie is hereby amended to read as follows:

ARTICLE 3. LICENSING AND HEALTH OF DOMESTICATED ANIMALS

2-301 IMMUNIZATION AND LICENSING OF DOGS, CATS AND FERRETS.

(a) No person shall own any dog, cat or ferret, six (6) months of age or older, within the city limits if such animal is not currently vaccinated against rabies.

(b) Any person owning, keeping, harboring, or having custody of any dog, cat or ferret, three (3) months of age or older within the city must register and obtain a license as herein provided. Application for a license must be made within 30 days after obtaining a dog, cat or ferret over three months, except that this requirement will not apply to a non-resident keeping a dog, cat or ferret within the city for no longer than 60 days.

(1) Any person owning a dog within the City shall cause such dog to wear a collar or harness at all times when off the premises of the owner to which shall be attached a current tag reflecting that the dog is vaccinated against rabies. The tag shall be situated on the collar or harness in such a manner that it may be easily visible at all times.

(2) Owners of cats and ferrets shall retain proof of current rabies vaccination on their person or premises.

(c) Registration and licensing of animals in the city shall require the following:

(1) Registration and application for licenses shall be made to the city clerk or other authorized person and shall include name and address of applicant, description of the animal and the appropriate fee.

(A) The city shall maintain a record of the identifying numbers of all tags issued and shall make this record available to the public.

(2) 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 such

animal over three months of age to fail to maintain effective rabies immunization of such dog.

(3) The owner of any such animal shall, at the time of registration, present to the city clerk a certificate from an accredited veterinarian showing that the animal to be licensed has been neutered or spayed, if the animal has been neutered or spayed.

(4) The city clerk shall collect an annual registration fee for each animal. The registration fee shall be set annually by the governing body in its annual fee resolution.

(5) The registration year shall be from January 1st through December 31st of each year. The fee shall be payable before March 1st of each year without penalty. The owner of such animals who shall fail to register the same prior to the 1st day of March of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration.

(6) Upon acceptance of the license application and fee, the city shall issue a durable tag or identification collar, stamped with an identifying number and the year of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the animal's collar or harness.

(A) A duplicate license may be obtained upon payment of a replacement fee as may be set by the city council in the annual fee resolution.

(B) It shall be unlawful for any person to place on any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof.

(C) No person may use any license for any animal other than the animal for which it was issued.

(d) Registration fees may be prorated for newly acquired animals required to be licensed and owned by a person or persons moving to and establishing a home in the city during a calendar year.

(1) Although a license is required, license fees shall not be required for assistance dogs or governmental police dogs.

2-302 LICENSE AND PERMIT ISSUANCE AND REVOCATION. Provisions relating to the issuance of licenses and permits and revocation of same shall be as follows:

(a) The city may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this article, the regulations promulgated by the city, or any law governing the protection and keeping of animals.

(b) Any person whose permit or license is revoked shall, within 10 days thereafter, humanely dispose of all animals owned, kept, or harbored by such person and no part of the permit or license fee shall be refunded.

(c) It shall be a condition of the issuance of any permit or license that the city shall be permitted to inspect all animals and the premises where animals are kept at any time and shall, if permission for such inspections is refused, revoke the permit or license of the refusing owner.

(d) If the applicant has withheld or falsified any information on the application, the city shall refuse to issue a permit or license.

(e) The city may refuse to issue a permit or license, or to revoke such permit

or license, if the owner is subject to a judicial order from any jurisdiction prohibiting the owning of all or certain animals.

(f) No person who has been convicted of cruelty to animals shall be issued a permit or license to operate a commercial animal establishment.

(g) Any person having been denied a license or permit may not reapply for a period of 90 days

2-305 ANIMALS AT LARGE; FINES.

(a) It shall be unlawful for any person to own or keep a dog or cat or other animal which runs at large in the City. Knowledge or acquiescence by the owner or keeper is not an element of the offense. Any animal or found at large shall be impounded as provided in this chapter.

(b) An animal shall not be deemed to be running at large if:

(1) The animal is firmly attached to a leash or chain under the physical control of its owner or keeper

(2) The animal is within a structure or within a fence enclosure with the permission of the owner or keeper of the structure or fence enclosure

(3) The animal has an operating electronic collar and is under the charge, care or control, of its owner or keeper who is operating an electronic pet containment system or electronic training system for the animal.

(4) The animal is a dog and, under the supervision of its owner or keeper, is using the City's off-leash dog park in accordance with the City's rules and regulations for any City off-leash dog parks.

(c) Any animal on property without the permission of the property owner shall be deemed to be an animal at large and the owner of such animal shall be in violation of this Section.

(d) The provisions of this Section shall not apply to persons who are the owners of assistance dogs, as defined in this chapter.

(e) Any person found guilty of animal at large as defined herein shall be fined as follows: \$30.00 for the first offense within a twelve (12) month period; \$40.00 for the second offense within a twelve (12) month period; \$60.00 for the third offense within a twelve (12) month period; and \$100.00 for the fourth and subsequent offense(s) within a twelve (12) month period. The Municipal Judge shall have no authority to suspend the fine or any portion thereof of fine established by this Section. The fine shall be in addition to any applicable court costs or impoundment fees. The animal control officer, other City employee, or employees or custodians of an impoundment facility where such impounded is held shall not release an animal to an owner if the owner has failed to pay a fine or has failed to appear in municipal court for the adjudication of a violation of this section.

2-306 HABITUAL VIOLATOR; ANIMAL AT LARGE.

(a) It shall be a separate municipal offense for any person to receive four (4) or more citations for violation of Section 2-305 within a twenty-four (24) month consecutive period. Such person shall be cited as a habitual violator. Any person found guilty of violation of this Section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof.

(b) 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, or the charge dismissed, of Section 2-305 for a specific citation issued under Section 2-305.

2-307 AGGRESSIVE ANIMAL AT LARGE DEFINED; PENALTIES

(a) An “aggressive animal at large” means any animal at large that without provocation, exhibits aggression or combativeness toward a person or another domestic animal, whether or not said person or animal is attacked, bitten, or scratched by the aggressive animal at large.

(b) Any person found guilty of animal at large as defined in Section 2-305, where such animal is an aggressive animal shall be fined as follows: \$50.00 for the first offense within a twelve (12) month period, or by imprisonment, for not more than 10 days, or by both such fine and imprisonment; \$75.00 for the second offense within a twelve (12) month period, or by imprisonment, for not more than 10 days, or by both such fine and imprisonment; \$100.00 for the third offense within a twelve (12) month period, or by imprisonment, for not more than 14 days, or by both such fine and imprisonment; and \$150.00 for the fourth and subsequent offense(s) within a twelve (12) month period, or by imprisonment, for not more than 30 days, or by both such fine and imprisonment. The Municipal Judge shall have no authority to suspend the fine or any portion thereof of the fine established by this Section 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 animal control officer, other City employee, or employees or custodians of an impoundment facility where such impounded is held shall not release an animal to an owner if the owner has failed to pay a fine or has failed to appear in municipal court for the adjudication of a violation of this section.

