

RESOLUTION NO. 21-50

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, ADOPTING TEXT AMENDMENTS TO THE ANIMAL CONTROL REGULATIONS OF DOUGLAS COUNTY, KANSAS, CODIFIED AT CHAPTER 2 OF THE DOUGLAS COUNTY CODE.

WHEREAS, K.S.A. 19-101a authorized the Board of County Commissioners of Douglas County Kansas to perform all powers of local regulation and administration as it deems appropriate;

WHEREAS, the Board of County Commissioners of the County of Douglas, Kansas desires to promote the public health, safety, and welfare of the citizens of Douglas County by enacting animal control regulations;

WHEREAS, the previously adopted rules and regulations related to Animal Control have been incorporated as Chapter 2 of the Douglas County Code; and

WHEREAS, the Board of County Commissioners of the County of Douglas, Kansas intends to exercise its powers of home rule pursuant to K.S.A. 19-101a, does hereby resolve as follows:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS AS FOLLOWS:

SECTION 1. Amendment to Chapter 2. Chapter 2 of the Douglas County Code is hereby amended and restated to read as set forth below:

Chapter 2. Animal Control

- Article 1. Definitions
- Article 2. Enforcement, Impoundment, and Kennels
- Article 3. Exotic Animals
- Article 4. Nuisance Animals and Dangerous Dogs
- Article 5. Vicious Animals
- Article 6. Reckless Pet Owners
- Article 7. Invalidity and Severability

Article 1. Definitions

2-101 As used in this Chapter, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:

Administrative Hearing Officer means a hearing officer appointed by the Douglas County Board of Commissioners to hear and adjudicate violations of this Chapter through a finding and order.

Animal means any live vertebrate creature except a human.

Animal Shelter means the facility or facilities contracted with or operated by Douglas County for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Bite injury means any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, abrasion, bruise or other piercing of the skin.

Cat means any member of the species, *felis domesticus*.

Commercial Kennel means any agricultural or residential parcel where four or more dogs or cats, or both, are maintained overnight in any one week for boarding, training or similar purposes for a fee or compensation, or where dogs or cats are produced for sale or sold, as determined by an Enforcement Officer.

Dangerous Dog means any dog which has:

- (1) Caused a bite injury, other than severe injury, to any person, or
- (2) Killed another dog or cat, or
- (3) Caused severe injury to, or killed, equine, or livestock.

Dog means any members of the species, *canis familiaris*.

Enforcement Officer means a law enforcement officer, deputy, or humane investigator, with jurisdiction to enforce this Chapter in Douglas County, KS.

Euthanasia means the humane destruction of an animal that may be accomplished by any of those methods authorized by K.S.A. 47-1718.

Equine means a horse, pony, mule, jenny, or donkey.

Exotic animal means any non-human primate or prosimian (chimpanzees, monkeys), any venomous snake, or constricting snake fully grown over eight feet in length, any member of the *canidae*, *felidae*, *ursidae*, *macropodidae* or *proboscidae* families, including hybrids thereof, and which include:

- (1) Any member of the dog (*canid*) family not customarily domesticated by man, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis familiaris*);
- (2) Any member of the cat family weighing over fifteen (15) pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (*Felis catus*);
- (3) Any member of the bear (*ursidae*) family, or any hybrids thereof; and
- (4) Any member of the elephant (*proboscidae*) family, or any hybrids thereof.

Fowl means domestic birds commonly kept for the production of meat, eggs, companionship, aesthetic, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus.

Health director or *director of health* means the director of the Lawrence-Douglas County Health Department. The term includes the director's authorized representative.

Livestock means cattle, sheep, goats, pigs, llamas and alpacas. Livestock excludes fowl and equine.

Owner means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his care or residence, or acts as its custodian. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by minors upon their premises.

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

Severe Injury means disfigurement, protracted impairment of health, or impairment of the function of any bodily organ.

Vicious animal means any animal which has caused severe injury to any person.

Article 2. Enforcement, Impoundment and Kennels

2-201 Any animal found by an Enforcement Officer to be in violation of this Chapter may be impounded by an Enforcement Officer and placed in the Animal Shelter.

