

CHAPTER 2. ANIMAL CONTROL

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ARTICLE 1. DANGEROUS DOGS

- 2-101 DEFINITIONS: As used in this article, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:
- a) Animal Control Director - The person appointed by the Douglas County Sheriff to supervise the administration of these regulations.
 - b) Animal Control Officer - Any law enforcement officer or other person employed or appointed by the Douglas County Sheriff to assist in enforcing these regulations.
 - c) Dangerous Dog - Means any dog that demonstrates one or more of the following types of behavior:
 - 1) Any dog who is known to its Owner or Possessor, or reasonably should be known to its Owner or Possessor, to have a propensity, tendency or disposition to attack without provocation, to cause bodily injury or to otherwise endanger the safety of human beings or domestic animals;
 - 2) Any dog which has bitten, inflicted injury, assaulted, or otherwise attacked a domestic animal or livestock without provocation, if such assault or attack occurs on property other than that of the Owner or Possessor of the attacking dog;
 - 3) Any dog which has bitten, inflicted bodily injury, assaulted, or otherwise attacked a person on any property, public or private, without provocation when such person is conducting himself or herself peacefully and lawfully; or
 - 4) Any dog kept for the purpose of fighting or any dog trained for fighting.
 - 5) EXCEPTION: Notwithstanding the definition of Dangerous Dog in this section, no dog may be determined a Dangerous Dog if:

- (a) Any injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass upon the premises of the Owner or Possessor of the dog, was committing or attempting to commit or had just committed or attempted to commit another crime, or was teasing, tormenting or abusing the dog; or
 - (b) The dog was protecting or defending a person or another animal within the immediate vicinity of the dog from an unjustified attack or assault; or
 - (c)) The dog is used by a law enforcement agency in connection with the agency's official duties. (HR 01-2-1, Sec. 3)
- d) Dangerous Exotic Animal - Any live animal which, due to its inherent nature, may be considered dangerous to humans, including a non-human primate or prosimian (chimpanzees, monkeys) and any member of the canidae, felidae, ursidae, 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 no 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.(HR 05-7-6, Sec. 1)
- e) Own or Possess - A property interest in an animal, actual or claimed, or the exercise of dominion or control over an animal, or the intent to exercise dominion or control over an animal with the present ability to do so.
- f) Owner or Possessor - A person who Owns or Possesses an animal. (HR 01-2-1, Sec. 3)

2-102 ANIMAL CARE: The following shall apply to animals and Owners and Possessors thereof:

- a) Dangerous Dogs - It shall be unlawful for a person to Own or Possess a Dangerous Dog, except in accordance with the following requirements:

- 1) Dangerous Dog Confinement - All Dangerous Dogs shall be securely confined within a building or in a securely enclosed and locked kennel or pen.
- 2) Standards for Kennels or Pens of Dangerous Dogs - A kennel or pen used for confining a Dangerous Dog must have secure sides of sufficient height and a secure top attached to the sides to prevent escape. Such kennel or pen must have a secure bottom or floor attached to the sides of the kennel, or the sides of the kennel must be embedded in the ground no less than two (2) feet. The kennel or pen must be locked with a key or combination lock when the Dangerous Dog is within the kennel or pen. Any such kennel or pen must comply with all applicable zoning and building regulations.
- 3) Confinement Indoors - No Dangerous Dog may be kept on a porch, patio or in any part of a house or other structure that would allow the Dangerous Dog to exit such house or other structure on its own volition. In addition, no Dangerous Dog may be kept in a house or other structure when screen doors or screen windows are the only obstacle preventing the dog from exiting the house or other structure.
- 4) Control of Dangerous Dogs – No person shall permit a Dangerous Dog to go outside its kennel or building unless: (1) the Dangerous Dog is secured on a leash no longer than four feet in length, (2) a person has physical control of the leash, and (3) the Dangerous Dog is securely muzzled. The muzzle shall be made and used in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal. A Dangerous Dog shall not be leashed to inanimate objects such as trees, posts, or buildings.
- 5) Dangerous Dog Signage - All Owners or Possessors of a Dangerous Dog shall display in a prominent place on their premises a sign easily readable by the public in letters at least four (4) inches high using the words: "Beware of Dog." In addition, a similar sign shall be posted on the kennel or pen of the Dangerous Dog.
- 6) Registration And License - The Owner or Possessor of a Dangerous Dog shall annually register the Dangerous Dog with the Animal Control Director on such forms designated by the Animal Control Director, and shall have a microchip inserted in the dog by the Lawrence Humane Society, or such other entity as authorized by the Animal Control Director. The microchip shall detail the Dangerous Dog registration and such other information as may be appropriate to determine the Owner or Possessor of the dog. The