2-308 HABITUAL VIOLATOR; AGGRESSIVE ANIMAL AT LARGE.

(a) It shall be a separate municipal offense for any person to receive four (4) or more citations for violation of Section 2-307 within a twenty-four (24) month consecutive period. Such person shall be cited as a habitual violator. Any person found guilty of violation of this Section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each habitual violator citation. The Municipal Judge shall have no authority to suspend the minimum fine or any portion thereof.

(b) 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, or the charge dismissed, of Section 2-307 for a specific citation issued under Section 2-307.

2-314 KENNEL LICENSES.

(a) No person or household shall own or harbor more than five dogs of six months of age or older or more than one litter of pups, or more than five cats of more than six months of age or more than one litter of kittens, or more than a total

of five dogs, cats or ferrets more than six months of age in any combination, or engage in the commercial business of breeding, buying, selling, trading, training, or boarding cats, dogs or ferrets or both cats, dogs and ferrets, without having obtained a kennel license from the city clerk.

(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.

(e) The annual kennel license fee shall be set by the governing body in its annual fee resolution. 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.

2-315 GENERAL PENALTIES.

(a) Unless otherwise specified by any section of this chapter for a specific violation, any person violating or permitting the violation of any provision of this chapter shall, upon conviction, be fined a sum not less than \$50 nor more than \$500.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days.

(b) Should a person refuse to remove an animal found to unlawfully be in the city, the court shall find the owner of the animal in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this article continues shall be deemed a separate offense.

(c) In addition to the foregoing penalties, any person who violates this

chapter shall pay all expenses, including those relating to shelter, food, handling, veterinary care, witness fees and court costs necessitated by the enforcement of this chapter.

Section 4. There is hereby created a new Article 4 of Chapter 2 of the Code of the City of Osawatomie to read as follows:

ARTICLE 4. DANGEROUS ANIMALS

2-401 PROCEDURE FOR DETERMINATION OF A DANGEROUS DOGS

(a) In the event that an animal control officer or law enforcement officer has probable cause to believe that a dog is dangerous, as defined by Section 2-101, the municipal judge shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared dangerous as defined by Section 2-101. The animal control officer or law enforcement officer may order the dog to be impounded at the municipal pound, a licensed veterinary clinic or duly incorporated humane society pending the determination of whether the dog is dangerous. The owner or keeper of the dog shall be liable for the costs of keeping such dog.

(1) Dogs seized in connection with dog fighting or that have caused a severe or fatal injury to a human shall be housed in a secure enclosure with proper exercise and care and held as evidence in the case until the conclusion of the case and order from the court on the disposition of the dogs. Disposition and release of dogs is determined in accordance to K.S.A. 21-4311 and 21-4316 and any amendments thereto.

(b) The animal control officer or law enforcement officer shall notify the owner or keeper of the dog that the hearing will be held in municipal court, at which time evidence will be presented that the dog is dangerous and at which time the owner or keeper of the dog may present evidence to rebut evidence presented by the City and present such other evidence as may be relevant.

(1) In making a determination, the municipal judge shall consider the following:

- (A) The seriousness of the attack or bite;
- (B) Past history of attacks or bites;
- (C) Likelihood of attacks or bites in the future;
- (D) The condition and circumstances under which the animal is kept or confined;

(E) Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

(2) The failure of the owner or keeper to attend or participate in the hearing shall not keep the judge from making the appropriate determination concerning the dog. The hearing shall be held promptly within no less than five (5) nor more than twenty (20) days after service of notice upon the owner or keeper of the dog. The City shall have the burden of proof to show that the dog is dangerous pursuant to Section 2-101.

(c) If a determination is made at the hearing that the dog is dangerous, the

owner or keeper shall comply with the provisions of this Article within fifteen (15) days. If the owner fails to comply with the provisions of this Article within the time provided, the dog shall be destroyed. If the owner or keeper of the dog contests the determination, he or she may appeal within ten (10) days to the district court pursuant to law.

(d) It shall be an affirmative defense to charges issued under this article that the dog was provoked, teased, injured and was protecting itself, its owner, its offspring or another human being.

2-402 **CONTROL OF DANGEROUS DOG; REGISTRATION AND CONFINEMENT.**

(a) If 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:

(1) **Registration.** The owner or keeper shall annually register the dangerous dog with the City, on such forms designated by the City Clerk, and shall have a microchip inserted into the dog by a licensed veterinarian or a duly incorporated humane society. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. The owner or keeper shall pay an annual registration fee to be established by the city council in the annual fee resolution and shall pay all costs associated with the microchip procedure and registration of the dog. 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 (7) days of a change in address for the owner or keeper and dangerous dog.

(2) **Confinement.** All dangerous dogs shall be confined in a secure enclosure. It shall be unlawful for any owner or keeper to maintain a dangerous dog upon any premises that does not have a locked enclosure. It shall be unlawful for any owner or keeper to allow a dangerous dog to be outside of the dwelling of the owner or keeper or outside of a secure 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 said dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be required.

(A) In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner or keeper of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(3) **Sterilization.** The owner shall pay for a licensed veterinarian to spay or neuter the dangerous dog before it will be released to the owner.

(4) **Signs.** The owner of a dangerous dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(5) **Insurance.** No dangerous dog shall be licensed by the city for any

licensing period unless the owner or keeper of such dangerous dog shall present to the city clerk proof that the owner or keeper has procured liability insurance in the amount of at least \$100,000, covering any damage or injury which may be caused by such dangerous dog during the 12 month period for which licensing is sought.

(A) Such policy shall contain a provision requiring the city to be named as additional insured for the sole purpose of the city to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

(B) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the 12 month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the dangerous dog prior to expiration of such license.

2-403**VIOLATION OF REQUIREMENTS FOR DANGEROUS DOG.**

(a) It shall be 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 below:

(1) **At-Large.** Any dangerous dog that is not confined or registered as required pursuant to this Article shall be impounded by an animal control officer or a law enforcement officer. In addition to all costs for impoundment, the owner or keeper shall pay a Two Hundred Fifty Dollar (\$250.00) fine and may require the owner to provide a secure six-sided enclosure before the dog may be returned. For a second offense within twenty-four (24) months, in which the dog is not confined or registered as required pursuant to this Section, in addition to all costs for impoundment, the owner or keeper shall pay a Five Hundred (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a ten (10) day waiting period, exclusive of Sundays and holidays, shall dispose of the dog in a manner to be determined by the animal control officer. The judge shall have no authority to suspend the fine or any portion thereof.

(2) **Attack on Human.** If any dangerous dog shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, the owner or keeper shall pay a Five Hundred Dollar (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a ten (10) day waiting period, exclusive of Sundays and holidays, shall humanely euthanize said dog. The judge shall have no authority to suspend the fine or any portion thereof.

(3) **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 Two Hundred Fifty Dollar (\$250.00) fine, and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a ten (10) day waiting period, exclusive of Sundays and holidays, shall destroy said dog. The judge shall have no authority to suspend the fine or any portion thereof.