2-202 All costs and fees associated with impounding, boarding, and medical care of an animal pursuant to this Chapter shall be paid to the Animal Shelter before the animal is released to the owner. Notwithstanding required hold times in other sections of this Chapter, if a known owner has not reclaimed their animal within 24 hours of notification, the Animal Shelter may send written notice to the known owner to immediately retrieve the animal from the shelter. If, 10 days after notice being provided, the animal is not retrieved, the animal shall become the property of the Animal Shelter. In the event that the owner of such animal fails to pay such costs and fees, the County or Animal Shelter shall be entitled to seek reimbursement of costs either in an independent civil proceeding or the costs may be requested as restitution as part of any applicable criminal proceeding.

2-203 The Douglas County Commission shall provide an Animal Shelter or shelters for the reception and humane care of animals impounded under this Chapter, and for this purpose may contract with any governmental entity, nonprofit organization, or association, or licensed veterinarian upon such terms and conditions as are mutually deemed appropriate.

2-204 Interference with Enforcement Officers Prohibited. It shall be unlawful for any person to knowingly obstruct, resist, or oppose an Enforcement Officer in the process or execution or the attempt to serve any summons, citation, writ, warrant, or order; conceal, destroy or materially alter evidence; or otherwise interfere with any person appointed or given authority under this Chapter in the performance of his or her official duties as prescribed herein. It shall be unlawful for any person to refuse to identify himself or herself by correct name and address when asked to do so by an Enforcement Officer when the officer has reasonable suspicion to believe that such person has violated this Chapter.

2-205 Refusal to Deliver Animals Prohibited. It is unlawful for a person to refuse to deliver an animal to an Enforcement Officer or to the Animal Shelter when requested to do so under impoundment provisions of this Chapter.

2-206 Removal of Animals from Enforcement Officers or Animal Shelter Prohibited. It is unlawful to remove an animal from the custody of an Enforcement Officer, Animal Shelter, or other location at which an animal is located when such animal has been impounded by such officer under the provisions of Chapter or state law when such removal is unauthorized.

2-207 No Limitation in Rabies Cases. The provisions of this Chapter shall not reduce or otherwise limit any applicable law that requires the impounding or holding of animals for observation following exposure by an animal that could possibly carry rabies or other communicable diseases. In addition, nothing in this Chapter shall prohibit the humane destruction of an animal suspected of carrying rabies if such destruction is done in compliance with other applicable law. In the event that an animal would otherwise be impounded under this Section, but is held at a different location for observation, the animal shall be impounded under this Section immediately upon expiration of the observation period.

2-208 Impoundment of At-Large Animals.

(a) A dog, cat or other animal found to be turned loose by an owner or at-large by an Enforcement Officer or person, within the boundaries or unincorporated area of Douglas County, may be impounded in the Animal Shelter.

(b) The Animal Shelter shall make a record of all dogs, cats, or other animals so impounded with their description, date of impoundment and rabies vaccination number. The animal shall be listed and viewable for the public to inspect.

(c) If the animal is microchipped or if the owner is known or reasonably ascertainable, the Animal Shelter shall provide notice of impoundment to the known owner. Providing notice does not extend the time in which the animal shall be held before release or disposition.

(d) If the animal appears to be at-large with no owner and within 3 business days from the date any animal is impounded the owner of such animal does not claim his or her animal, the animal shall become the property of the Animal Shelter. (Ref. K.S.A. §47-1710)

(e) The owner or custodian of an animal disposed of pursuant to this Section shall not be entitled to recover damages for the disposition of such animal.

2-209 Any animal impounded pursuant to this Chapter, excluding Sec. 2-407 (Vicious Animal), may be released while the matter is pending in District Court or administrative hearing process upon the recommendation of an Enforcement Officer. If, in the opinion of an Enforcement Officer or Animal Shelter, the animal would constitute a menace to the health, safety or welfare of the public if released from custody, or may be subject to additional harm or violations, the animal may be held pending adjudication of the matter.