Owner or Possessor of the dog shall pay a an annual registration and license fee as determined by the Douglas County Commission from time to time, with the initial annual fee being \$50, and shall pay all costs associated with the microchip procedure and registration of the dog. The Owner or Possessor shall notify the Animal Control Director within seven (7) days of a change in address for the Owner or Possessor and the Dangerous Dog. The Animal Control Director shall, in turn, notify the Lawrence Humane Society, or such other entity currently inserting the microchips in Dangerous Dogs.

- 7) Destruction of Dangerous Dogs - A Dangerous Dog shall be ordered humanely destroyed by order of the District Court if such court finds by a preponderance of the evidence that the animal is a Dangerous Dog as the term is defined in these regulations and also finds by a preponderance of the evidence that any one or more of the following factors are applicable:
- (a) The Owner or Possessor of such Dangerous Dog has previously been found guilty of any offense pertaining to such dog which involves failing to adequately confine or control such dog; or
 - (b) The Owner or Possessor has failed to comply with the provisions of these regulations pertaining to the confinement and control of Dangerous Dogs on one or more occasions after such dog has been finally determined to be a Dangerous Dog; or
 - (c) The dangerous propensities of the Dangerous Dog are such that such dog presents an imminent threat to the public health and safety; or
 - (d) The Dangerous Dog has caused great bodily harm to, or killed a human being.

In making its determination, the District Court may consider the nature and severity of the any attack, prior attacks and offenses, and such other information determined relevant by the District Court. An order of destruction provided for in this section may be sought and obtained in an independent civil proceeding brought by Douglas County or requested as relief or restitution as a part of any criminal proceeding applicable to a Dangerous Dog or Owner or Possessor thereof. The Owner or Possessor of a Dangerous Dog shall be liable for the expense of destruction and disposal of such dog.

- b) Permitting or Directing Animals to Bite - It shall be unlawful for any person to permit or direct an animal to bite or attack another person, a domesticated animal or livestock. This subsection shall not apply to the use of dogs by law enforcement agencies or to lawful defense of a person, dwelling, or property.
- c) Dangerous Exotic Animals - It is unlawful to Own or Possess a Dangerous Exotic Animal in the unincorporated areas of Douglas County, Kansas.
 - 1) 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 Dangerous Exotic Animals for impoundment, treatment, or rehabilitation purposes; or wildlife rescue facilities as designated by the Kansas Department of Wildlife and Parks.
 - 2) Exclusion, Transitional Transporting - The provisions of this Section shall not apply to persons transporting Dangerous Exotic Animals through Douglas County, provided that the transit time through Douglas County shall not be more than twelve (12) hours. (HR 05-7-6, Sec. 2)
- d) Nuisance Animals - It shall be unlawful for any person to Own or Possess any animal which engages in any of the following types of behavior:
 - 1) Molests or interferes with another person in the public right-of-way;
 - 2) Damages public or private property other than that of its Owner or Possessor by its activities;
 - 3) Harasses or inflicts minor injury to any person, livestock, or domestic animal without provocation;
 - 4) Scatters refuse on public or private property, other than the property of the Owner or Possessor, if the refuse had been bagged or otherwise contained; whether or not done with the knowledge of the Owner or Possessor. A violation of this Section shall be considered a lesser included offense to a violation of Sections 2-102(a), 2-102(b), or 2-102(c). (HR 01-2-1, Sec. 4)