(b) If the owner or keeper of a dog impounded pursuant to this Section shall believe that there shall not have been a violation of the provisions of this Section, such owner may petition the Municipal Court, on forms approved by the Municipal Judge, petitioning 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 (5) days of impoundment of such dog and notice shall be have been delivered within five (5) 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.

(c) 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 (6) months in jail.

(d) Nothing in this Article shall be construed to limit the Municipal Judge's authority to impose other fees or fines appropriate with other provisions of this chapter or the city code.

2-404 ANIMALS; THREATS TO PUBLIC SAFETY.

(a) No person shall harbor, own, or possess any animal that is an immediate threat to public health and safety.

(b) Nothing in this chapter shall be construed to prevent the animal control officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any dangerous or vicious animal without notice to the owner.

(c) If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is dangerous or 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 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, nor to the fees and fines which may result from a violation of this section.

(d) 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.

(e) Notwithstanding any other provision of this article or chapter to the contrary and irrespective of whether an animal has been declared dangerous pursuant to this article, the Municipal Judge may order any animal destroyed if the Judge determines that the animal is an immediate threat to public health and safety and that confinement and registration of an animal by the owner or keeper of the animal as provided in this article will not adequately protect public health and safety. In making such determination the Judge may consider the severity of any attack by the animal or any such other relevant information.

2-406 IMPOUNDMENT OF RABIES SUSPECTS.

(a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or

other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be humanely euthanized and examination made by the state board of health or a privately certified or publicly accredited laboratory authorized to provide such testing.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.

2-407 ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

(a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and

(b) If the bitten animal has a current vaccination, it shall be confined for ninety (90) days; and

(c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

2-408 RABIES EMERGENCY; PROCLAMATION. The animal control officer is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering

all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof.

2-410 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 saimangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cheetahs.
- (9) Crocadians, 30 inches in length or more.
- (10) Constrictor snakes, eight feet in length or more.
- (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 or Emus.
- (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:

- (1) A bona fide zoo, as defined by the American Association of Zoological Parks and Association of Zoological Parks and Aquariums;
- (2) A veterinary clinic operated by a licensed veterinarian;
- (3) A licensed medical institution or accredited educational institution;

- (4) A carnival or circus properly licensed or approved by the city;
- (5) A person or business exhibiting an animal for show or other temporary purpose on public property as part of an educational or community event that has been authorized by the city.
- (6) A facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals and legally zoned or permitted within the City to operate such a facility.
- (d) The exemptions in subsection (c) above shall be valid only 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.
 - (3) Animals are maintained in quarters so constructed as to prevent their escape.
- (e) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city.

Section 5. EXISTING SECTION REPEALED. Chapter 2 of the Code of the City of Osawatomie as adopted prior to the passage of this Ordinance is hereby repealed.

Section 6. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage and one publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, a majority being in favor thereof, this 23rd day of May, 2013.

APPROVED AND SIGNED by the Mayor.

L. Mark Govea
Mayor

(SEAL)

ATTEST:

Ann Elmquist
City Clerk



STAFF AGENDA MEMORANDUM

DATE OF MEETING: May 23, 2013

AGENDA ITEM: **Economic & Community Development Committee Appointments**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: We have the following applicants for the Economic & Community Development (ECD) Committee. I will show each one by the position for which they are eligible. I will also note if they are members of any other committee.

Position A: A representative of a banking institution located in Osawatomie.

Eligible: *Cami Akes, Mark Fuchs*

Position B: A representative from the service commercial business sector that is located within the City limits of Osawatomie.

Eligible: *Kari Burchett, Mike Moon*

Position C: A representative from the industrial, manufacturing, real estate, housing, or property development business sector that is a resident of Osawatomie or is a representative of such a business located within the boundaries of USD 367.

Eligible: *Tom Burgin (Planning, ED), Blake Madden*

Position D: A business owner or managing executive of a business that is located within the boundaries of USD 367 and is a member of the Osawatomie Chamber of Commerce.

Eligible: *Kari Burchett, Dan Macek (ED), Mike Moon*

Position E: A citizen of the City of Osawatomie.

Eligible: *Kari Burchett, Tom Burgin (Planning, ED), Blake Madden, Mike Moon, Will Cutburth*

I should also remind you that the Superintendent of School and the City Manager have standing, voting positions on this Committee. Both the Superintendent and the City Manager can name designees. I plan to sit on this Committee and Gary French has served on it in the past and I hope he would continue, at least for a while.

Again, for your convenience, I have attached Resolution 664, which provides the Council guidance on the new procedure for appointments.

COUNCIL ACTION NEEDED: Appoint to the committees.

STAFF RECOMMENDATION TO COUNCIL: Appoint members as needed.

RESOLUTION NO. 664

A RESOLUTION ESTABLISHING GUIDELINES FOR ADVISORY BODIES APPOINTED BY THE GOVERNING BODY OF OSAWATOMIE; FURTHER REPEALING RESOLUTION NO. 299 AND ANY RESOLUTION OR PART OF ANY RESOLUTION IN CONFLICT WITH THIS RESOLUTION

WHEREAS, the Governing Body of the City of Osawatomie has established various boards, committees, commissions and task forces, herein after referred to as "advisory bodies," to serve the community and aid the Governing Body in its decision making; and

WHEREAS, the Governing Body believes that input from residents, businesses or other individuals or companies that have a personal or economic interest in the long-term viability of the City of Osawatomie is critical to the planning and success of the community; and

WHEREAS, the Mayor is charged with the responsibility of recommending the persons to serve as members of the advisory bodies subject to approval by the Governing Body; and

WHEREAS, the Governing Body deems it in the best interest of the City to establish a procedure regarding appointment to such advisory bodies in order to ensure fairness, equal representation and accountability in the selection of representatives; and

WHEREAS, the Governing Body believes it should establish the expectations and responsibilities of all members of advisory bodies to the City in order to respect the time and commitment of all individuals that volunteer to serve the City in such a capacity;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

SECTION ONE: The Governing Body shall use the following terms to provide direction in the naming of any new advisory body. However, when names are specifically provided by statute for advisory bodies, the Governing Body should follow the statutes in so naming.

- A. The term "advisory body" is used to define all boards, committees, commissions and task forces that are created or appointed by the Governing Body, whether or not their function is primarily advisory or not.
- B. The term "board" is to be used to name an advisory body to the Governing Body that may or may not have a grant of statutory power from the State of Kansas, but is responsible for making rulings or interpretations on behalf of the Governing Body.
- C. The term "commission" is to be used to name an advisory body to the Governing Body that may or may not have a grant of statutory power from the State of Kansas, but oversees the specific operation of City activity and may make operational decisions as a part of those duties.
- D. The term "committee" is to be used to name an advisory body to the Governing Body that has been established indefinitely to continually perform its duties and provide recommendations to the Governing Body.
- E. The term "task force" is to be used to name an advisory body to the Governing Body that has a specific purpose and a date certain to fulfill its appointed tasks.