2-210 Enforcement. Enforcement Officers are empowered to enforce this Chapter and work with Code Enforcement to enforce any domestic animal-related inspections, conditional use permits, and site visits to aid in enforcement of other Chapters of the Douglas County Code, and abate any nuisances. It is unlawful to knowingly impede the duties of an Enforcement Officer.

2-211 Commercial Kennel.

(a) Noise. No person shall maintain any commercial kennel which, by creating a noise for frequent or prolonged periods of time by day or night, disturbs the peace and quiet of any person or family of ordinary sensitivity within the vicinity of the noise.

(b) Odor. It shall be unlawful to maintain any commercial kennel which by the nature of its maintenance or by the numbers of the same shall create an offensive odor so as to be objectionable to any person of ordinary sensitivity living within the vicinity of the odor.

(c) It shall be unlawful for any person to maintain a commercial kennel without first obtaining a conditional use permit from Douglas County Board of Commissioners.

(d) It shall be unlawful to maintain a commercial kennel in the county that does not meet all of the following standards:

- (i) Any pens, runs, cages or kennels shall be located at least 500 feet from any property lines.
- (ii) A minimum of 20 acres is required for a kennel.
- (iii) Adequate water supply must be provided for drinking and cleaning and appropriate sewage and waste management measures, approved by the Health Department, must be followed to eliminate odor.
- (iv) The site plan must show contours so appropriate drainage of cleaning water and storm water runoff can be determined.
- (v) Shelters must be provided with heating and cooling units to protect the animals from extreme temperatures.
- (vi) An exercise area such as an individual dog run or an exercise yard which may also be used for training and obedience classes must be provided.
- (vii) Runs shall be adequately fenced and roofed to contain animals.
- (viii) The building design, site layout, and/or other features must result in a facility that does not create noise which negatively impacts nearby properties.
- (ix) There must be an occupied residential home on the property of the commercial kennel and the occupant's name and telephone number must be listed on the permit application and subsequent renewals. (ref. 12-306-23, and 12-306-23.01)

2-212 Penalties. Any person violating any of the provisions of this Article shall be issued a notice of violation and fine, and notice of hearing which shall be served not less than 10 days prior to the date of such hearing in front of the Administrative Hearing Officer. The Administrative Hearing Officer, upon finding and order, and after examining the record for any prior conviction, finding, order, or record to determine if the person has previously been found in violation of the same offense, may fine the person according to the following schedule:

(a) First violation, fine of \$100.

(b) Second or subsequent violation, fine of \$200 to \$500.

(Ref. K.S.A. §77-501 through 77-566, et. seq.)

Article 3. Exotic Animals

2-301 It is unlawful to own or possess an Exotic Animal in Douglas County, Kansas.

2-302 Exclusion, Zoos, and Other Facilities - The provisions of this Section shall not apply to properly maintained zoological parks accredited by the Association of Zoos and Aquariums; licensed or accredited medical institutions; accredited educational institutions; veterinary clinics or humane societies in possession of exotic animals for impoundment, treatment, or rehabilitation purposes; or wildlife rescue facilities as designated by the Kansas Department of Wildlife and Parks.

2-303 Exclusion, Transitional Transporting - The provisions of this Section shall not apply to persons transporting exotic animals through Douglas County, provided that the transit time through Douglas County shall not be more than 6 hours, during which time, no exotic animal may be sold, exchanged, adopted, displayed, and no event or service that involves the exotic animal may occur. This includes any contact, whether direct or indirect, with the public.

2-304 Penalties. Any person violating any of the provisions of this Article shall immediately remove the animal from Douglas County. Any person violating any of the provisions of this Article shall be issued a notice of violation and fine, and notice of hearing which shall be served not less than 10 days prior to the date of such hearing in front of the Administrative Hearing Officer. The Administrative Hearing Officer, upon finding and order, and after examining the record for any prior conviction, finding, order, or record to determine if the person has previously been found in violation of the same offense, may fine the person according to the following schedule:

(a) First violation, fine of \$100.

(b) Second or subsequent violation, fine of \$200 to \$500.

