

ORDINANCE NO. 25-XX

AN ORDINANCE AMENDING TITLES 8 AND 9 OF THE OLATHE MUNICIPAL CODE PERTAINING TO ANIMALS; ADDING NEW SECTIONS 8.08.150, 8.10.015, 8.10.085, 8.12.012, 8.12.014, AND 8.12.016 AND AMENDING SECTIONS 8.02.020, 8.04.020, 8.06.040, 8.06.050, 8.06.070, 8.06.080, 8.06.090, 8.06.100, 8.08.010, 8.08.020, 8.08.021, 8.08.040, 8.08.090, 8.08.095, 8.08.130, 8.10.010, 8.10.020, 8.10.050, 8.10.080, 8.10.100, 8.10.110, 8.12.010, 8.12.020, 8.12.030, 8.14.025, 8.14.030, AND 9.14.020 AND REPEALING THE EXISTING SECTIONS; ALSO REPEALING SECTIONS 8.04.010, 8.04.030, 8.08.050, 8.08.060, 8.10.030, and 8.12.050.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Section 8.02.020 of the Olathe Municipal Code is hereby amended to read as follows:

“8.02.020 Definitions.

For the purposes of this title, the following terms, phrases, words and their derivations shall have the meaning given in this section:

“Abandon” means leaving a domestic animal within Olathe City limits without attempting to reclaim it or take responsibility for costs incurred. This includes failure to reclaim an animal from a veterinarian’s office or animal hospital within the City limits of Olathe, and failure to reclaim an animal from the Shelter. ~~(See 8.08.060 for time limits).~~

“Animal” means any live, vertebrate creature, domestic or wild, other than humans.

“Animal control officer” ~~is~~ means a duly authorized person employed by the City who is charged with the duties of enforcing this title and who is educated in the care, seizure, custody and confinement of animals.

“Animal Shelter” means any premises designated by the City for the purpose of impounding and caring for animals held under the authority of this ordinance.

“At Large” means that an animal is: (1) running at will, and acting on its own initiative anywhere other than within the property limits of its owner or harbinger or upon the premises of another person with the consent of that

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~~person; and not secured by a leash or lead, unless the animal shall be on the premises of the owner and~~ or (2) not under the control of a responsible person and obedient to that person's command.

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

"Cat" means any member of the animal species, ~~Felis Catus.~~

"Confinement" means to hold and keep within a limited and particular location.

"Control" or "controlled" means that an animal is held by a person with the physical capacity to stop the animal from chasing people or other animals on a leash not more than eight (8) feet in length; is under voice control in the presence of a competent person; is on or within a vehicle being driven or parked; or is within the property limits of its owner or harbinger or upon the premises of another person with the consent of that person.

"Dangerous Animal" means and includes any wild mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

"Dangerous Dog" means a dog which:

- (1) Has attacked or bitten a human being or domestic animal on public or private property;
- (2) Has chased or approached a person, including a person on a conveyance, upon the streets, sidewalks, or any public or private property, in an apparent attitude of attack; or
- (3) Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

No dog may be declared dangerous if any injury or damage is sustained by a person who at the time such injury or damage was sustained, was committing, or attempting to commit, a willful trespass or other unlawful activity upon premises occupied by the owner or harbinger of the dog, or was physically abusing or assaulting the dog.

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No dog may be declared dangerous if any injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was attacking or assaulting the dog.

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.

“Dog” means any member of the animal species Canis Familiaris.

“Domestic Animal” means and includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ~~ducks, geese, turkeys,~~ confined domestic hares and rabbits, ~~pheasants~~ and other birds and animals raised ~~and/or~~ maintained in confinement.

“Enclosure” means an escape-proof structure of at least six (6) feet in height, ~~forming or causing an enclosure~~ that is suitable to prevent the entry of young children and suitable to confine a dangerous or vicious dog in conjunction with other measures which may be taken by the owner or harborer. Such ~~enclosure~~ structure shall have secured sides and a secured top, shall be securely enclosed and locked and designed to prevent the animal from escaping from the ~~enclosure~~ structure. If such ~~enclosure~~ structure has no bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet deep.

“Euthanasia” means the humane intravenous anesthetic destruction of an animal by a veterinarian or Animal Control Officer certified in humane euthanasia accomplished by a method which produces instantaneous unconsciousness and immediate death without visible evidence of pain or distress.

“Harborer” ~~is~~ means any person who provides food and shelter or otherwise accepts any responsibility for the care or control of a domesticated animal.

“Impound” means to seize summarily, confine, or restrain in custody.

“Inoculation, vaccination, or vaccination for rabies” means the inoculation of an animal with a vaccine approved by the State of Kansas for use in the prevention of rabies, by a licensed veterinarian.

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“Kennel” means the house, store, yard, enclosure or place where five or more animals are harbored or kept for temporary boarding purposes or for showing or selling; provided, however, this definition shall not apply to animal shelters or to animal hospitals operated by veterinarians duly licensed under the laws of the State for treatment or boarding.

“Large Animal” means any swine, dairy cows, beef cattle, goats, sheep and other large domestic animal of similar size.

“Licensed Animal” ~~is~~ means an animal licensed in compliance with this ordinance.

“License Tag” ~~is~~ means a permanent metal tag evidencing a licensed animal. It is issued by the City with the purchase of the animal’s first license and renewed in accordance with Section 8.06.080 thereafter.

“Neglect” means failing to provide an animal with any of the following: adequate care; adequate food; adequate water; adequate health care; adequate shelter, ~~adequate shelter~~ (should be clean, dry, and compatible with the condition, age, and species of the animal); ~~and/or~~ adequate daily exercise, ~~adequate daily exercise~~ (requires that an owner or harbinger must offer some freedom from continuous chaining, stabling and tethering). Neglect shall also mean failing to keep the area where animals are kept free from unsanitary conditions and vermin-harboring debris.

“Non-domesticated Animal” ~~shall~~ means any animal not kept as a pet or livestock.

“Own” means and includes to own, keep, harbor, or have charge, custody or control of an animal.

“Owner” means any person or persons, firm, association, partnership or corporation owning, keeping or harboring an animal. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by children upon their premises.

“Person” means any individual, firm, corporation, association or partnership.

“Police Canine” means any dog actively in use for law enforcement purposes. Police canines are exempt from this title.

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“Scratch” means any contact between an animal’s claws and the skin of a scratch victim which causes visible trauma, such as a puncture wound, laceration or abrasion, bruise or other piercing of the skin.

“Service Animal” means a dog that meets the definition of “service animal” under current regulations and guidance implementing the Americans with Disabilities Act or “assistance dog” under K.S.A. 39-1113, as amended.

“Shelter” means something that covers or affords protection, and at a minimum provides protection from rain, snow, and wind.

“Small Animal” means any animal except swine, dairy cows, beef cattle, goats, sheep, or other large domestic animals of similar size.

“Trap” means any mechanical device or snare which seeks to hold, capture or kill an animal.

“Trapping” means the setting or laying or otherwise using a trap.

“Veterinary Hospital” means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injury of animals.