2-103 ANIMAL IMPOUNDMENT: Animals subject to the provisions of these regulations or state law may be impounded in accordance with the following regulations:

- a) Impoundment, General - Any Dangerous Dog that is Owned or Possessed in violation of Sections 2-102(a) or 2-102(b), any Inherently Dangerous Animal that is Owned or Possessed in violation of Section 2-102(c), or any animal in violation of similar provisions under state or other local law, may be impounded and placed in the county animal shelter, or other location approved by the Animal Control Director, by an Animal Control Officer, a law enforcement officer or other person authorized by law to impound animals.
- b) Impoundment Costs - All costs and fees associated with impounding or boarding an animal pursuant to this section shall be paid for by the Owner or Possessor of such animal. In the event that the Owner or Possessor of such animal fails to pay such costs and the County pays such costs, the County shall be entitled to seek reimbursement of such costs either in an independent civil proceeding or the costs may be requested as restitution as a part of any applicable criminal proceeding. Notwithstanding the foregoing, if the animal is not found to be in violation of these regulations or other provision of state or local law, the Owner or Possessor shall not be required to pay the costs and fees of impounding or boarding the animal.
- c) Euthanization or Other Disposition - If no Owner or Possessor can be located, or if no Owner or Possessor will redeem the animal within five (5) days after the animal is available for redemption, the animal may be humanely destroyed or released to a humane society at no charge. However, if any animal is destroyed within ten (10) days of the date of any bite or scratch of a human being, such animal shall be preserved for rabies testing in accordance with applicable law. No Owner or Possessor shall be relieved of liability for payment of an impoundment or boarding charges incurred because an animal is euthanized or delivered to a humane society as provided herein.
- d) Removal of Animals from Animal Control Officers or Shelters Prohibited - No person shall remove an animal from the custody of an Animal Control Officer, county animal shelter, or other location at which an animal is located, whether by force, deceit or otherwise, when such animal has been impounded by such officer under the provisions of this regulations or state law, unless the Animal Control Director or a court of appropriate jurisdiction has expressly authorized the release of the animal.
- e) No Limitation In Rabies Cases -The provisions of these regulations shall not reduce or otherwise limit any other requirements of applicable law that require the impounding or holding of animals for observation following a bite or scratch by an animal that could possibly carry rabies or other communicable diseases. In addition, nothing in these

regulations 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. (HR 01-2-1, Sec. 5)

2-104 ADMINISTRATION AND ENFORCEMENT OF ANIMAL CONTROL REGULATIONS - The provisions of this article shall be administered as follows:

- a) Animal Control Director, Appointment and Duties - The provisions of these regulations shall be administered by the Animal Control Director. The Animal Control Director shall be appointed and serve at the pleasure of the Douglas County Sheriff.
- b) Animal Control Officers, Appointment and Duties - The Douglas County Sheriff shall appoint or designate one or more persons as Animal Control Officers, including any deputy sheriff, whose duty it shall be to enforce the provisions of these regulations.
- c) Animal Shelter, Establishment - The Douglas County Commission, with the advice of the Animal Control Director, shall provide an animal shelter or shelters for the reception and humane care of the animals impounded under these regulations, and for this purpose may contract with any governmental entity, not for profit corporation or association or licensed kennel upon such terms and conditions as are mutually deemed appropriate.
- d) Interference with Health Officials and Animal Control Officers Prohibited - No person shall knowingly interfere with any person appointed under the provisions of these regulations in the performance of his or 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 Animal Control Officer when the officer has reason to believe that such person has violated these regulations.
- e) Refusal to Deliver Animals to Animal Control Officers Prohibited - No person shall refuse to deliver an animal to an Animal Control Officer when requested to do so under impoundment provisions of these regulations. (HR 01-2-1, Sec. 6)