SECTION TWO: Unless otherwise specified by the authorizing statute, ordinance or resolution, each advisory body shall elect from its membership a chairman, vice-chairman or secretary from its membership.

- A. The secretary shall be responsible for recording the activities of that particular advisory body. One of the duties of the secretary shall be to record those members present and absent at each meeting.
- B. The chairman of each body shall be responsible for ensuring that the City Clerk is provided with approved minutes from each meeting within two weeks of their approval by that body.
- C. In select cases and in the case of the Planning Commission and Board of Zoning Appeals, the City Manager will designate a staff member as a clerk to the Board that will be responsible for recording minutes and attendance, as well as providing them to the City Clerk upon approval.

SECTION THREE: Every January, each secretary of each board, committee, or commission shall file with the body's chairman an attendance report of every member. Such attendance report shall then be forwarded to the City Clerk with such additional information concerning attendance as may be deemed appropriate.

- A. Each year, after January 1 and prior to the reappointment of Committee members, the City Clerk shall report to the Governing Body the number of times each advisory body has met in the previous year and the attendance of each member. Upon receipt, the Governing Body will review the attendance of all advisory body members during the previous year.
- B. Any member of any advisory body that was absent for three consecutive meetings or was not in attendance for at least fifty (50) percent of all meetings, shall be reviewed by the Governing Body. Such members shall not be eligible for reappointment unless the Governing Body can be shown that those absences were created by unforeseen circumstances that have been corrected.

SECTION FOUR: At any time, the majority or a quorum of an advisory body may petition the Governing Body for the removal of any member that was absent for three or more consecutive meetings. Unless otherwise specified by statute or ordinance and upon two-thirds majority vote, the Governing Body may remove a member of an advisory board at any time, with or without a recommendation for the advisory body and with or without cause.

SECTION FIVE: The general public shall be notified of openings on all advisory bodies appointed by the Governing Body.

- A. Appointments to advisory bodies will be based upon applications filed with the City Clerk, which will be kept for a period of one calendar year.
- B. Members of the public are encouraged to download or request a copy of the public service application from the City's website, or to obtain a copy from City Hall. Applications may be returned via email, fax, mail or in person to the City Clerk's office.
- C. Advisory bodies are encouraged to provide a recommendation from among any individuals expressing interest in an appointment; however, no such recommendation will be considered by the Governing Body without a complete public service application from the prospective member.
- D. All incumbent board members who wish to be considered for reappointment shall submit a public service application—reappointments are not automatic.

SECTION SIX: Each year when annual appointments are re-appointments are to be made, or at any time during the year, when there is one or more vacancy on an advisory body, the City Clerk will provide a public announcement through the City's website and other media outlets announcing vacancies.

- A. The Governing Body will review the public service applications provided by the City Clerk as a part of the regular council meeting packet, or with a minimum of 48 hours prior to consideration of those appointments at a special council meeting.
- B. When considering the appointments, the Mayor and each Governing Body member may nominate one person each for each vacancy. The Governing Body will vote from these nominations, along with any

compliant recommendation of the advisory body, to serve on the advisory body. The Mayor and each member of the Governing Body shall have one vote for each position filled. The person receiving the highest number of votes is thereby appointed to the Committee.

- C. When more than two positions are being considered and different and positions with different lengths of terms are considered at the same time, the person receiving the highest number of votes will receive the longer term, and the second highest the next longest term, and so on. When a person is filling a mid-term vacancy, the term of office on the advisory body shall be for the remaining term of their predecessor whose term they are completing.

SECTION SEVEN: When a member of an advisory body has served for a period of two consecutive full terms on a particular advisory body, that member shall not be eligible for reappointment until they have vacated the position for one full term.

SECTION EIGHT: Any new advisory body of the Governing Body shall be created through an official authorizing action of the Governing Body which specifically describes and sets forth the mission and assignment of this advisory body.

SECTION NINE: All persons appointed to any advisory body of the City shall be required to abide by the all the statutes and regulations of the City, including all financial and ethics policies, in the performance of their duties. All such violations shall be reported to the City Manager or the City Attorney. After a review that determines such a violation likely occurred, the violation will be forwarded to the Governing Body for censuring or removal of the advisory body member.

SECTION TEN: Resolution No. 299 and all other resolutions that are in conflict with this Resolution are hereby repealed.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas this 14th day of March, 2013, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

Philip A. Dudley
Mayor

(SEAL)

ATTEST:

Ann Elmquist
City Clerk

Public Service Application

City of Osawatomeie, KS

Name: Cami Akes

Home Phone:

Address: 7737 W. 2100 Rd,

Cell Phone:

Mailing Address (if different):

Work Phone:

City, State, Zip: Parker KS 66072

Email:

Place of Employment: Landmark Nat'l Bank Position: Asst. Vice President

Product or service rendered by employer: Financial Services * Bank Manager

Brief description of job duties/responsibilities: Oversee branch operation @ Osawatomeie location, lending

Spouse's place of employment: MidAmerica - Position: President

Product or Service rendered by spouse's employer: Hydraulic Repair

Hydraulic repair / services.

Committee, Board, Commission, Task Force or other position to which you wish to be appointed:

Economic Development

Why do you wish to serve in this position? I feel our community development is vital to the growth and future of Osawatomeie. I will be committed to being open minded and help create a positive culture

Have you served on any other board or committee or in an elected position with the City? If yes, please state your experience: Chamber of Commerce Board member,

Osawatomeie Lions Club Treasurer

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: NO

Cami Akes

Signature

5.21.13

Date

PLEASE RETURN TO CITY CLERK

439 Main Street

PO Box 37, Osawatomeie, KS 66064

cityclerk@osawatomeieks.org

[G: COUNCILBOARDS CC.Public Service App.2012]

12/19/2012

Public Service Application

City of Osawatomi, KS

Name: Kari Burchett Home Phone: [REDACTED]
Address: 1539 Pacific Ct Cell Phone: [REDACTED]
Mailing Address (if different): _____ Work Phone: [REDACTED]
City, State, Zip: Osawatomi, KS 66064 Email: [REDACTED]
Place of Employment: Eyecare Associates of Osawatomi Position: Owner / Doctor
Product or service rendered by employer: Eye health care, glasses, contact lenses
Brief description of job duties/responsibilities: Provide Eye Care; Manage business

Spouse's place of employment: USD 367 Position: Teacher (High School Math)
Product or Service rendered by spouse's employer: Education

Committee, Board, Commission, Task Force or other position to which you wish to be appointed:
Committee Ted Hunter asked me to join
Why do you wish to serve in this position? Requested to Serve

Have you served on any other board or committee or in an elected position with the City? If yes, please state your experience: No

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: No

Kari Burchett _____
Signature Date 5/21/13

PLEASE RETURN TO CITY CLERK

439 Main Street PO Box 37, Osawatomi, KS 66064 cityclerk@osawatomi.ks.org

Public Service Application

City of Osawatomie, KS

Name: THOMAS BURGIN Home Phone: _____
Address: 1301 MAIN ST. Cell Phone: _____
Mailing Address (if different): _____ Work Phone: _____
City, State, Zip: OSAWATOMIE, KS 66064 Email: _____
Place of Employment: _____ Position: _____
Product or service rendered by employer: _____
Brief description of job duties/responsibilities: _____
Spouse's place of employment: _____ Position: _____
Product or Service rendered by spouse's employer: _____

Committee, Board, Commission, Task Force or other position to which you wish to be appointed:
ECONOMIC & COMMUNITY DEVELOPMENT COMMITTEE
Why do you wish to serve in this position? TO HELP MY COMMUNITY
TO OFFER MY TIME AND EXPERIENCE TO ACCOMPLISH
THE STATED GOALS FOR LONG-TERM VITALITY
OF OSAWATOMIE.