“Vicious Dog” means a dog which has:

- (1) Inflicted ~~substantial~~ serious bodily harm on a human being on public or private property;
- (2) Killed a domestic animal without provocation while off the owner’s or harborer’s property; or
- (3) Been found to be dangerous and after the owner or harborer has notice that the dog is dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

No dog may be declared vicious if any injury or damage is sustained by a person who at the time such injury or damage was sustained, was committing, or attempting to commit, a willful trespass or other unlawful activity upon premises occupied by the owner or harborer of the dog, or was physically abusing or assaulting the dog.

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No dog may be declared vicious if any injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was attacking or assaulting the dog.

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

“Voice Control” means that an animal;

- (1) Is physically capable of hearing normal commands;
- (2) Is at the time under consideration, within reasonable proximity to the controller so that shouting or excessively loud commands are not necessary;
- (3) Has been adequately trained in obedience so as to be capable of understanding control commands; and
- (4) Either continually demonstrates, or is able to demonstrate on demand, response to a command that will cause the animal to immediately come into close proximity to the controller and cease any kind of aggressive behavior or action that would be offensive to other persons or animals.

~~“Work Dog” is any member of the animal species Canis Familiaris trained for and actively engaged in rescue, war work, or as a guide for the blind or deaf, or certified service dog.”~~

SECTION TWO: Section 8.04.020 of the Olathe Municipal Code is hereby amended to read as follows:

“8.04.020 Duties and Powers.

The animal control officers of the city are hereby charged with the duties of enforcing this title and no person shall interfere with, hinder, molest or abuse such officers in the ~~exercise of their powers~~ performance of their duties.

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In performing their duties, the animal control officers of the city are authorized to exercise powers that include, but are not limited to:

- (A) Entering upon private property to regulate or prohibit the running at large of any animal or the creation of an animal nuisance where such animal is found in plain sight, other than in a residence, and to seize such animal from said private property;
- (B) Entering upon private property to apprehend a vicious or dangerous animal, a wild creature, or an animal suspected of being infected with rabies where such animal is found in plain sight, other than in a residence, and to seize such animal from said private property; and
- (C) Entering upon private property to investigate cruelty to animals.

Nothing in this section shall be construed as authorizing any conduct for which a warrant is required under the *United States Constitution* or *Kansas Constitution*, unless such valid warrant has been obtained."

SECTION THREE: Section 8.06.040 of the Olathe Municipal Code is hereby amended to read as follows:

"8.06.040 Rabies Inoculation Required.

It shall be unlawful for any owner to own, keep or harbor any dog, ~~or~~ cat, or ferret over four (4) months old unless such dog or cat has been inoculated for rabies."

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SECTION FOUR: Section 8.06.050 of the Olathe Municipal Code is hereby amended to read as follows:

“8.06.050 Certificate of Vaccination.

The rabies inoculation receipt issued by a veterinarian at the time of vaccination shall remain current during the term of the City license and shall be carefully preserved by the owner or custodian of the dog, ~~or cat,~~ or ferret and exhibited promptly upon request for inspection by the animal control officer.”

SECTION FIVE: Section 8.06.070 of the Olathe Municipal Code is hereby amended to read as follows:

“8.06.070 License Fee; Exemption.

Any person owning, keeping or harboring a ~~work dog~~ service animal shall be exempt from the license fee payment ~~upon submittal of adequate proof that the dog is fully trained as a work dog and is used regularly as a work dog.~~”

SECTION SIX: Section 8.06.080 of the Olathe Municipal Code is hereby amended to read as follows:

“8.06.080 License Period; Authority to Issue.

(A) Licenses shall be issued for a period of either one (1), two (2) or three (3) years from the date of issuance, and shall coincide with a current rabies vaccination.

(B) Licenses may be purchased at ~~Olathe Municipal Services,~~ Olathe ~~animal shelter~~ Animal Shelter, online, or by mail.”

SECTION SEVEN: Section 8.06.090 of the Olathe Municipal Code is hereby amended to read as follows:

“8.06.090 Licenses Issuance.

A license shall be issued only upon:

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(A) ~~completion~~ Completion of the application form,

(B) ~~the proof~~ Proof of current rabies inoculation (rabies antibody titer test results do not qualify as proof of inoculation), and

(C) ~~the payment~~ Payment of the license fee, unless exempted under Section 8.06.070 above.”

SECTION EIGHT: Section 8.06.100 of the Olathe Municipal Code is hereby amended to read as follows:

“8.06.100 License Tags.

~~Licenses~~ License tags shall be issued in the form of a durable tag-which shall be: a) for dogs, fastened to the dog’s ~~or cat’s~~ collar or harness and worn at all times when the dog ~~or cat~~ is not within the structure or dwelling of the owner or custodian, ~~except as provided by Section 8.06.110 and b)~~ for cats, kept by the owner and presented upon request of an animal control officer. License tags shall not be transferable. If a tag is lost, a duplicate tag will be issued for a fee as adopted by the Governing Body by resolution.”

SECTION NINE: Section 8.08.010 of the Olathe Municipal Code is hereby amended to read as follows:

“8.08.010 Responsible Animal Care.

It shall be unlawful for any owner or harbinger of a domestic animal not to provide for his animal:

(A) Sufficient quantity of good and wholesome food and water;

(B) Proper protection and shelter from the weather, including access to shade when sunlight is likely to cause overheating and access to appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below forty (40) degrees Fahrenheit;

(C) Veterinary care when needed to prevent suffering; and

(D) Humane treatment; ~~and~~

~~(E) Prompt removal and sanitary disposal of all excreta deposited by his animal in the city.”~~

SECTION TEN: Section 8.08.020 of the Olathe Municipal Code is hereby amended to read as follows:

“8.08.020 Cruelty to Animals.

~~(A) It is unlawful for any person to willfully or maliciously kill, maim, disfigure or torture, strike, hit or beat with a stick, board, chain, club or other object; mutilate, burn or scald with any substance; drive over or otherwise set an animal upon another animal, except that reasonable force may be employed to drive off vicious or trespassing animals.~~

(A) Cruelty to animals is:

(1) Knowingly abandoning any animal in any place without making provisions for its proper care;

~~(B) It is unlawful for any person to~~ (2) Knowingly drive driving or ~~work~~ working any animal cruelly; ~~;~~

~~(C) It is unlawful for any person to fail, refuse, or neglect to provide any animal in his charge or custody as owner or otherwise with proper food, drink, shade, care or shelter, or carry or leave any animal in or upon any vehicle in a cruel or inhumane manner. Any animal kept outside shall be provided with structurally sound weatherproof enclosure, large enough to accommodate the animal.~~

~~(D) It is unlawful for any person to abandon any animal within the City limits.~~

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~~(E) It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health.~~

(3) Having physical custody of any animal and knowingly failing, refusing, or neglecting to provide such food, potable water, protection from the elements, opportunity for exercise, and other care as is needed for the health or well-being of such kind of animal;

(4) Knowingly carrying or leaving any animal in such person's charge or custody as owner or otherwise in or upon any vehicle in a cruel or inhumane manner;

(5) Intentionally using 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;

~~(F) It is unlawful for any person to permit any dog fight as defined in Olathe Municipal Code Section 9.14.020, cockfight, bullfight, or other combat between animals or between animals and humans.~~

~~(G) It shall be unlawful for any person except a licensed veterinarian to~~ (6) Knowingly crop cropping animal ears or ~~dock~~ docking animal tails if such person is not a licensed veterinarian;

~~(H) No person shall~~ (7) Knowingly give giving away any live animal, fish, reptile, or bird as a prize for or as an inducement to enter a place of amusement; or ~~offer~~ offering such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade; or

(8) Knowingly but not maliciously killing or injuring any animal.