2-105 INTERPRETATION AND SEVERABILITY - The regulations enacted by these regulations are intended to be supplementary to other provisions or remedies authorized or prescribed by law or rule or regulation enacted thereunder. The

invalidity of any particular regulation enacted herein shall not affect the validity of any other provision and all regulations hereunder shall be construed as consistently and harmoniously as possible with each other and other applicable provisions of law. These regulations also shall be liberally construed to the fullest extent permitted by law to effectuate the broad remedial purposes for which they are intended. (HR 01-2-1, Sec. 7)

2-106 JURISDICTION - These regulations shall be applicable to all unincorporated areas within Douglas County, Kansas. (HR 01-2-1, Sec. 8)

2-107 VIOLATIONS AND ENFORCEMENT - It shall be unlawful for any person to violate or fail to abide by any provisions of this Article. Such violation shall cause such person to be subject to one or more of the following enforcement provisions:

- a) Criminal Proceedings - Any person who violates any provision of this Article shall be guilty of a misdemeanor, punishable as follows:
 - 1) First offense, fine of \$100 to \$200 and, in addition, confinement in the county jail not to exceed six months; provided, however, that any violation of these resolutions that results in no bodily injury or harm to a person or injury to domesticated animals or livestock shall result in a fixed fine of \$50 with no confinement in the county jail.
 - 2) Second and subsequent offense, fine of \$500 to \$1,000 and, in addition, confinement in the county jail not to exceed one year; provided, however, that any second or subsequent violation of these resolutions that results in no bodily injury or harm to a person or injury to domesticated animals or livestock shall result in a fixed fine of \$100 with no confinement in the county jail.
 - 3) Instead of the penalties set forth in Sections 2-107(a)(1) and 2-107(a)(2), any person who violates the provisions of Section 2-102(d) (relating to Ownership or Possession of animals engaging in certain nuisance activities) shall be guilty of a misdemeanor, punishable by a fixed fine of \$50 with no confinement in the county jail.
 - 4) Each day's violation shall constitute a separate offense.
- b) Restitution - The court shall order reasonable restitution in connection with any convicted criminal offense involving the violation of these regulations.
- c) Other Remedies - The County shall have such other remedies as are and as may be from time to time provided by other applicable law.

- d) Initiation of Criminal Proceeding - In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer may initiate a criminal proceeding under these regulations by making an offense report and serving a citation and notice to appear in court upon the alleged violator. The offense report shall be forwarded to the district attorney for prosecution. (HR 01-2-1, Sec. 9)

ARTICLE 2. PROHIBITING THE OWNERSHIP, POSSESSING, KEEPING, OR HARBORING OF CERTAIN ANIMALS

2-201 DEFINITIONS.

- a) Domesticated shall mean bred for and adapted to use as a family pet capable of living within a household or to use as a product of animal husbandry generally accepted by the school of agriculture at Kansas State University.
- b) Owner shall mean the person who owns, keeps, harbors or possesses an animal or specified animal.
- c) Temporarily shall mean a period of less than two weeks. (HR 93-5-3, Sec. 1)

2-202 OWNING CERTAIN ANIMALS PROHIBITED. It shall be unlawful to own, keep, harbor, or possess any animal which is not domesticated as defined herein. (HR 93-5-3, Sec. 2)

2-203 EXCLUSIONS. The prohibition contained herein shall not apply to the following animals:

- a) Domestic dogs, other than those which are hybrid with a wild canine.
- b) Domestic cats, other than those which are hybrid with a wild feline.
- c) Domesticated rodents.
- d) Domesticated European ferrets.
- e) Rabbits.
- f) Birds, other than those protected by state or federal law.
- g) Nonvenomous snakes and lizards, other than those protected by state or federal law.
- h) Turtles, other than those protected by state or federal law.
- i) Amphibians, other than those protected by state or federal law.
- j) Fish, other than those protected by state or federal law.
- k) Invertebrates, other than those protected by state or federal law.