Have you served on any other board or committee or in an elected position with the City? If yes, please state your experience: YES - PLANNING COMMISSION
ECONOMIC DEVELOPMENT COMMITTEE

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: NO

[Signature] _____ Date 05-03-2013

PLEASE RETURN TO CITY CLERK

439 Main Street

PO Box 37, Osawatomie, KS 66064

cityclerk@osawatomiaks.org

Public Service Application

City of Osawatomie, KS

Name: Will Cutburth Home Phone: (913) 378-7191
Address: 321 Carr Ave Cell Phone: same
Mailing Address (if different): _____ Work Phone: N/A
City, State, Zip: Osawatomie, KS 66064 Email: elect.will.cutburth@gmail.com
Place of Employment: Retired Military Position: N/A
Product or service rendered by employer: N/A
Brief description of job duties/responsibilities: N/A

Spouse's place of employment: USD 288 Position: Elementary Educator
Product or Service rendered by spouse's employer: 4th grade teacher

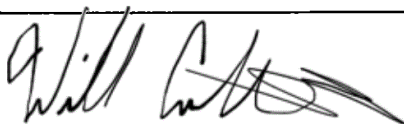
Committee, Board, Commission, Task Force or other position to which you wish to be appointed:

(1) Economic & Community Development (2) Public Safety Committee [IF/WHEN ordinance passed]

Why do you wish to serve in this position? I want to help flesh out all the details in matters of public policy. I have a drive to get to the root of the problems or obstacles. I want nothing but the best answers for Councilmembers to make clear and concise decisions. I want to help move the City of Osawatomie forward to a safe and prosperous future.

Have you served on any other board or committee or in an elected position with the City? If yes, please state your experience: NO

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: NO



Signature

5/17/2013

Date

PLEASE RETURN TO CITY CLERK

439 Main Street

PO Box 37, Osawatomie, KS 66064

cityclerk@osawatomieks.org

[G: COUNCILBOARDS CC.Public Service App.2012]

12/19/2012

Public Service Application

City of Osawatomie, KS

Name: Mark Fuchs Home Phone: -
 Address: 9 Tower St, Paola, KS 66071 Cell Phone: [REDACTED]
 Mailing Address (if different): PO Box 277 Work Phone: [REDACTED]
 City, State, Zip: Osawatomie KS 66064 Email: [REDACTED]
 Place of Employment: First Option Bank Position: Sr VP, Br Mgr.
 Product or service rendered by employer: Banking
 Brief description of job duties/responsibilities: Commercial, consumer & real estate lending, supervision of Osawatomie facility
 Spouse's place of employment: Sunshine Preschool Position: Director
 Product or Service rendered by spouse's employer: Preschool

Committee, Board, Commission, Task Force or other position to which you wish to be appointed:
Economic & Community Development

Why do you wish to serve in this position? General interest in promoting a healthy business climate in Osawatomie. The goals & objectives of the Committee align with my personal & professional interests.

Have you served on any other board or committee or in an elected position with the City? If yes, please state your experience: Economic Development committee

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: No

Mark Fuchs Signature Date 5-23-13

PLEASE RETURN TO CITY CLERK

439 Main Street PO Box 37, Osawatomie, KS 66064 cityclerk@osawatomiaks.org

Public Service Application

City of Osawatomi, KS

Name: Dan Macek Home Phone: [REDACTED]
Address: 35591 W 367th Cell Phone: [REDACTED]
Mailing Address (if different): _____ Work Phone: [REDACTED]
City, State, Zip: Osawatomi KS 66064 Email: [REDACTED]
Place of Employment: Maceks Inc. Position: Manager
Product or service rendered by employer: Automotive Repair/Parts
Brief description of job duties/responsibilities: _____

Spouse's place of employment: Macek Photography Position: Owner
Product or Service rendered by spouse's employer: Photography

Committee, Board, Commission, Task Force or other position to which you wish to be appointed:
Economic Development
Why do you wish to serve in this position? _____

Have you served on any other board or committee or in an elected position with the City? If yes, please state your experience: Economic Development

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain:
I have performed AutoBody Repair for the City
She has taken photographs for the City

[Signature] _____ Date 5-2-13

PLEASE RETURN TO CITY CLERK

Public Service Application

City of Osawatomie, KS

Name: Blake Madden Home Phone: N/A
Address: 327 Main Street Cell Phone: [REDACTED]
Mailing Address (if different): _____ Work Phone: [REDACTED]
City, State, Zip: Osawatomie, KS 66064 Email: [REDACTED]
Place of Employment: Affinis Corp Position: Civil Engineer
Product or service rendered by employer: Civil Engineering
Brief description of job duties/responsibilities: Design of roadways, structures, storm sewers, and land developments.
Spouse's place of employment: Shawnee Mission Medical Center Position: Certified Nursing Asst.
Product or Service rendered by spouse's employer: Health Care

Committee, Board, Commission, Task Force or other position to which you wish to be appointed:
Economic & Community Development Committee
Why do you wish to serve in this position? I would like to help the City become a better place to live.

Have you served on any other board or committee or in an elected position with the City? If yes, please state your experience: No

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: No

Blake Madden _____
Signature Date 5/3/2013

PLEASE RETURN TO CITY CLERK

439 Main Street

PO Box 37, Osawatomie, KS 66064

cityclerk@osawatomieks.org

Public Service Application

City of Osawatomi, KS

Name: MIKE MOON Home Phone: _____
 Address: 111 ROHRER HTS Cell Phone: _____
 Mailing Address (if different): _____ Work Phone: _____
 City, State, Zip: OSAWATOMIE, KS 66064 Email: _____
 Place of Employment: MOON'S HOMETOWN MKT Position: OWNER
 Product or service rendered by employer: GROCERIES
 Brief description of job duties/responsibilities: _____

Spouse's place of employment: SAME Position: BOOKKEEPER
 Product or Service rendered by spouse's employer: _____

Committee, Board, Commission, Task Force or other position to which you wish to be appointed:
ECONOMIC & COMMUNITY DEVELOPMENT

Why do you wish to serve in this position? I WISH TO MAINTAIN A POSITION
WITHIN CITY GOVERNMENT WHERE MY IDEAS AND ENERGY
CAN HELP IMPROVE THE QUALITY OF LIFE FOR
RESIDENTS.