~~(I) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.~~

~~(J)~~(B) The provisions of this Section shall not apply to:

- (1) Normal or accepted veterinary practices;
- (2) Bona fide experiments carried on by commonly recognized research facilities under the Animal Welfare Act, but no experiment on animals shall inflict intense and prolonged pain or suffering or intense and frequently repeated pain and suffering on any animal;
- (3) 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, and amendments thereto;
- (4) Rodeo practices accepted by the rodeo cowboys' association;
- (5) The humane killing of an animal that is diseased or disabled beyond recovery for any useful purpose by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an animal shelter, a local or state health officer or a licensed veterinarian three (3) business days following the receipt of any such animal at such shelter;
- (6) With respect to farm animals, normal or accepted practices of animal husbandry including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

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- (7) The killing of any animal by any person at any time that may be found outside of the owned or rented property of the owner or custodian of such animal and that is found injuring or posing a threat to any person, farm animal or property;
- (8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
- (9) Laying an equine down for medical or identification purposes;
- (10) Normal or accepted practices of pest control;
- (11) Accepted practices of animal husbandry pursuant to regulations promulgated by the United States Department of Agriculture for domestic pet animals under the Animal Welfare Act, Public Law 89-544, as amended and in effect on July 1, 2006.

~~(K) If a person is adjudicated guilty of the crime of cruelty to animals, such animal will not be returned to or remain with such person. Such animal may be turned over to an animal shelter or licensed veterinarian for sale or other disposition.~~

~~(L)~~ (C) A violation of this Section is a class A public offense, except that any second or subsequent violation of this section that would constitute a felony under state law will be referred to the appropriate prosecuting authority.

SECTION ELEVEN: Section 8.08.021 of the Olathe Municipal Code is hereby amended to read as follows:

“8.08.021 Illegal Animal Ownership.

- (A) Illegal animal ownership or keeping of an animal is, with no requirement of a culpable mental state, owning, or keeping on one's premises, an animal by a person ~~convicted~~:

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(1) Convicted of unlawful [conduct of dog fighting as defined in K.S.A. 21-6414\(a\)](#) or cruelty to animals [as defined in K.S.A. 21-6412\(a\)\(1\)](#), within five (5) years of the date of such conviction;

(2) Convicted of cruelty to animals as defined in OMC Section 8.08.020 or unlawful possession of dog fighting paraphernalia or unlawful attendance of dog fighting as defined in OMC Section 9.14.020, within two (2) years of the date of such conviction;

(3) Convicted of cruelty to animals as defined in OMC Section 8.08.020 or unlawful possession of dog fighting paraphernalia or unlawful attendance of dog fighting as defined in OMC Section 9.14.020 two or more times within a five-year period, within five (5) years of the date of the latest conviction;

(4) Declared to be a reckless animal owner pursuant to OMC Section 8.10.015, within three (3) years of the date of declaration;
or

(5) Convicted of illegal animal ownership in violation of subsection (A)(4), within three (3) years of the date of conviction.

(B) Illegal animal ownership or keeping of an animal is a class B public offense.”

SECTION TWELVE: Section 8.08.040 of the Olathe Municipal Code is hereby amended to read as follows:

“8.08.040 Custody of Animal; Disposition; Damages for Killing, When; Expense of Care Assessed Owner; When.

(A) Any public health officer, animal control officer, law enforcement officer or licensed veterinarian may take into custody any animal upon either private or public property ~~which~~ that clearly shows evidence of cruelty to animals, as defined in state statute or in OMC Section 8.08.020 ~~of the Olathe Municipal Code, during the pendency of the matter before a court of competent jurisdiction.~~ Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of ~~a duly incorporated humane society~~ an animal shelter or licensed

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veterinarian for treatment, boarding or other care or, if appears, as determined by a veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, for euthanasia. The owner or custodian of such animal, if known or reasonably ascertainable, shall be notified in writing. If the owner or custodian is charged with a violation of OMC Section 8.08.020, the law enforcement agency, City Prosecutor, veterinarian or Animal Shelter may petition the Municipal Court to transfer ownership of the animal at any time after 21 days after the owner or custodian is notified, unless the owner or custodian of the animal files and maintains a renewable cash or performance bond with the Court in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Such cash or performance bond shall be maintained and renewed every 30 days as necessary to cover the cost of care and treatment of such animal until disposition of the animal by the Municipal Court. If the owner or custodian is not known or reasonably ascertainable after 21 days after the animal is taken into custody, the law enforcement agency, City Prosecutor, veterinarian, or Animal Shelter may petition the Municipal Court to transfer ownership of the animal. Upon receiving such petition, the Municipal Court shall determine whether the animal may be transferred.

(B) The owner or custodian of an animal euthanized or transferred pursuant to subsection (A) of this section shall not be entitled to recover damages for the euthanization or transfer of such animal unless the owner proves that such euthanization or transfer was unreasonable and unwarranted.

(C) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (A) of this section pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals as defined in state statute or in OMC Section 8.08.020 ~~5~~, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime. Any costs collected by the court shall be transferred to the entity responsible for paying the cost of the care, treatment, or boarding of the animal.

(D) If a person is adjudicated guilty of the crime of cruelty to animals as defined in state statute or OMC Section 8.08.020 ~~of the Olathe Municipal Code and the court is satisfied that an 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

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may be turned over to ~~a duly incorporated humane society~~ an animal shelter or licensed veterinarian for sale, adoption or other disposition.”

SECTION THIRTEEN: Section 8.08.090 of the Olathe Municipal Code is hereby amended to read as follows:

“8.08.090 Pens, Yards or Runs.

(A) No dog house, pen or kennel shall be maintained closer than forty (40) feet to any apartment house, residential condominium, hotel, restaurant, boarding house, retail food store, building used for school, religious or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which said dogs are kept.

(B) All pens, yards or runs or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and kept in good repair.

~~(C) Every pen, run, cage or other yard establishment wherein any dog is kept shall be maintained so that no offensive, disagreeable or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any neighbor.~~

~~(D) All manure accumulations in any pen, run, cage or yard establishment wherein a dog is kept shall be removed or disposed of in such manner as to prevent the breeding of flies.”~~

SECTION FOURTEEN: Section 8.08.095 of the Olathe Municipal Code is hereby amended to read as follows:

“8.08.095 Chaining, Tethering or Picketing of Dogs.

(A) It shall be unlawful for any person to attach chains, tethers, restraints or implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

(B) For the purpose of tethering a dog, a chain, leash, rope or tether shall be:

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(1) at At least ten (10) feet in length~~;~~

(2) Of one continuous piece and type throughout its length. Shorter lengths shall not be combined or connected to form a longer length. For purposes of this provision, uniform links in a length of chain shall be considered to form a continuous piece.

(C) Any dog chained, tethered or picketed on private property shall be restricted from movement closer than ten (10) feet to the property line of the premises or any public sidewalk or right-of-way.