- l) Llamas.
- m) Horses, cows, sheep, mules, donkeys, or goats.
- n) Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian.
- o) Any animal in the ownership of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department.
- p) Any animal in the ownership of a person temporarily transporting such animal through the County.
- q) Any animal in the ownership of a bona fide medical institution or accredited educational institution.
- r) Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purposes of impounding, sheltering, or caring for animals.
- s) Ostrich. (HR 93-5-3, Sec.3)

2-204 ENFORCEMENT.

- a) Confiscation. The County may bring an action to seek confiscation of a prohibited animal in the District Court. The District Court judge may order the immediate confiscation of the prohibited animal by the county sheriff upon a finding that the animal poses an immediate danger to the public or itself. Upon conviction of a person for owning an animal prohibited by this article, the District Court judge shall order the county sheriff to confiscate the animal. The sheriff may delegate the actual confiscation to the Kansas Department of Parks and Wildlife or to any appropriate licensed animal rehabilitation or care facility. Any animal confiscated pursuant to this provision shall be transferred to an appropriate licensed animal rehabilitation or care facility. The District Court judge may order the animal released to the owner upon showing that the animal will be transferred to an appropriate licensed animal rehabilitation or care facility or to a location outside the County where such animal may be legally kept. If the owner fails to make such a showing within fourteen (14) days of the confiscation of the animal the Court shall order the animal to be disposed of by the rehabilitation or care facility in such a manner as the director of such facility sees fit. If the animal is sold by the facility the proceeds of the sale shall be first used to pay all expenses incurred by the facility in confiscating, housing, caring for, and disposing of the animal; then for payment of any fines or court costs which remain unpaid; and then the balance shall be paid to the owner.
- b) Criminal Penalty. Any person convicted of violating the provisions of this article shall be fined not less than \$50.00 nor more than \$500.00, and

upon any second or subsequent conviction shall be fined not less than \$100.00 nor more than \$1,000.00 and confined in the County jail for not more than 10 days. Each consecutive day's violation shall constitute a separate offense. (HR 93-5-3, Sec. 4)

ARTICLE 3. STRAY ANIMALS

2-301 Impounding; Redemption and Disposition.

- a) A dog, cat or other animal found to be abandoned or in violation of the resolutions of the county by a member of the sheriff's department within the boundaries or unincorporated area of Douglas County may be taken into custody by the sheriff's officer, or brought in by other citizens and may be impounded in a place provided for such purpose. The officer shall make a record of all dogs, cats, or other animals so impounded with their description, date of impoundment and rabies vaccination number. If, within 5 days from the date any animal is impounded the owner of such animal shall appear and claim his or her animal, said animal may be released upon payment of the fees required to be paid by Douglas County. (Res. No. 94-33, Sec. 1,a.)
- b) If any animal impounded as above provided is not claimed by the owner thereof within three (3) days of the date of such impounding, the animal shall become property of the agency with whom the animal was impounded. (Res. No.98-14, Sec. 1)

ARTICLE 4. EUTHANIZATION OF CERTAIN ANIMALS

2-401 This Article will apply if:

- a) The owner or custodian of the animal or animals has been charged with a violation of K.S.A. 21-4310;
- b) The Douglas County Humane Society or other animal shelter has taken or been given custody of the animal or animals who are the subject of such charges; and
- c) one of the following conditions exist
 - 1) Notice has been given or a reasonable attempt has been made to notify the owner or custodian of the animal or animals, said notice or attempt being made at least twenty (20) days prior to the filing of the petition for placement or euthanization, and the owner or custodian is not known or reasonably ascertainable after twenty (20) days after the animal is taken into custody; or
 - 2) The owner or custodian of the animal or animals has not filed a renewable case or performance bond with the County Clerk in an

amount not less than the cost of care and treatment of the animal for thirty (30) days. (Res. 98-44, Sec. 1)