Have you served on any other board or committee or in an elected position with the City? If yes, please state your experience: CITY COUNCIL

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: YES. WE
SELL MERCHANDISE TO VARIOUS CITY DEPARTMENTS

Michael Moon _____
 Signature Date

PLEASE RETURN TO CITY CLERK



Proclamation
Issued by the Mayor of Osawatomie

WHEREAS, the businesses of Osawatomie are vital to our state's economic health; and

WHEREAS, Osawatomie's existing businesses are the key to a prosperous future; and

WHEREAS, these businesses provide the most important components of growth as their expansion accounts for the majority of new jobs created for the citizens of Osawatomie; and

WHEREAS, public awareness of the contributions made by businesses is the key to sustaining a healthy business – community relationship; and

WHEREAS, the people of Osawatomie are grateful to the businesses of Osawatomie for their generous contributions to the quality of life we all enjoy;

WHEREAS, over 200 private sector businesses have chosen Osawatomie as their place of business; and

WHEREAS, those businesses employ more than 1,375 people, with over 1,500 being employed within our school district boundaries;

NOW, THEREFORE, I, L. Mark Govea, Mayor of Osawatomie, do hereby proclaim the month of June, 2013 as

KANSAS BUSINESS APPRECIATION MONTH

in Osawatomie, and urge all citizens to salute their local businesses and their employees for their outstanding contributions to our state and to our community.

Proclaimed this 23rd day of May, 2013.

L. Mark Govea, Mayor



STAFF AGENDA MEMORANDUM

DATE OF MEETING: May 23, 2013

AGENDA ITEM: Summer Youth Programs

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: As a staff, we have heard the complaints of there being nothing for our children to do in Osawatomie this summer because the city pool is not functional. While we understand that this is a great disappointment, we also thought it would be good for us to provide a summary of current and proposed summer youth programs for 2013.

Ongoing Programs

Library. Our largest provider of kids programs is our Osawatomie Public Library. The Library offers numerous programs for kids of all ages throughout the summer. We offer a huge variety of programs including regular events like story hours for different age groups, movie Fridays, movies in the park, the summer reading which includes weekly swim instruction at the O-Zone, and the new Garden Club program. The Library is also offering special events like Dinosaur Club, Big Truck Day, Archeology Club, Kids a Cookin', Family Game Night and many more events. I have attached a packet of information for you to review.

Parks & Recreation. Our summer baseball and softball programs have 500 area kids participating. There are games almost every night at the sports complex from May 20 through July 14. And after that there will be several tournaments.

New Proposed Programs

Swimming Shuttle: We have worked with the City of Paola to provide a regular outdoor swimming opportunity for our residents. Parks & Recreation would provide a shuttle to the Paola pool on Mondays, Wednesdays and Fridays. The City would also purchase discount passes from the City of Paola that will be for sale to the public at a rate of \$3 per person. We

would expect this shuttle to begin on June 3. I have attached a draft of the rules for the shuttle program and an outline of the expected costs for the program.

Outings: Both Parks and Recreation and the Library thought that we should put together some out of town trips for youth and adults to make available some other swimming and summer experiences to those that might not be able to otherwise afford it. On Thursdays this summer, beginning in June, we would like to offer weekly trips to the Gardner or Spring Hill Aquatic Centers. We will quickly establish a schedule and promote this opportunity to the public. We expect to make about 10 such trips this summer. The trips would be offered on a reservation basis so we can make sure to have the proper transportation and to make the necessary arrangements with those sites. The cost to the swimmers will be admission and we hope to get group pricing for these events to help keep that cost down.

We are also proposing a couple of other outings, including a zoo trip and a baseball trip. We are investigating pricing, but again we would only hope to make the cost to the participant the ticket price and we will provide transportation and possibly some refreshments. With both of these trips, we would expect to be able to sell tickets to individuals that might want to take advantage of group pricing but not travel on the shuttle.

Skating: Parks & Recreation is also seriously investigating the option of providing a few skate nights for our youth in the Municipal Auditorium. We are attempting to contact some skate providers to bring the skates for a few evenings where we would provide music, concessions and possibly some other fun activities. We believe this would be a real hit in our community and would be a draw for the area. With this event, we would also hope to either subsidize it or provide it at a very reasonable fee so everyone can participate.

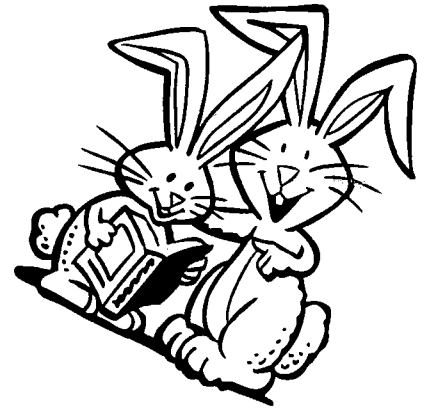
COUNCIL ACTION NEEDED: None.

STAFF RECOMMENDATION TO COUNCIL: Discuss and provide direction and feedback to staff.

What's Going On This Summer:

Toddlers:

Children aged 18-36 months are invited to a fun and interactive program just for them every Thursday at 10:00. Music, Dance, Puppets, Stories and Rhymes will be presented for the little ones. Themes include Big Trucks, Dinosaur Stomp, I Dig Getting Dirty, Garden Garden and much more.



Preschool- Kindergarten:

A weekly interactive Story Hour will be presented at 10:00 every Friday. Songs, Stories and fun crafts with a dreamy flavor will be offered. Themes include Plant a little Seed, Farm Fun, Sticky Muddy Icky Cruddy and lots more.

Toddler- 5th grade:

Big Truck Day – Friday June 14th at 10:00 at John Brown Bark. Farm Trucks, work trucks, big trucks little trucks – they will all be at the park to explore and enjoy with the whole family.

K – 2th grade:

Dinosaur Club. We will meet June 11th and 25th and July 9th at 2:00 for our very own Dinosaur club. Learn about the different dinosaurs – how they lived, what they ate and what they liked to do. Snacks crafts games and fun will be offered.

3 – 5th grade:

Archeology Club. We will meet June 18th and July 2nd and 16th at 2:00 for an exciting and creative archeology club. Explore ancient Egypt, ancient Osawatomie and beyond. Club includes crafts, games and lots of fun.

K – 5th grade:

Kids a Cookin'. We will meet on alternating Mondays to learn to create yummy and healthy meals. Program includes all the ingredients and instruction to create a snack, a dinner and a dessert. Preregistration is required and space will be limited. Children must commit to attending all of the classes.



What's Going On This Summer:



Every Tuesday June 18th thru July 30th —from 11:00-1:00:

Swim Stations at the O-Zone Pool –

All Summer Readers are invited to use the O-Zone pool on scheduled Tuesdays during the summer. You must be registered in Summer Reading and present your swim pass to gain entry.