(D) No person shall:

(1) Continuously tether a dog for more than one (1) continuous hour, except that tethering of the same dog may resume after a hiatus of three (3) continuous hours, for up to three (3) hours total time on tether per day; ~~or~~

(2) Use a tether or any assembly or attachments thereto or any combination thereof to tether a dog that shall weigh more than one eighth (1/8) of the animal's total body weight, or due to weight, inhibit the free movement of the animal within the area tethered; ~~or~~

(3) Tether a dog on a choke chain or any other choke collar or in such a manner as to cause injury, strangulation, or entanglement of the dog on trees, fences, or other natural or man-made obstacles; ~~or~~

(4) Tether a dog without securing its water supply so that it cannot be tipped over; ~~or~~

~~(5) Tether a dog without access to shade when sunlight is likely to cause overheating, or access to appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below forty (40) degrees Fahrenheit, or~~

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~~(6)~~ Tether a dog in an open area where it can be teased by persons or an open area that does not provide the dog protection from attack by other animals; or

~~(7)~~ (6) Tether ~~an animal~~ a dog 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 unless access to dry area or dry shelter is provided.”

SECTION FIFTEEN: Section 8.08.130 of the Olathe Municipal Code is hereby amended to read as follows:

“8.08.130 Dead Animals Removal or ~~Disposition~~ Disposal.

(A) Olathe residents requesting disposal of small dead domestic animals may do so by delivering the animal to ~~an animal control officer~~ the Olathe Animal Shelter and paying a fee, as adopted in the Governing Body by resolution.

(B) All large dead domestic animals shall be removed by the owner or proprietor of the premises within twelve (12) hours after the death of such animal. If not so removed, such animal may be removed by the animal control officer and the owner or proprietor of the premises may be cited for failure to properly dispose of the animal. Costs arising therefrom shall be charged to the animal’s owner or custodian or property owner or proprietor.

~~(C) For the removal of small dead animals from animal hospitals, commercial establishments and other similar places where animals are kept for commercial purposes, and from private premises, the fee for each animal shall be as established in accordance with Section 8.14.010.~~

~~(D) Charges for removal of dead animals, as required in subsections B and C of this section, are due and payable upon billing by the City. 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 of this section for failure to pay for previous billings.~~

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

NEW SECTION SIXTEEN: Section 8.08.150 is hereby added to the Olathe Municipal Code to read as follows:

“8.08.150 Striking of Animal with Motor Vehicle; Duties.

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal’s owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the Olathe Animal Shelter. A violation of this Section is a Class A public offense.”

SECTION SEVENTEEN: Section 8.10.010 of the Olathe Municipal Code is hereby amended to read as follows:

“8.10.010 Nuisance Prohibited.

(A) It shall be unlawful for the owner or harbinger of any animal to cause or permit such animal to perform, create or engage in any animal nuisance. Any animal found acting in any way forbidden by this title, in the determination of the animal control officer, shall hereby be declared a nuisance and its owner or harbinger shall be subject to citation.

(B) “Scheduled fine animal nuisance” is when:

(1) A dog is ~~in public and not controlled~~ running at large;

(2) An animal disturbs a person by chasing, snapping, or lunging;

~~(3) —An animal creates noxious or offensive odors;~~

~~(4)~~ (3) An animal is on public property and obstructs or interferes with vehicular or pedestrian traffic;

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~~(5)~~ (4) An animal impedes solid waste collection by ripping a solid waste bag or tipping over a solid waste container; or

~~(6)~~ (5) Any violation of OMC Section 8.06.010, or 8.06.100, ~~8.10.020 or 8.10.030~~ occurs.

(C) "Mandatory court appearance animal nuisance" is when:

(1) An animal barks, whines, howls, brays, cries or makes other noises excessively so as to cause annoyance, disturbance or discomfort to any reasonable person of normal auditory sensitivity at a residence structure which is within one thousand (1,000) yards of the property on which the animal is kept or harbored;

~~(2) An animal creates an insect breeding and/or attraction site due to an accumulation of excreta;~~

~~(3)~~ (2) An animal threatens or causes a condition which endangers public health, safety, or welfare;

~~(4)~~ (3) An animal bites or attacks another animal;

~~(5)~~ (4) An animal bites or attacks a person; or

~~(6)~~ (5) Any other violation of this title, which is not a scheduled nuisance as defined in subsection (B), occurs."

NEW SECTION EIGHTEEN: Section 8.10.015 is hereby added to the Olathe Municipal Code to read as follows:

"8.10.015 Reckless Animal Owner.

(A) Any person convicted of violations of Chapters 8.08 or 8.10 of this title arising from six (6) separate incidents within a three (3) year period shall be declared a Reckless Animal Owner.

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(B) It shall be unlawful for any person declared a Reckless Animal Owner to own or keep any animal within three (3) years of the date of the declaration.

(C) The animal control officer or designee shall provide any person declared a Reckless Animal Owner with notice that includes:

(1) Name and address of the person subject to the declaration;

(2) That the person has been declared a Reckless Animal Owner;

(3) The description, violation, and convictions that led to the declaration;

(4) That owning or keeping an animal by such person within three (3) years of the date of the declaration constitutes Illegal Animal Ownership pursuant to OMC Section 8.08.021; and

(5) Instructions for appealing the declaration.”

SECTION NINETEEN: Section 8.10.020 of the Olathe Municipal Code is hereby amended to read as follows:

“8.10.020 Excrement and Unsanitary Conditions.

(A) ~~It shall be unlawful for any person to appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for removal of excrement.~~

~~(B)~~ It shall be unlawful for any person to fail to remove any excrement deposited by his animal upon any public or private property, other than the property of the owner of the animal. This section shall not apply to a blind person while walking his or her ~~work~~-service dog.

(B) It shall be unlawful for any owner or harbinger of a domestic animal to allow unsanitary conditions where the animal is kept, as follows:

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(1) Every pen, run, cage or other yard establishment wherein any animal is kept shall be maintained so that no offensive, disagreeable or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any neighbor.

(2) All manure accumulations in any pen, run, cage or yard establishment wherein an animal is kept shall be removed or disposed of in such manner as to prevent:

- (a) The attraction or breeding of insects;
- (b) Manure runoff onto neighboring property; and
- (c) Other threats to the health and safety of the animals or the public.

(3) For the purposes of sentencing under Section 8.14.030 for a violation of subsection (B)(1) or (B)(2), any previous conviction for a violation of subsection (B)(1) or (B)(2) of this section shall be counted as a previous conviction.”

SECTION TWENTY: Section 8.10.050 of the Olathe Municipal Code is hereby amended to read as follows:

“8.10.050 Injury to Property.

It shall be unlawful for any person owning or harboring a ~~dog or cat~~ domestic animal to permit such ~~dog or cat~~ animal to damage any property other than that of the owner or harbinger, including, but not limited to, going upon any sidewalk, parkway, or private lands or premises without the permission of the owner of such premises and breaking, bruising, tearing up, crushing or injuring any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever.”

SECTION TWENTY-ONE: Section 8.10.080 of the Olathe Municipal Code is hereby amended to read as follows:

“8.10.080 Strays-Domestic Animals.