(Ref. K.S.A. §77-501 through 77-566, et. seq.)

Article 4. Nuisance, Dangerous, and Vicious Animals

2-401 Property.

(a) It shall be unlawful for any person owning or possessing an animal to permit or allow such animal to go upon any road, trail, private lands or premises without the permission of the owner of such premises, and tear up, destroy, or damage the property therein. This is including, but not limited to, gardens, flowerbeds, agriculture, and outbuildings.

(b) It shall be unlawful to own, keep, harbor, or possess any dog or cat on a premises not occupied by persons as determined by an Enforcement Officer.

(c) It shall be unlawful to own or possess dogs or cats which, by creating a noise for frequent or prolonged periods of time by day or night, disturbs the peace and quiet of any person or family of ordinary sensitivity within the vicinity of the noise.

(d) It shall be unlawful to own or possess dogs or cats which, by the nature of their maintenance or by the numbers of the same shall create an offensive odor so as to be objectionable to any person of ordinary sensitivity living within the vicinity of the odor.

2-402 Running at large—Prohibited; exceptions.

(a) It shall be unlawful for any person to own, keep or harbor any dog and to permit or allow the dog to run at large within the county. For the purpose of this section, any dog shall be deemed to have been permitted or allowed by its owner to run at large when a complaint is filed that alleges the animal is found outside the real property lines of the owner and not effectively under the control of its owner.

(b) Official use of dogs by any governmental unit shall be deemed in compliance with subsection (a) of this section.

(c) An owner, while participating in or training for obedience classes or trials, shall be deemed to be in compliance with subsection (a) of this section. Evidence of this shall be shown by the fact that the dog and owner are going through standard obedience exercises, the owner has a leash on the owner's person, and the dog is under immediate control. The dog's tags must be readily available on the owner's person.

2-403 Animal Injury.

(a) It shall be unlawful for any person to own, keep, or harbor an animal that, without provocation, causes injury to another domestic dog or owned cat, equine, or livestock, excluding severe injury or death as covered in Sec. 2-407 "Dangerous Dog," regardless of the purpose for

which the livestock is owned. This section shall not apply to animals injured while willfully trespassing on the owner, keeper, or harbinger of the offending animal's premises.

(b) It shall be unlawful for any person to own, keep, or harbor an animal that, without provocation, causes death to any owned fowl. This section shall not apply to fowl found off the premises of the owner of the fowl.

2-404 Animals putting person in fear. No person shall own, keep or harbor any animal that without provocation, interferes with, chases, bites, or jumps upon any persons or animal, or behaves in a way that a reasonable person would find threatening, on a public right of way or off the property of the owner, keeper, or harbinger of the offending animal.

2-405 Nuisance Animals, Same—Declaration.

(a) Upon the Administrative Hearing Officer's finding and order for a third time involving the same animal in any 24-month period of subsections 401, 402, or 403 in any combination thereof, or first finding and order of violating of section 404 shall constitute a "Nuisance Animal." The Douglas County Clerk's Office shall create and maintain a list of Nuisance Animals upon final disposition of a Nuisance Animal declaration by the Administrative Hearing Officer.

(b) No animal may be declared a nuisance if, at the time of violations the person or animal was teasing, tormenting, abusing or assaulting the alleged Nuisance Animal. No animal may be declared a nuisance if the animal was protecting or defending a human being or animal within the immediate vicinity of the animal from what a reasonable person would perceive as an unjustified attack or assault.

(c) No person owning, harboring or having the care or custody of a Nuisance Animal shall suffer or permit such animal to go unconfined beyond the premises of such person unless such dog is securely leashed and muzzled or otherwise securely restrained.

(d) A Nuisance Animal is "unconfined" if while on the premises of its owner such animal is not securely confined indoors or confined in a securely enclosed and locked pen upon the premises of the person. Such pen must be adequate to ensure the confinement of such dog upon the premises.

(e) The owner of a Nuisance Animal shall attend and complete a training class approved by the Enforcement Officer that is designated to teach the owner how to manage or correct problem behavior. The class must be completed and receipt thereof sent to the Douglas County Clerk's Office within 60 days following finding and order of the triggering offense and Nuisance Animal declaration.