May 28th at 6:30pm, Memorial Hall – Jay and Leslie present Laughing

Matters!—Join Jay and Leslie in their latest Summer Reading show, **Toss, Catch, Dig** as they use mime, juggling and comedy to delight your funny bone. Everyone is welcome.

June 12th, 19th and 26th 2:00 at the Library – Teen Book Club – We're reading

Divergent by Veronica Roth. In Beatrice Prior's dystopian Chicago, society is divided into five factions, each dedicated to the cultivation of a particular virtue—Candor (the honest), Abnegation (the selfless), Dauntless (the brave), Amity (the peaceful), and Erudite (the intelligent). On an appointed day of every year, all sixteen-year-olds must select the faction to which they will devote the rest of their lives. For Beatrice, the decision is between staying with her family or being who she really is—she can't have both...

June 4th and all through the Summer at the Library – Garden Club – From the

garden to your plate learn where your food really comes from and help grow vegetables and flowers from seed to picking. Space is limited but we will make room for everyone over the summer.

June 13th 2:00pm at the Library –Mining for Money...the Journey of

the \$\$ Presented by First Option Bank. See if you have what it takes and join First Option Bank in "Mining for Dollars\$". There will be something to learn and prizes to earn as you have an opportunity to see if you can make it or go broke. Learn about budgeting, saving money, bank accounts and more as you go "Mining for Dollars\$".

Book Club –

Grades k-2 will be Reading Dinosaurs Before Dark by Mary Pope Osborne

Grades 3-5 will be reading How to Eat Fried Worms by Thomas Rockwell

Movie Fridays - 11:30 at the Library
(Bring Snacks or a Lunch)

June 7 – The Smurfs

June 14 – The Bee Movie

June 21 – The Lorax

June 28 – Rise of the Guardians

July 12 – Gnomeo and Juliet

July 19 – Escape from Planet Earth



July 28th

End of the Summer Celebration – for all those who have met their
summer reading goals!!!!

Swim Party at the Paola Pool – 6:00–8:00 – Whole Family is
Welcome.

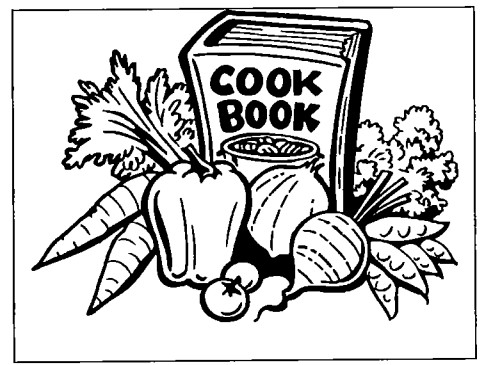




June 20th 2:00pm at the Library – Silent Library – Our own take on MTV's Silent Library... Shhhh! Can your team handle the task without grunting or gagging out loud? Can you support your teammates without laughing or making a sound? Participate in such events as Grape Stomp, Rubber Band Snap, Icy Massage, Dirty Shoe, ABC Gum and more. Permission Slip is required.

July 18th 2:00pm at the Library – Veggie Teens –

Presented by PAT President and local civic activist Callie Benton. Ever thought of becoming a vegetarian or a vegan? Ever wonder where vegetarians/vegans get their protein. Come join us for a plant based diet discussion and cooking lesson. Learn the benefits of a plant based diet and enjoy some vegan food.



July 10th 1:00-3:00:00pm at the Library – Mine Craft Mania – Minecraft is an on-line game about placing blocks to build anything you can imagine. At night monsters come out, make sure to build a shelter before that happens. Explore MODs on x-box, I-Pad and the Computer. Expert and novices alike are welcome. Snacks, prizes and games will be offered.

Teen Movie Afternoons – Every Friday at 2:00 Popcorn will be provided, bring a drink.

June 7 – Beautiful Creatures


June 14 – Hunger Games

June 21 – Oz the Great and Powerful


June 28 – The Host

July 12 – Jack the Giant Slayer

July 19 – The Hobbit



Special Events at the Library this Summer



May 28th 6:30-7:30 at Memorial Hall – Jay and Leslie’s Laughing Matters. Join the comedic team of Jay and Leslie as they juggle and joke their way through a new and exciting interactive kick off to our summer reading program. All ages welcome!

Every Tuesday June 18th thru July 30th – 11:00-1:00: Swim Classes at the

Ozone—All Summer Readers are invited to take part in an exciting new program offered by the Ozone. Coach Gerri Hart and her crew will offer weekly classes in swimming techniques and fun ways to enjoy our local pool. . You must be registered in Summer Reading and present your swim pass to gain entry.

June 4th 6:30-7:30pm at the Library - Garden Club (Family Program) - Presented by the K-state Extension office. Spend a fun family evening learning about vegetable gardening and sustainable produce. Each family will receive a tomato plant to raise at home.

June 13th 6:30-8:00pm at the Library - Family Board Game Night – All you need to bring is your family or friends. Come spend an evening “off the grid” playing your favorite board games and eating some favorite snacks.

July 18th 6:30 – 8:00 at the Library – Out of the Earth (Family Program)– It’s an evening of science projects using all natural ingredients. What does food coloring do to your food? How can you make your own rock candy? Come try panning for gold (all in good fun of course).



**SWIMMING POOL SHUTTLE
Information and Rules**

Days of Operation. The shuttle will operate on Monday, Wednesday and Friday that is not a holiday observed by the City of Osawatomie. The shuttle will begin operations on Monday, June 3, 2013 and will end on Friday, August 9, 2013.

Shuttle Stops. The shuttle stop will be in front of the Public Library, located at 527 Brown Avenue. The shuttle will depart the Paola pool from the pool parking lot.

Daily Schedule. The shuttle will run the following schedule each day. Riders can catch the shuttle on any return trip from the pool, but the shuttle will stop taking riders from Osawatomie to the pool after 3:00. Riders can board the shuttle on any return trip, but they will specifically depart from the Paola pool parking lot at the times on the schedule below.

Library	1:00	1:30	2:00	3:00	No new riders after 3pm	
Pool			2:30	3:30	4:00	4:30

Pool Passes. Parks and Recreation will sell daily pool passes at City Hall and the Library at \$3 each. People do not have to ride the shuttle in order to purchase the pool passes.

Riding the Shuttle. To ride the shuttle a person must be age 11 or older, to ride without a supervising adult. For ages 10 and under, the shuttle rider must be with a supervising adult or babysitter age 15 or older.

Riders are also required to have purchased a daily pool pass or show a season pass to the shuttle driver in order to ride. They must also have a towel or a change of clothes to ensure they will be able to be dried off before riding the shuttle back from the pool.