It shall be unlawful to permit any domestic animal ~~cattle, horse, swine, sheep, goats, or poultry~~ to run at large in the city; any such animal running at large in any public place in the city shall be impounded in the manner provided in this ordinance. It shall further be unlawful to picket or tie any

such animal in any of the streets of the city for the purpose of grazing or feeding. As used in this section, “domestic animal” does not include dogs or cats.”

NEW SECTION TWENTY-TWO: Section 8.10.085 is hereby added to the Olathe Municipal Code to read as follows:

“8.10.085 Relinquishment of Animals Running at Large.

Any person who finds and takes possession of a dog or domestic animal other than a cat running at large must relinquish the animal to an animal control officer or deliver such animal to the shelter as soon as practicable. This section shall not apply to the owner or harbinger of such animal.”

SECTION TWENTY-THREE: Section 8.10.100 of the Olathe Municipal Code is hereby amended to read as follows:

“8.10.100 Animals Biting or Scratching Persons Report-- Impoundment and Examination.

(A) When any animal subject to rabies has bitten, scratched or attacked any person, and it appears that such bite, scratch, or attack may have broken the person’s skin, or when an animal is suspected of having rabies, it shall be the duty of any person having knowledge of such facts to report the same immediately ~~to the animal control officer.~~ Such report shall be made to Olathe Animal Control or the Olathe Police Department.

Such animal shall not be killed but shall be confined for a period of ten (10) days ~~at the Olathe animal shelter or upon the premises of a duly licensed veterinarian located within the corporate limits of the City of Olathe, Kansas~~ on a veterinary premises or at a facility holding a current state pound or shelter license.

No person shall release from confinement any such animal or remove such animal from its place of confinement to another place without the consent of the animal control officer. The confinement of the animal shall be at the expense of the owner or custodian of such animal. Following consultation with a licensed veterinarian, if the animal control officer has reasonable cause to believe the animal is diseased, or upon exigent circumstances, the animal control officer shall be empowered to order examination of such animal to determine whether it may have rabies. No

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person shall refuse to surrender any animal for quarantine when demand is made by the order of the animal control officer. If the animal dies or is killed, a laboratory examination of the head shall be made at the expense of the animal's owner or custodian.

(B) As an alternative to subsection A, the animal control officer may authorize the confinement of the animal on the owner's premises if ~~at the time of the bite, scratch or attack the animal was not running at large as defined by Section 8.02.020 and if~~ the owner produces a current or previous rabies vaccination certificate showing that the animal has been vaccinated. The expiration date of the rabies vaccination shall be recorded on the vaccination certificate along with positive identification of the animal for which such certificate is issued. The owner of the animal must sign a written agreement to keep the animal confined as directed by the animal control officer and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. The animal must be confined as directed by the animal control officer.

(C) The provisions of Section 8.10.100 do not apply to police dogs.

(D) Any person refusing or failing to comply with the provisions of this section or with the order or directives of the animal control officer relating thereto shall be guilty of the commission of a Class B public offense."

SECTION TWENTY-FOUR: Section 8.10.110 of the Olathe Municipal Code is hereby amended to read as follows:

"8.10.110 Dangerous or Vicious Dogs.

(A) *Determination of a Dangerous or Vicious Dog.* In the event that the animal control officer has probable cause to believe that a dog is dangerous or vicious, as defined in Section 8.02.020 and upon submission of a probable cause affidavit by the City Prosecutor's Office, 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 or vicious.

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The City Prosecutor shall notify the owner or harbinger of the dog that a hearing will be held, at which time he or she may have the opportunity to present evidence why the dog should not be declared dangerous or vicious. The hearing shall be held promptly within no less than five (5) nor more than fourteen (14) days after service of notice upon the owner or harbinger of the dog. The failure of the owner or harbinger to attend or participate in the hearing shall not prevent the Municipal Judge from hearing evidence in the matter and entering a determination whether the dog is dangerous or vicious as alleged or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.

If the owner or harbinger fails to appear for the hearing, the animal control officer or law enforcement officer may seize and impound the dog. The dog may be impounded by the animal control officer for a period not to exceed thirty (30) days. At the end of the thirty (30) day period pursuant to a Municipal Court order, the dog may be euthanized. The owner or harbinger shall pay all costs of said confinement and euthanization. Such costs shall be assessed as Court costs.

If, prior to such hearing, the owner or harbinger of the dog voluntarily causes the animal to be euthanized, such action shall be deemed a stipulation that the dog was, in fact, a dangerous or vicious dog as alleged. The Municipal Court may enter such finding without further evidentiary hearing.

If, prior to such hearing, the owner or harbinger of the dog voluntarily removes the animal from the City limits, such action shall be deemed a stipulation that the dog is, in fact, a dangerous or vicious dog as alleged. The Municipal Court may enter such finding without further evidentiary hearing. The owner or harbinger shall provide the Municipal Court with the exact location, address, and contact information for the new owner or harbinger of the dog. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a dangerous or vicious dog. If such dog is found by the Municipal Judge to be dangerous, such animal shall not be returned to the City until a compliance hearing is requested and held in the Municipal Court and it is established that the owner or harbinger is in full compliance with the requirements of Section ~~8.10.110 C 1-8~~ [8.10.110\(c\)\(1\) through \(8\)](#). If such dog is found by the Municipal Judge to be vicious, the dog shall not be returned within the City limits at any time thereafter. It shall be unlawful for the owner or harbinger

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of a dangerous or vicious dog to maintain such animal in violation of the Court's order.

After the hearing, the owner or harbinger of the dog and the City Prosecutor shall be notified by the Court in writing within ten (10) business days of the determination. If a determination is made that the dog is dangerous or vicious, the owner or harbinger shall comply with the provisions of this title as directed by the Municipal Judge in accordance with a timetable established by the Municipal Judge, but in no case more than thirty (30) days subsequent to the date of the determination. If the owner or harbinger of the dog contests the determination, he or she may within ~~ten (10)~~ fourteen (14) days, ~~exclusive of Saturdays, Sundays and holidays,~~ of such determination appeal to the district court.

If the animal control officer or law enforcement officer has probable cause to believe that the dog in question is vicious, the animal control officer or law enforcement officer may seize and impound the dog pending the aforesaid Municipal Court determination and the findings of any appeals taken. Upon the Court's determination that the impounded dog is vicious, the owner or harbinger of the dog shall be liable to the City where the dog is impounded for the costs and expenses of keeping such dog.

~~In the event that~~ If the animal control officer or law enforcement officer has probable cause to believe that the dog in question is dangerous ~~or vicious,~~ and may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the dog pending the aforesaid Municipal Court determination and ~~or~~ the findings of any appeals taken. Upon the Court's determination that the impounded dog is dangerous ~~or vicious,~~ the owner or harbinger of the dog shall be liable to the City where the dog is impounded for the costs and expenses of keeping such dog.

In the event of impoundment by the City, the aforesaid Municipal Court hearing ~~must~~ shall be ~~scheduled~~ held within ~~sixty (60)~~ thirty (30) days of such impoundment, unless a continuance is granted by the Municipal Court for good cause.

(B) A dog which has been adjudicated by another jurisdiction based on its behavior to be dangerous, vicious or a comparable designation shall

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not be relocated to Olathe; residence shall not be prohibited solely by breed.