- 2-402 If the conditions of 2-401 have been met, the animal shelter may initiate and file a petition with the Douglas County District Court, wherein the Court is asked to determine whether the animal may be placed for adoption or euthanized. (Res. 98-44, Sec. 2)

ARTICLE 5. VICIOUS DOGS

- 2-501 **FINDINGS.** The Board of County Commissioners hereby finds that certain dogs, because of a combination of their physical attributes and disposition or training for aggression, fighting, or attack pose a clear and present threat to public safety in Douglas County, Kansas. Although relatively few in number, such dogs represent a threat to all persons of Douglas County, particularly those persons who cannot protect and defend themselves such as children and the elderly. Regardless of the procedures taken to confine such dogs, their mere presence in Douglas County creates an unacceptable risk to the public because such dogs may escape or be released at any time. Because of the clear and present threat to public safety, such dogs are found to be a public nuisance. As a result, the Board of County Commissioners hereby prohibits the ownership and possession of these vicious dogs within Douglas County, Kansas and imposes related regulations, as set forth in this Article. (Res. HR-03-7-3, Sec. 1)

- 2-502 **DEFINITIONS.** As used in this Article, unless the context clearly indicates otherwise, the following words and terms have the following meanings:
- a) County Animal Control Director means the person employed by Douglas County and appointed by the Douglas County Sheriff to supervise and administer animal control rules and regulations.
 - b) Court means the Kansas District Court and any county court that Douglas County may establish from time to time or, if the context requires, a judge, whether a District Judge, a District Magistrate Judge, Judge Pro Tem, a judge of any county court, acting in the judge's official capacity for the such Court, or any other judge authorized to hear cases arising under this Article.
 - c) Law Enforcement Officer means any sworn law enforcement officer, whether of Douglas County or any city within Douglas County, or other person authorized, employed or elected to preserve peace, make arrests or enforce the law within the jurisdiction to which this Article applies.

- d) Own or Possess means a property interest in an animal, actual or claimed, or the exercise of dominion or control over an animal, or the intent to exercise dominion or control over an animal with the present ability to do so. Any person who keeps, harbors, controls, acts as a custodian of, or knowingly permits an animal to remain on or about any premises shall be deemed to Own or Possess the animal.
- e) Owner or Possessor means a person who Owns or Possesses an animal.
- f) Vicious Dog means any dog which,
 - 1) Kills a human being; or
 - 2) Inflicts Severe Injury to a human being through a sustained and vicious attack; or
 - 3) Has been trained to fight and possess physical attributes such as size, build, or bite strength to inflict Serious Injury to a human being; for this purpose, the following shall be presumed to have been trained to fight: (i) any dog involved in a staged fight, (ii) any dog exhibiting wounds or bodily disfigurements commonly associated with dog fighting, (iii) any dog found or kept on premises at which equipment is located that is commonly associated with training dogs to fight, and (iv) any dog found or kept with other dogs that (a) have been trained to fight or (b) are presumed to have been trained to fight; or
 - 4) Because of its disposition and physical attributes, such as size, build, or bite strength, poses a substantial threat to the life and safety of public safety and emergency response personnel (such as law enforcement officers, fire fighters and paramedics) who are seeking or may seek lawful access to any property in order to perform their duties; or
 - 5) Has the propensity, tendency or disposition to attack a human being without provocation and possesses physical attributes such as size, build, or bite strength to inflict Severe Injury to a human being.
 - 6) Exceptions. Provided, however, that no dog shall be deemed or declared a Vicious Dog:
 - 7) Solely because it inflicted Severe Injury on a human being if the human being was, at the time the Severe Injury was sustained, (i) assaulting the Owner or Possessor of the dog, provided the Owner or Possessor of the dog was not the aggressor, (ii) committing a willful trespass upon the premises of the Owner or Possessor of the

dog, or (iii) provoking, tormenting abusing, or assaulting the dog, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the dog at other times; or