(f) Failure to keep a Nuisance Animal according to the above requirements shall be a separate violation of this Article.

(g) Upon the owner's request, the County may remove any animal from the list of Nuisance Animals if there are no additional instances of the behavior described in this Section within 24 months of the date of conviction and designation of a Nuisance Animal, and the owner has complied with all keeping restrictions outlined in this subsection without incident. Request shall be made to the County Clerk in writing and forwarded to the Administrative Hearing Officer for determination.

2-406. Dangerous Dogs.

(a) It shall be a violation of this section to own, keep, or harbor a Dangerous Dog. The Douglas County Clerk's Office shall create and maintain a list of Dangerous Dogs upon final disposition of a Dangerous Dog violation by the Administrative Hearing Officer.

(b) Notwithstanding the definition of a Dangerous Dog, no dog may be declared dangerous if any injury or damage is sustained by a person or animal who, at the time such injury or damage was sustained, was:

- (1) Trespassing on the real property of the owner or keeper of the animal, or;
- (2) A member of the household, or;
- (3) Was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime, or;
- (4) If the dog was protecting or defending a human being or animal within the immediate vicinity of the animal from what a reasonable person would perceive as an unjustified attack or assault.
- (5) The provisions of this article shall not apply to a police dog being used to assist one or more Law Enforcement Officers acting in an official capacity.

(c) Notwithstanding the definition of a Dangerous Dog, no dog may be declared dangerous based solely on size or breed, or mix of breed; or if death to a dog or cat occurred solely due to a size disparity between the animals and there was no sustained vicious attack on the dog or cat.

(d) Any dog impounded under probable cause of being a Dangerous Dog and which in the judgment of the Enforcement Officer would constitute a menace to the health, safety or welfare of the public if released from custody, may be held pending the hearing of the violation of 2-406(a). If not so determined, the dog may, after having been held pursuant to K.A.R. 28-1-13, be returned to its owner until final determination is made by the Administrative Hearing Officer as to whether a violation of this section has occurred. If returned pending the final disposition of the case, the dog must be kept securely confined and must be muzzled while in public until final determination is made as to whether a violation of this section occurred.

(e) Within the notice of violation in 2-407, the Enforcement Officer shall include the following:

- (1) A description of the animal; and,
- (2) The name and address of the owner, keeper or harbinger of the animal, if known; and,
- (3) The facts upon which the violation is based; and,
- (4) The restrictions placed on the animal as a result of the violation pending the outcome of the hearing.

(f) Any violation of this section shall be punishable pursuant to the provisions of 2-407.

(g) Upon finding and order of owning, keeping, or harboring a Dangerous Dog, and the dog returning to its owner, the dog shall be kept subject to the following standards:

(1) Leash and Muzzle. No person shall permit a Dangerous Dog to go outside its home, kennel, or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a Dangerous Dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate object such as trees, posts, or buildings. In addition, all Dangerous Dogs on a leash outside the dog's home or kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.

(2) Confinement. All Dangerous Dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel when not indoors, except when leashed and

muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine Dangerous Dogs must be locked with a key or other locking mechanism. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition, and must not be the primary enclosure for keeping of the animal. Enforcement Officers shall have the authority to monitor and inspect the keeping of all Dangerous Dogs.

(3) Confinement Indoors. No Dangerous Dog may be kept on a porch, patio or in a part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog may be kept in a house or structure when screen doors are the only obstacle preventing the dog from exiting the structure.

(4) Signs. All owners of Dangerous Dogs within the county shall within 10 days of conviction, display in a prominent place on their premises a sign easily readable by the public, invitees, or licensees, using the words Beware of Dog or Beware of Dangerous Dog.

(5) Insurance. All owners of Dangerous Dogs must within 10 days of conviction provide to the Douglas County Clerk proof of liability insurance in a single incident amount of no less than \$200,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such dog. The insurance policy will provide that no cancellation of the policy will be made unless 10 days written notice is first given to the Douglas County Clerk's Office.