The driver will write down the name of each rider and keep a head count. Riders will be required to provide their name when getting back on the shuttle at the pool to try to eliminate riders from being left at the pool. The driver only needs to take the name of the adult accompanying any children and the number of children with them. *Riders may be required to wear a wristband that identifies them as shuttle riders.*

Riders must make the return trip. The only exceptions will be when a parent of a child, or the adult themselves, notifies the driver in person with the child present. The driver may require the parent to provide identification. An exception will be made in the case of injury or other medical emergency, but the driver must be notified. Paola pool staff will contact a designated person in Osawatomie to notify the shuttle driver.

Neither Osawatomie Parks and Recreation, nor the Osawatomie Library, will be responsible for unaccompanied children once they depart the shuttle in Osawatomie. However, in the case of severe weather, the riders may use City facilities to wait for rides or to contact parents if necessary.

SWIMMING POOL SHUTTLE Information and Rules

Responsibility of Riders

While the driver will be tracking riders, the driver will not be responsible for making sure riders make the shuttle on time. If an unaccompanied child is not capable of keeping time or responsible enough to make the shuttle on time, the parent should not allow them to ride.

At the last pickup of the day, the driver will make a reasonable attempt to ensure that they have picked up all riders for the day, by checking the riders' list. However, if a rider fails to make the last shuttle at 4:30, the person or child will be responsible for making arrangements to return to Osawatomie. Any child missing the final shuttle will not be allowed to ride the shuttle for the remainder of the season.

Riders are responsible for conducting themselves appropriately at the Paola pool. Any person that is suspended or prohibited from the Paola pool shall not be allowed to ride the shuttle until the suspension has been lifted.

Riders must be in dry clothes or have a towel to keep the shuttle from being made slippery or wet. No open food or drinks will be allowed on the shuttle.

Unruly or Unsafe Riders. Any rider, regardless of age, that is unruly or unsafe on the shuttle, or creates an unruly or unsafe condition for the shuttle driver, will be prohibited from riding the shuttle for the remainder of the season.

Should an incident occur with an unaccompanied child, the driver will return the rider to Osawatomie and not allow them to be dropped off at the pool. Should the unaccompanied child not comply and exit the shuttle anyway, the shuttle driver will be asked to contact the Osawatomie Police Department who will work with the Paola Police Department to return the child to Osawatomie.

Should the disruption be caused by an adult, a person responsible for children under the age of 11, or any child under the control of such persons, the adult and all of the children under their control will be given the option to return to Osawatomie or to be left in Paola. If exiting in Paola, they will not be allowed to return on the shuttle. Should the driver determine it would be a threat to their safety or to the safety of others to return the person to Osawatomie, they may insist that the adult rider and children under their care exit the shuttle in Paola. The adult in such circumstances, exiting in Paola, will be responsible for making arrangements to return to Osawatomie.

Inclement Weather. When inclement weather occurs and the Paola pool makes the decision to close, the shuttle driver will be notified and will immediately stop boarding of riders in Osawatomie and will drive to Paola to bring back riders. If more than one trip is necessary, the driver will instruct riders where to wait in Paola for the returning shuttle.

If the weather is severe in nature, the driver will be responsible for determining when it is safe to drive and will work with the pool staff to keep riders safe.

SUMMER YOUTH PROGRAMS

SWIMMING SHUTTLE

3 Days per Week

	daily	weekly	summer
mileage	102	306	3,570
0.79 cost	80.58	241.74	2,820
Driver			
hours	5	75	175
10.5 wages	\$ 52.50	\$ 787.50	\$ 1,837.50
TOTAL			\$ 4,657.80

SUMMER OUTINGS

	Avg Trip	Summer
mileage	81	815
0.79 cost	\$ 63.99	\$ 643.85
Driver		
hours	8	96
13 wages	\$ 104.00	\$ 1,248.00
1.11 with ben	\$ 115.44	\$ 1,385.28
Program Assistants		
staff	4	48
hours	6.5	78.0
10 wages	\$ 260.00	\$ 780.00
1.11 with ben	\$ 288.60	\$ 865.80

Staff Entry Fees	Entry	Meals	Summer
Swimming	\$ 25.00	\$ -	\$ 200.00
Zoo	60.00	75.00	555.00
Baseball Game	100.00	75.00	875.00
TOTAL			\$ 1,630.00

OUTING TOTALS \$ 3,881.08



MEMORANDUM

To: Mayor and City Council
From: Don Cawby, City Manager
Re: **Projects & Issues Update**
Date: May 23, 2013

Projects

Sports Complex Playground. The complex playground is completed and a big hit. I counted 20 kids playing on it Tuesday night and the action was constant. A big thanks to the members of the line and street crews that helped out in getting the playground equipment up last week before games began. We had hoped to do a ribbon cutting this week, but we have decided to wait until we get the permanent sign recognizing the Baehr Foundation before we do that ceremony.

Park Bathroom. We are in the process of replacing the roof on the park bathroom building. Once the roof is on, we will repaint the building and repair what we can of the facilities.

Library Basement. The Library has completed the renovation of its basement. The project was completed with a small portion of their funds donated for the CDBG grant match. The project has turned out very nice and will be a great addition to the facility.

Water Tower. The east tower has completed maintenance and painting and should be back in service soon.

Sludge Press. We will have a sludge press here for a demonstration next Wednesday. We hope to see if this will be the answer we have been looking for and also meet our capacity needs. Last week we had to apply sludge to some of the Northland ground along Lookout Road. The neighbors were very unhappy, but it was the only land available to us. We hauled for four days and at this point believe we will be fine once we can apply to our regular property in June and also draw down our holding tanks with the press.

Alumni Preparation. The crews have been cleaning downtown, trimming trees, putting up banners and picking up trash all over town. We also have painted most of the fire hydrants along Main Street over the past few weeks. We hope that we have cleaned up as best we can for this week's festivities. I want to specifically recognize the efforts of Bill Roseberry who cleaned the kitchen in Memorial Hall, including the stove and oven. By all accounts that was a very nasty job.

City Hall Landscaping. I also want to recognize Eric Draper, Ryan Crowley, Dale and Nancy Crowley, Cindy and Mark Govea, and Danny Govea for helping out with the new landscaping out in front of City Hall. It was a couple days of hard work, but I think it really helps dress up our space.

Issues

Power Outage. As you probably know, we had a fairly major outage at the power plant last Sunday. We were able to do a few things to get the power back on, but what I learned from this outage is how antiquated our switch gear and controls in the power plant are. After having our contract expert come look at the plant on Wednesday, he recommended that we look at taking the money we set aside for upgrading one of the substation breakers this year and instead use it to upgrade switches and meters in the plant before we start doing breakers. I tend to agree with that assessment.

Forestry Site. We have changed the hours that people can haul leaves, limbs and brush to the Forestry Site. We have yet to update our sign, but we have extended the hours to 8pm each day. We will work on a sign that will work all year, so we need to set the hours accordingly for darkness in the spring and fall.

Upcoming Meetings/Dates

May 24-27	Alumni Weekend
May 27	Memorial Day – City Office Closed
May 29	Zoning Changes Open House (4:00-6:00) Planning Commission Meeting (7:00)
June 13	Council Meeting
June 19-22	John Brown Jamboree
June 27	Council Meeting