- 8) Solely because it inflicted Severe Injury on a human being if the dog was, at the time the Substantial Injury was sustained, (i) responding to pain or injury, (ii) protecting itself, its kennel, its offspring, or its Owner or Possessor's property, or (iii) protecting or defending another human being within the immediate vicinity of the dog from an unjustified attack or assault; or
 - 9) Is Owned or Possessed by a federal, state, or local law enforcement agency.
- g) Severe Injury means serious bodily injury, such as muscle tears, broken bones, serious disfigurement requiring corrective or cosmetic surgery, or serious impairment of any bodily function. (Res. HR-03-7-3, Sec. 1)

2-503 UNLAWFUL ACTS CONCERNING VICIOUS DOGS.

- a) Vicious Dogs as Public Nuisance. Vicious Dogs are declared to be a public nuisance and are hereby prohibited in Douglas County, Kansas.
- b) Ownership or Possession of Vicious Dog. It shall be unlawful to Own or Possess a Vicious Dog in Douglas County, Kansas. An Owner or Possessor of a dog that falls within the definition of "Vicious Dog" shall be strictly liable under this Section and a conviction shall not require proof of (i) any criminal intent, or (ii) the Owner or Possessor's knowledge of any particular propensity, tendency or disposition of the dog. Each Vicious Dog Owned or Possessed in violation of this Section shall constitute a separate offense.
- c) Ownership or Possession of Dog following Conviction. It shall be unlawful for any person convicted of Owning or Possessing a Vicious Dog in violation of Section 2-503(b) to Own or Possess any dog, whether or not found to be a Vicious Dog, for a period of 3 years following the date of such conviction. (Res. HR-03-7-3, Sec. 1)

2-504 EUTHANIZATION OF VICIOUS DOG. If the Court finds, after hearing evidence, that any dog is a Vicious Dog, the Court shall, in addition to any other applicable penalties or remedies, order the County Animal Control Director to cause the dog to be euthanized in accordance with applicable state euthanization laws. The Court may enter such an order as part of a criminal proceeding brought pursuant to Section 2-506 or in a separate civil proceeding brought for such purpose and, in either event, shall impose against the Owner or Possessor of the Vicious Dog the expenses of

impounding, keeping, and euthanizing the Vicious Dog. Regardless of whether part of a criminal proceeding or civil proceeding, the standard of proof to determine whether the dog is a Vicious Dog shall be by a preponderance of the evidence. The Owner or Possessor shall be notified (at the Owner or Possessor's last known address) at least 5 days in advance of the date and time of any evidentiary hearing pursuant to this Section and may present contrary evidence at such hearing. The failure of the Owner or Possessor to attend or participate in the hearing, however, shall not prevent the Court from making an appropriate determination concerning the dog. (Res. HR-03-7-3, Sec. 1)

2-505 IMPOUNDMENT OF VICIOUS DOGS.

- a) Impoundment. When the County Animal Control Director or any other Law Enforcement Officer has probable cause to believe that any dog is a Vicious Dog, such officer may, in his or her discretion, take custody of the dog and impound it until such time as evidence shall be heard and a determination made as to whether the dog is a Vicious Dog; provided that if the Owner or Possessor of the dog is not known, the dog may be disposed of pursuant to other applicable law. The dog may be impounded at any incorporated humane society or other location that the County Animal Control Director permits and which is consistent with applicable state impoundment laws. A warrant may be obtained to allow the County Animal Control Director or any other Law Enforcement Officer to go onto any property and take custody of any dog for which there is probable cause to believe it is a Vicious Dog. In addition, the Court may, through its contempt power, compel the Owner or Possessor of any dog to surrender it to the County Animal Control Director or any other Law Enforcement Officer. In the event any dog is found to be a Vicious Dog, the Owner or Possessor of such dog shall be responsible for payment of any expenses of impounding and keeping the dog pending disposition of the case and expenses of euthanizing the dog.
- b) Discretionary Testing of Suspected Vicious Dog. Whenever any dog is impounded pursuant to this Section based upon probable cause to believe that the dog is a Vicious Dog under Section 2-502(f)(3) (dogs trained to fight with physical attributes to inflict Serious Injury), under Section 2-502(f)(4) (dogs with physical attributes to pose a substantial threat to the life and safety of public safety and emergency response personnel), or Section 2-502(f)(5) (dogs with the propensity, tendency or disposition to attack without provocation with physical attributes to inflict Serious Injury), the County Animal Control Director or any other Law Enforcement Officer may, in his or her discretion, cause any person who is knowledgeable in identifying dogs trained to fight, or who is trained or