(6) Identification Photographs. All owners of Dangerous Dogs must within 10 days of conviction provide to the Douglas County Clerk's Office two color photographs of the registered animal clearly showing the color and approximate size of the dog.

(7) Microchip. All owners of Dangerous Dogs must within 10 days of conviction microchip the animal if not already microchipped and provide microchip information to the Douglas County Clerk's Office to register the animal as dangerous.

(8) Spaying/Neutering. All owners of Dangerous Dogs must within 10 days of conviction spay or neuter the animal and provide proof of sterilization to the Douglas County Clerk's Office.

(9) Training Class. The owner of the Dangerous Dog shall attend and complete a training class approved by the Enforcement Officer that is designated to teach the owner how to manage or correct problem behavior. The class must be completed and receipt thereof sent to the Douglas County Clerk's Office within 90 days following conviction.

(10) Sale or Transfer of Ownership Prohibited. Sale - No person shall sell, barter or in any other way dispose of a Dangerous Dog to any person within the county unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a Dangerous Dog may sell or otherwise dispose of a registered dog or the offspring or such dog to persons who do not reside within the county. If the owner sells or transfers ownership outside of Douglas County, the owner shall notify the Douglas County Clerk's Office of

the name and address of the transferee. The Douglas County Clerk's Office shall report the Dangerous Dog designation to the County in which the animal will be kept.

(11) Removal from List. Upon the owner's written request, and approval by the Administrative Hearing Officer, the County may remove any dog from the list of Dangerous Dogs if there are no additional instances of the behavior described in this Section within 24 months of the date of conviction and designation of a Dangerous Dog and the owner has complied with all keeping standards outlined in this subsection.

(12) Failure to Comply. It shall be unlawful for the owner of a dog deemed by the County to be a Dangerous Dog to fail to comply with the keeping standards and conditions set forth in this Section. Any dog previously found to be dangerous and which is found to be the subject of a violation of this Section shall be subject to immediate seizure and impoundment. Failure to comply with the provisions of this Section is deemed a separate offense. Upon finding and order, the Administrative Hearing Officer shall order the immediate removal of the animal from the county, may order the animal humanely euthanized, or may order the surrender of the animal to the Animal Shelter for disposition.

2-407 Penalties. Any person violating any of the provisions of this Article shall be issued a notice of violation and fine, and notice of hearing which shall be served not less than 10 days prior to the date of such hearing in front of the Administrative Hearing Officer. The Administrative Hearing Officer, upon finding and order, and after examining the record for any prior conviction, finding, order, or record to determine if the person has previously been found in violation of the same offense, may fine the person according to the following schedule:

(a) First violation of 2-401 and 2-402, fine of \$100.

(b) Second or subsequent violation of 2-401 and 2-402, fine of \$200 to \$500.

(c) First violation of 2-403, 2-404, 4-405, or 2-406, fine of \$200 to \$500.

(d) Second or subsequent violation of 2-403, 2-404, 4-405, or 2-406, fine of \$500 to \$1,000.

(e) Restitution. The Administrative Hearing Officer shall order reasonable restitution allowable by law in connection with any violation of this Article.

(f) Other Remedies. The County shall have such other remedies as are and as may be from time to time provided by other applicable law.

2-408 Bites; Confinement.

(a) Dogs, Cats, or Ferrets Exposing Humans. Any dog, cat, or ferret that causes any penetration of the skin by the teeth or any contamination of mucous membranes or fresh, open cuts in a person's skin with saliva shall be confined according to the following schedule, regardless of vaccination history:

(1) Owned or Wanted Dog, Cat, or Ferret. Beginning on the day of the exposure, any owned or wanted dog, cat, or ferret shall be observed for ten (10) days pursuant to a Confinement Order prepared by an Enforcement Officer. The Confinement Order shall detail the facts of the incident including how the human was potentially exposed to

rabies. If the incident did not cause severe injury and the owner has proof of current rabies vaccination, the Enforcement Officer, in his or her discretion, may determine that the animal may be confined at the residence of the owner. Any other confinement shall be done at the Animal Shelter or veterinary clinic. The exact period of confinement may be longer than ten (10) days at the discretion of the observing veterinarian. The owner shall be liable for all costs and fees incurred.