(C) *Control of Dangerous Dog.* If the Municipal Court Judge determines that a dog is dangerous, the owner or harbinger of such dog shall comply with the following:

(1) *Confinement.* A dangerous dog shall be confined to the interior of its residence or confined within an enclosure as defined in Section 8.02.020 at all times except as set out below:

(a) The dangerous dog may be in a fenced yard when securely muzzled and under the direct supervision and in the immediate presence of a responsible adult capable of controlling the dog.

(b) The dangerous dog may be walked when securely leashed and securely muzzled. The leash must be under the control of an adult capable of exercising control over the dog. The animal shall not be leashed to an inanimate object.

(c) If it is necessary for the owner or harbinger to obtain veterinary care for the dangerous dog or to take the animal for professional training or to sell or give away the dangerous dog or to comply with commands or directions of an animal control officer, the dangerous dog must be securely muzzled and securely leashed or securely muzzled and crated.

To be securely leashed the dangerous dog must be on a leash no longer than four (4) feet in length. Any muzzle used to securely muzzle a dangerous dog must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent the dog from biting any human or animal.

(2) *Confinement Indoors.* No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when

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screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

(3) *Signs.* The owner or harborer of a dangerous dog shall display in a prominent place on his or her premises ~~a~~ clearly visible warning ~~sign~~ signs at locations approved by Olathe Animal Control indicating that there is a dangerous dog on the premises. A similar sign is required to be posted on the enclosure. Such sign shall conform to the size requirements established by administrative regulations under Section 8.14.010.

(4) *Microchip Identification.* The owner or harborer of a dangerous dog must have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the animal control officer. ~~If the microchip is not implanted by the owner or harborer, it may be implanted by the animal control officer.~~ In either case, all costs related to the purchase and implantation of the microchip must be borne by the dog's owner or harborer.

(5) *Dangerous Dog License Fees.* All dangerous dog owners or harborers shall pay a license fee which shall be renewed annually no later than one year from the date of previous issuance. The license fee shall be adopted by the Governing Body of the City by resolution.

(6) *Mandatory Spay and Neuter.* All dangerous dogs shall be required to be spayed or neutered.

(7) *Training.* All dangerous dogs shall be required to be enrolled in a behavior modification program administered by a licensed animal behaviorist prior to the compliance hearing. Verification of successful completion of said program must be provided to the animal control officer at the annual license review.

(8) *Insurance.* The owner or harborer of a dangerous dog is required to present to the Municipal Court proof that the owner or harborer has procured liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000), covering any damage or injury which may be caused by such dangerous dog during the twelve (12) month

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period for which licensing is sought. The policy shall contain a provision requiring the City to be named as additional insured for the sole purpose of notification to the City by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

The owner or harborer shall maintain and not voluntarily cancel the liability insurance required by the Court during each annual license period for which licensing is sought, unless the owner or harborer shall cease to own or keep the dangerous dog prior to expiration of such license.

(9) *Compliance Hearing.* In the event that a dog has been determined to be dangerous, the Municipal Court Judge shall set a compliance hearing within forty (40) days of said determination. The owner or harborer of said dog shall provide verification of full compliance with Section ~~8.10.110 C 1-12~~ [8.10.110\(C\)](#) at said hearing. In the event the Court finds the owner or harborer is not in full compliance, the dangerous dog shall be impounded by the animal control officer for a period not to exceed thirty (30) days. The owner or harborer shall pay all costs of said confinement. Such costs shall be assessed as Court costs. If full compliance is not verified to the Court within that thirty (30) day period, the dangerous dog shall be euthanized or the owner or harborer of the dog shall remove the dog from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new owner or harborer where the dog has been moved. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a dangerous animal.

(10) At least thirty (30) days prior to the relocation of a dog previously determined to be dangerous, the owner or harborer of the dog shall notify the Olathe Municipal Court and Animal Control of the proposed location. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a dangerous dog.

(11) Prior to the annual renewal of any dangerous dog license issued hereunder and at least once annually after the issuance of any such license or after its renewal, the animal control officer or designated

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representative is authorized to inspect the premises subject to such license to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this chapter. In addition, the animal control officer may investigate the past history of the license holder to determine whether during the past license period the license holder was in compliance with all of the conditions specified in this chapter. The investigation may include a review of department records and interviews with the license holder and neighbors. If the animal control officer determines during any such inspection and investigation that any of the conditions therein specified are being violated or have been noted as having been violated during the past licensed period, he/she shall deny renewal of any such license ~~and/or~~ revoke such license in the event that such violation is not corrected within such period of time as she/he shall direct. Upon completion of the investigation and review process provided herein, the animal control officer shall report to the City Prosecutor that the dangerous animal license has been renewed or that the renewal application has been denied. If the application was denied, a copy of the report shall be given to the owner or harborer of the dangerous dog. The report shall include the basis for the denial. The owner or harborer shall have the right to appeal the denial to the Olathe Municipal Court. The decision of the Olathe Municipal Court shall be final and binding.

(12) *Dangerous Dog Designation Review.* Beginning one (1) year after a dog is ~~declared a dangerous dog~~ verified to be in full compliance pursuant to paragraph (9), an owner or harborer may request annually that the Municipal Court review the designation. The owner or harborer must provide evidence that the dog is no longer dangerous due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control officer finds sufficient evidence that the dog's behavior has changed, the Municipal Judge may rescind that dangerous dog designation.

(D) *Disposition of Vicious Dogs.* If the Municipal Court Judge determines that a dog is vicious and the dog is impounded or otherwise within the City limits, the dog shall be euthanized ~~or the owner or harborer of such dog shall remove the dog from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new owner or harborer where the dog has been moved. The Olathe Municipal~~

~~Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious dog. The dog shall not be returned to the City limits after removal. It shall be unlawful for the owner or harbinger of a vicious dog to maintain such animal in violation of the Court's order."~~

SECTION TWENTY-FIVE: Section 8.12.010 of the Olathe Municipal Code is hereby amended to read as follows:

"8.12.010 Impounding, ~~Redemption and Disposition~~ of Animals Running at Large, ~~or~~ Involved in Biting Persons or Other Animals, or Suspected of Disease.

The animal control officer is authorized ~~to receive and dispose of (pursuant to the adoption guidelines of this chapter), dogs, cats or other small animals, and~~ to impound, offer for adoption, ~~or destroy~~ euthanize any animal running at large in violation of the terms of this chapter, ~~or~~ any animal that has bitten a person or another animal, or any animal suspected of having a disease transmissible to human beings. Such animals may be taken or impounded even though no citizen makes a complaint and even though the animal control officer issues no notice to appear. ~~Impoundment shall be subject to the following:~~

~~(A) The animal control officer shall notify the owner of an animal, identifiable by a tag or other approved method, which is impounded under this chapter, by telephone or personal service.~~

~~(B) Such animal shall be confined in the approved shelter for a period of three (3) business days, such period of time beginning at nine a.m. on the morning following the day of impoundment as provided in subsection A of this section. If the owner does not reclaim his or her animal during the three (3) day period, or if the animal control officer or animal shelter is unable to locate and notify the owner after making a good faith effort to do so within the three (3) day period, then the animal shelter may offer for adoption or destroy such animal.~~

~~If the animal is not identifiable by a tag or other approved method, no notice is required and such animal shall be confined for a period of three (3) business days beginning at nine a.m. of the morning following its capture; after such time the animal shelter may dispose of the animal.~~