certified at evaluating animal temperament, including appropriate representatives of the Lawrence Humane Society, to examine the dog and render an opinion as to whether the dog is a Vicious Dog under Section 2-502(f)(3), Section 2-502(f)(4), or Section 2-502(f)(5), with the person examining and rendering the opinion to be chosen at by the County Animal Control Director or other Law Enforcement Officer requesting the examination.

- c) Unauthorized Removal of Impounded Dogs: Actual or Attempted. No person shall remove or attempt to remove a dog from the custody of the County Animal Control Director, any Law Enforcement Officer, or any animal shelter at which the dog is impounded, whether by force, threat, deceit or otherwise, when such dog has been impounded under the provisions of this Section or any other law, unless the County Animal Control Director or a court of appropriate jurisdiction expressly authorizes the release of the dog.
- d) Post-Impoundment Review. Within 10 days of impounding a dog pursuant to this Section without a warrant, the Court shall review documentary evidence substantiating the County Animal Control Director's or Law Enforcement Officer's probable cause to determine whether the dog is a Vicious Dog. If the Court determines that the evidence is not sufficient to establish probable cause that the dog is a Vicious Dog and the dog's Owner or Possessor is known, the dog shall be released to its Owner or Possessor as soon as practical. (Res. HR-03-7-3, Sec. 1)

2-506 CRIMINAL PENALTIES. In addition to any applicable restitution, any person who violates the provisions of this Article shall be subject to the following penalties:

- a) Violation of Vicious Dog Provisions. Any person who Owns or Possesses a Vicious Dog in violation of Section 2-503(b) shall be guilty of a misdemeanor, punishable as follows:
 - 1) First offense, a fine, which shall be set at \$500. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 90 days.
 - 2) Second offense committed within 5 years of a prior offense, a fine, which shall be set at \$1,000. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence

the defendant to confinement in the county jail for a maximum of 6 months.

3) Third offense committed within 5 years of 2 prior offenses, a fine, which shall be set at \$1,000. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall sentence the defendant to confinement in the county jail for a minimum of 30 days and a maximum of 6 months. The defendant shall be required to serve the minimum 30 day jail sentence and the Court shall have no authority to suspend the first 30 days of such sentence.

b) Violation of Provisions Regarding Unauthorized Removal of Impounded Dogs. Any person who removes or attempts to remove a dog from the custody of the County Animal Control Director, any Law Enforcement Officer, or any animal shelter at which the dog is impounded, in violation of Section 2-505(c), shall be guilty of a misdemeanor, punishable by a fine in the amount of \$1,000. The Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 6 months.

c) Violation of Other Provisions. Any person who Owns or Possesses a dog in violation of Section 2-503(c) or violates any other provision of this Article, shall be guilty of a misdemeanor, punishable by a fine in the amount of \$250. The Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 30 days. (Res. HR-03-7-3, Sec. 1)

2-507 PARTIAL INVALIDITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (Res. HR-03-7-3, Sec. 1)

2-508 JURISDICTION. The provisions of this Article 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 Article apply within such city's boundaries; provided, however, that any city's election to have this Article 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. (Res. HR-03-7-3, Sec. 1)

2-509 SUPPLEMENTAL REGULATIONS. This Article is supplemental to other existing regulations concerning animal control and the adoption of this Article shall not serve to repeal or invalidate any such regulation. (Res. HR-03-7-3, Sec. 1)