(2) Unowned, Stray, or Unwanted Dog, Cat, or Ferret. Any healthy unowned, unwanted, or stray dog, cat, or ferret shall be confined in the Animal Shelter for ten (10) days for observation. If the severity of the exposure to a person is such that it creates a high risk of potential rabies exposure, the Animal Shelter shall have the authority to waive any holding period and euthanize immediately for urgent testing.

(b) Dogs, Cats, or Ferrets Exposed By Other Animals.

Any dog, cat, or ferret that has been exposed to rabies through any penetration of the skin by the teeth or any contamination of mucous, open cuts in the animal's skin with saliva by a bat or a wild terrestrial carnivore, as defined in the most current version of the Kansas Department of Health and Environment Investigation Guidelines, shall be reported to an Enforcement Officer. The Enforcement Officer will issue an Observation Order or Confinement Order according to the following schedule:

(1) Dogs, cats, and ferrets that have appropriate documentation of current rabies vaccination shall receive an immediate booster vaccination by a licensed veterinarian within 96 hours of exposure and shall be kept under the owner's control and observed for forty-five (45) days by an Observation Order. The Observation Order shall detail the facts of the exposure and the date and certification number of the current rabies vaccination. If the booster vaccination was given later than 96 hours after exposure, the Lawrence-Douglas County Health Department has the authority to extend the observation period and instruct the Enforcement Officer to issue the appropriate order.

(2) Dogs and cats that are overdue for the rabies vaccination and have appropriate documentation of a previous vaccination shall receive an immediate booster vaccination by a licensed veterinarian within 96 hours of exposure and shall be kept under the owner's control and observed for forty-five (45) days by an Observation Order. If the booster vaccination was given later than 96 hours after exposure, the Lawrence-Douglas County Health Department has the authority to extend the observation period and instruct the Enforcement Officer to issue the appropriate order.

(3) Dogs and cats that are overdue for the rabies vaccination and have no documentation of a previous vaccination shall be reported to the Lawrence-Douglas County Health Department and may be required to be observed for forty-five (45) days or confined for up to four months. The Lawrence-Douglas County Health Department shall instruct an Enforcement Officer to issue the appropriate order.

(4) Ferrets that are overdue for the rabies vaccination shall be evaluated on a case-by-case basis by the Lawrence-Douglas County Health Department who shall then instruct an Enforcement Officer to issue the appropriate order.

(5) Dogs, cats, and ferrets that have never been vaccinated against rabies shall be euthanized immediately or, if the owner is unwilling to euthanize, shall receive an immediate booster vaccination by a licensed veterinarian within 96 hours of exposure. The dog or cat shall be confined at a licensed Animal Shelter or veterinary clinic for four (4) months, or six (6) months for ferrets pursuant to a Confinement Order prepared by an Enforcement Officer. If the booster vaccination was given later than 96 hours after exposure, the confinement period shall extend to six (6) months pursuant to a Confinement Order prepared by an Enforcement Officer. The owner shall be liable for all costs and fees incurred.

(c) Any owner who fails to comply with the provisions of this Section, within twenty-four (24) hours or one (1) business day of notification, shall be deemed in violation of this Article and the officer shall take such animal into custody and commit it for the above described confinement period.

(d) Kansas Department of Health and Environment Rabies Control Requirements shall apply under this Section, unless the provisions of this Chapter require more stringent procedures.

Article 5. Vicious Animals

2-501 Vicious Animals.

(a) It shall be a violation of this Section to own a vicious animal within the county.

(b) A vicious animal does not include an animal that has caused severe injury to any person while a person was committing a criminal offense, or willful trespass on the property of the owner of the animal that caused severe injury. The provisions of this article shall not apply to a police dog being used to assist one or more Law Enforcement Officers acting in an official capacity.