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~~Notwithstanding the above and as provided in Section 8.10.100, any animal impounded pursuant to a report that any person or other animal has been bitten by that animal, shall be held for a period of at least ten (10) days for the purpose of observing such animal for symptoms of rabies disease; after such time the animal shelter may dispose of the animal.~~

~~(C) Any animal licensed or unlicensed, as required in this chapter may be claimed by its owner upon the payment of an impoundment fee which shall be adopted by the Governing Body of the City by resolution. Each animal impoundment is a separate and subsequent impoundment regardless of animal ownership in prior impoundments.~~

~~(D) Fees:~~

~~(1) *Boarding fee.* a fee for maintaining and caring for the animal shall be adopted by the Governing Body of the City by resolution.~~

~~(2) *Vaccination Deposit.* A vaccination deposit shall be adopted by the Governing Body of City by resolution. Such amount shall be as deposit for vaccination for rabies vaccination, redeemable when proof of vaccination is received from any veterinarian approved by the City of Olathe; said deposit to be forfeited to the City of Olathe if proof of vaccination is not received by the City within five (5) consecutive business days commencing the day following the making of said deposit. An absence of proof of vaccination shall be deemed evidence that no rabies vaccination has been obtained.~~

~~(3) *(2) License fee for dogs and cats. fee* Fee equal to an amount due in accordance with the schedule in Section 8.06.060.~~

~~(4) *(3) Any and all fees or costs incurred by the City for impounding and/or boarding animals shall be paid for by the owner of such animal before the animal is released to the owner. The fees and costs for impounding animals shall be adopted by the Governing Body of the City by resolution.*~~

~~(E) All animals not claimed within the period provided in this section may be adopted or destroyed.~~

~~(F) All animals impounded for reasons of suspected disease may be reclaimed by their owners upon evaluation and treatment by a veterinarian approved by the City of Olathe who shall certify, in writing, the disease-free release of such animal."~~

NEW SECTION TWENTY-SIX: Section 8.12.012 is hereby added to the Olathe Municipal Code to read as follows:

"8.12.012 Voluntary Relinquishment and Impoundment.

The animal control officer or designee is authorized to receive, impound, and make disposition of (pursuant to the adoption guidelines of this chapter) dogs, cats, or other small animals. If the animal is relinquished to the animal control officer or designee by the verified owner of said animal, then the notice and waiting provisions of this chapter for reclamation of the animal shall not apply."

NEW SECTION TWENTY-SEVEN: Section 8.12.014 is hereby added to the Olathe Municipal Code to read as follows:

"8.12.014 Protective Impoundment.

(A) Whenever any owner or harbinger of an animal is unable to properly care for said animal located within the City limits due to said person's sudden and unexpected disability, unavailability, or absence from home, then the following procedure shall be followed:

(1) The person shall be contacted, if possible, to determine his or her desires concerning the care of said animal or animals;

(2) Any known friends or relatives of the animal's owner shall be contacted to determine if they will care for said animals; and

(3) If the individuals mentioned above are unable or unwilling to provide for said animals, the City shall remove said animals to the animal shelter for protective impoundment.

(B) When any animal is removed to the animal shelter for protective impoundment, the provisions of Section 8.12.016 shall apply, except:

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(1) No impoundment fee or boarding fee shall be assessed to the owner for care of the animal during the initial reclamation period unless the animal was in violation of a provision of this title at the time it was taken into custody; and

(2) The owner and animal shelter may make a mutual agreement regarding continued care for the animal at the animal shelter, but the owner shall be responsible for the boarding fee for any period of care beyond the initial reclamation period.”

NEW SECTION TWENTY-EIGHT: Section 8.12.016 is hereby added to the Olathe Municipal Code to read as follows:

“8.12.016 Notice to Owners of Impoundment; Holding, Redemption, and Disposition of Impounded Animals.

(A) The animal control officer or designee shall notify the owner of an animal that is identifiable by a tag or other approved method and that is impounded under this chapter of such impoundment by telephone, e-mail, or personal service. “Personal service” shall include notice provided to the owner in person at the time the animal is taken into custody.

(B) If an animal is impounded under this chapter and its owner is not known, then such animal shall be confined in the animal shelter for a period of three (3) business days, such period beginning the day following impoundment. If the owner does not contact the animal shelter during the three (3) day period, or if the animal control officer or animal shelter is unable to locate and notify the owner after making a good faith effort to do so within the three (3) day period, then the animal shelter may offer for adoption or otherwise make disposition of such animal.

(C) If the owner receives notice or contacts the animal shelter under subsections (A) or (B), then the owner shall have three (3) days beginning the day after the date of notice or contact in which to claim the animal, subject to the other provisions of this chapter. Sundays or legal holidays on which the animal shelter is closed shall not be counted in this period.

(D) Notwithstanding the above and as provided in Section 8.10.100, any animal impounded pursuant to a report that any person or other animal has been bitten by that animal, shall be held for a period of at least

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ten (10) days for the purpose of observing such animal for symptoms of rabies disease; after such time the animal shelter may make disposition of the animal.

(E) Before any animal, licensed or unlicensed, that is impounded under this chapter may be released to its owner, the owner must pay the following fees and costs:

(1) *Impoundment fee.* An impoundment fee shall be adopted by the Governing Body of the City by resolution.

(2) *Boarding fee.* A fee for maintaining and caring for the animal overnight shall be adopted by the Governing Body of the City by resolution.

(3) *License fee for dogs and cats.* Fee equal to an amount due in accordance with the schedule in Section 8.06.060, if the dog or cat is unlicensed.

(4) Any other costs incurred by the City for impounding and boarding the animal.

(F) The animal shelter may offer for adoption or otherwise make disposition of all animals not claimed within the period provided in this section. If the owner notifies the animal shelter that the owner will be unable to claim an animal within the period provided in this section, the owner and animal shelter may make a mutual agreement regarding continued care for the animal at the animal shelter until the owner is able to claim the animal.

(G) All animals impounded for reasons of suspected disease shall be impounded for the required period of observation and may be reclaimed by their owners upon evaluation and treatment by a veterinarian approved by the City of Olathe who shall certify, in writing, the disease-free release of such animal. Upon such certification, the City shall notify the owner, who shall remain responsible for meeting the other requirements of this section to claim the animal. The time period under subsection (C) shall begin to run upon such notification.

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(H) Animals impounded under this Chapter shall be subject to disposition by euthanasia only: (1) when required by this title or (2) by decision of a screening panel in accordance with the animal shelter's euthanasia protocol. Shelter space shall not be considered in a euthanasia decision."

SECTION TWENTY-NINE: Section 8.12.020 of the Olathe Municipal Code is hereby amended to read as follows:

"8.12.020 General Policy Regarding Adoption.

The city's main concerns with respect to adoption of ~~a cat or dog~~ an animal from the shelter are:

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

(B) That the ~~dog or cat~~ animal will be assured of a good home under the control of a responsible person. "

SECTION THIRTY: Section 8.12.030 of the Olathe Municipal Code is hereby amended to read as follows:

"8.12.030 ~~Dogs and Cats~~ Adoption Requirements.

(A) *Qualifications for adoption* for all animals.

(1) Good Health.

(2) Not vicious.