(c) Initiation of Criminal Proceeding. In addition to any other method of initiating a criminal proceeding under applicable law, any Enforcement Officer may, with probable cause, initiate a criminal proceeding under this Article by making an offense report and serving a citation and notice to appear in district court upon the alleged violator. The offense report shall be forwarded to the district attorney for prosecution.

2-502. Penalties. Any violation of this Article shall be heard in Douglas County District Court. Any person violating any of the provisions of this Article shall, upon conviction and after a court examination of any prior conviction record to determine if the person has previously been convicted of the same offense, be sentenced by the court according to the following schedule:

(a) First violation of 2-501 shall be a fine of up to \$1,000 or, confinement in the county jail not to exceed one year, or by both fine and imprisonment.

(b) Any second or subsequent violation of 2-501 shall be a fine of up to \$2,500 and, in addition, confinement in the county jail not to exceed one year, or by both fine and imprisonment.

(c) Each day's violation shall constitute a separate offense under this Article.

(d) After notice of violation under this Article, within 30 days of the animal being impounded, a disposition hearing shall be held in front of an Administrative Hearing Officer regarding the disposition of the animal.

(1) The Administrative Hearing Officer shall order that the animal be removed from the county or humanely euthanized, and direct the Animal Shelter or its veterinary designee to ensure that the order is enforced.

(2) If the Administrative Hearing Officer orders the animal to be humanely euthanized pursuant to this subsection, that decision shall be final unless the owner appeals to the Douglas County District Court. If an appeal is timely filed, the district court shall suspend

the euthanasia order pending the final determination of the underlying criminal charge by the court.

(3) If the animal is ordered removed from the county, the address in which the animal will reside shall be reported to the Douglas County Clerk's Office. If the animal is sold or transferred out of Douglas County, the owner shall notify the Douglas County District Attorney's Office prior to the sale or transfer. The Douglas County District Attorney's Office shall report the vicious animal determination to the County in which the animal will be kept.

(e) Restitution. The court shall order reasonable restitution allowable by law in connection with any violation of this Article.

(f) Other Remedies. The County shall have such other remedies as are and as may be from time to time provided by other applicable law.

Article 6. Reckless Pet Owners

2-601 Any person found in violation of Chapter 2 of the Douglas County Code three (3) or more times in a 24 (twenty-four) month period shall be declared a Reckless Pet Owner.

2-602 An Enforcement Officer shall issue a notification of the declaration of Reckless Pet Owner to the person with the following:

- (a) name and address of the person subject to the declaration, and;
- (b) the description, violation, and convictions that lead to the declaration, and;
- (c) the name and description of all pets subject to the effects of the declaration, and;
- (d) instructions on appealing the declaration to the Administrative Hearing Officer.

2-603 Once declared a Reckless Pet Owner, the person shall not own, keep, possess, or harbor any additional animals for a period of 3 (three) full years from the date of the declaration.

Article 7. Invalidity and Severability

2-701 Partial Invalidity. If any provision of this Chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

2-702 Jurisdiction. The provisions of this Chapter shall apply to the unincorporated areas within Douglas County, Kansas and, in addition, shall apply within the city boundaries of any incorporated city located within Douglas County, Kansas, that adopts an ordinance or resolution or takes other formal action consenting to have this Chapter apply within such city's boundaries; provided, however, that any city's election to have this Chapter apply within such city's boundaries shall not, by implication, serve to repeal or invalidate any other animal control regulations otherwise applicable within such city.

SECTION 2. Invalidity. If any section, clause, sentence or phrase of Resolution of the Text Amendments adopted hereby is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this Resolution or the Text Amendments adopted hereby, as the case may be.

SECTION 3. Repeal. Chapter 2 of the Douglas County Code, as existing prior to the effective date of this Resolution, are hereby repealed.

SECTION 4. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Board and its publication once in the office County newspaper.

ADOPTED by the Board of County Commissioners of the County of Douglas, Kansas, on this 1st day of December, 2021.

**BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF DOUGLAS, KANSAS**

Shannon Portillo, Chair

Shannon Reid, Vice Chair

Patrick Kelly, Commissioner

ATTEST:

Jameson D. Shew, County Clerk