(3) ~~Vaccinated.~~

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

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

~~(6) Any dog or cat~~ animal 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 (3) business days has expired and the owner 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 efforts to locate the owner were unsuccessful.

~~(7) The adopting party must sign an agreement to have the dog or cat spayed or neutered and vaccinated for rabies prior to the adopting party taking possession of the adopted animal.~~

~~(8) Adopted animals over four (4) months old will be sterilized and vaccinated by the contract veterinarian(s) prior to being released to the adopter. It shall be the responsibility of the adopter to redeem the animal from the Olathe Animal Shelter following the surgery and vaccination of the animal. Failure to redeem the animal will result in forfeiture of all rights to said animal and any monies paid. The adopted animal remains the property of the City of Olathe until the spay/neuter surgery is completed and the new adopter takes possession of the adopted animal from the Olathe Animal Shelter.~~

(B) Additional qualifications for adoption for certain animals.

(1) Dogs, cats, and ferrets must be vaccinated.

(2) Dogs and cats must be licensed when the place of residence of adopter is within the City.

(3) In the case of a licensed dog or cat turned in at the shelter by the owner of record or his authorized representative, said owner or representative must give a release in writing for the animal's adoption or other disposition.

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(4) The adopting party must sign an agreement to have the dog or cat spayed or neutered and the dog, cat, or ferret vaccinated for rabies prior to the adopting party taking possession of the adopted animal.

(5) Adopted dogs and cats over four (4) months old will be sterilized and vaccinated by the contract veterinarian(s) prior to being released to the adopter. It shall be the responsibility of the adopter to redeem the animal from the Olathe Animal Shelter following the surgery and vaccination of the animal. Failure to redeem the animal will result in forfeiture of all rights to said animal and any monies paid. The adopted animal remains the property of the City of Olathe until the spay/neuter surgery is completed and the new adopter takes possession of the adopted animal from the Olathe Animal Shelter.

(C) Fees associated with adoption. The adopter will be required to pay an adoption fee; and, as applicable, a spay/neuter fee, vaccination fees, and license fee. Such fees shall be adopted by the Governing Body of the City by resolution.”

SECTION THIRTY-ONE: Section 8.14.025 of the Olathe Municipal Code is hereby amended to read as follows:

“8.14.025 Collection of Costs and Fees.

(A) In addition to any specific costs or fees authorized by or pursuant to other provisions of this title, the ~~The~~ City of Olathe may recover all other costs incurred in caring for any animal impounded, held pursuant to or associated with the provisions of this title including but not limited to the cost for necessary veterinarian care, euthanasia of any animal, decapitation fee for rabies test, surrender of any animal to the animal shelter, impoundment administration, and the renting of any animal trap. Said costs and fees shall be in addition to any fine imposed for violation of the provisions of this chapter. Fees shall be established by resolution of the Governing Body.

(B) The City of Olathe may charge fees for any veterinarian clinic or services offered to the public including, but not limited to, ~~microchipping,~~

vaccinations and medical tests. Fees shall be established by resolution of the Governing Body.”

SECTION THIRTY-TWO: Section 8.14.030 of the Olathe Municipal Code is hereby amended to read as follows:

“8.14.030 Penalties.

(A) *Nuisance Violations – Scheduled nuisance.* An owner or harbinger of an animal who commits, or allows such animal to commit, A commission ~~of~~ any of the offenses listed in ~~O.M.C.~~ OMC 8.10.010(B) shall:

- (1) Be fined Twenty-Five Dollars (\$25.00) for the first offense;
- (2) Be fined Fifty Dollars (\$50.00) for the second offense within a consecutive twenty-four ~~months-of-a-prior-conviction~~ month period;
- (3) Be fined not less than Two Hundred Dollars (\$200.00) nor more than Three Hundred Fifty Dollars (\$350.00) for the third offense within a consecutive twenty-four (24) month period; or
- (4) Be fined not less than Three Hundred Fifty Dollars (\$350.00) nor more than Five Hundred Dollars (\$500.00) and may be ordered to remove such animal permanently from the City within forty-eight (48) hours of such order for the fourth or any subsequent offense within a consecutive twenty-four (24) month period.
- (5) For the third and any subsequent offense within a consecutive twenty-four (24) month period, a court appearance shall be mandatory.
- (6) The escalated penalties for repeat offenses provided by this subsection apply only when the same specific offense listed in OMC 8.10.010(B) is repeated and involves the same animal.
- (7) The above fines shall be doubled for a violation of OMC 8.10.010(B)(1) if the dog has not been spayed or neutered.

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(B) *Penalties for Non Compliance with Section 8.10.110 Dangerous or Vicious Dogs.*

(1) Except as provided below, any ~~Any~~ animal which is not contained or controlled as ordered pursuant to Section 8.10.110 shall be confiscated by an animal control officer and may be ~~destroyed~~ euthanized in an expeditious and humane manner after the expiration of a five (5) day waiting period, exclusive of weekends and holidays. In addition, the owner or harbinger shall be fined not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00). If such failure to contain or control is a first such failure and is limited to the animal not being controlled, being unmuzzled, or not being in the immediate presence of a responsible adult capable of controlling the dog, with no other violations occurring, then only the fine shall be imposed and the owner shall be warned that a subsequent failure shall also result in confiscation of the animal.

(2) If any dangerous or vicious dog shall, when unprovoked, attack, wound or kill or assist in killing or wounding any animal, the owner or harbinger of said dog shall pay a fine not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00) and the animal control officer is empowered to confiscate and after the expiration of a five (5) day waiting period, exclusive of weekends and holidays, shall ~~destroy~~ euthanize said dangerous or vicious dog.

(3) If any dangerous or vicious dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner or harbinger shall pay a fine not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00) and the animal control officer is empowered to confiscate the dangerous or vicious dog and after the expiration of a five (5) day waiting period, exclusive of weekends and holidays, shall ~~destroy~~ euthanize said dangerous or vicious dog.

(4) If the owner or harbinger of a dog impounded for an alleged violation shall believe that there has not have been a violation of Section 8.10.110, such owner or harbinger may petition the Municipal Court, praying that the impounded dog not be ~~destroyed~~ euthanized. The impounded dog shall not be ~~destroyed~~ euthanized pending

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resolution of such owner's or harborer's petition if the petition shall have been filed within five (5) days exclusive of weekends and holidays of impoundment of such dog and notice shall have been served within five (5) days exclusive of weekends and holidays of the impoundment of such dog upon the City Prosecutor and animal control officer of the animal shelter. The hearing shall be conducted within seven (7) business days from serving of the notice. The dog shall remain impounded pending the Municipal Court proceedings. The decision of the Municipal Court shall be final and conclusive upon all the parties thereto.

(C) Public Offenses. Any person found guilty of violating any provision of this Title that is designated as a public offense shall be sentenced as provided in Chapter 9.18 of the Olathe Municipal Code, subject to any specific penalty provided for the violation.

(D) Other Violations. Any person found guilty of violating any other provision of this Title that does not specify a penalty shall be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each offense. A court appearance shall be mandatory for any person charged with violating a provision of this title, ~~which~~ that is not a scheduled nuisance pursuant to subsections (A)(1) or (2). A separate offense shall be held to have been committed each day that such violation shall occur or continue. Upon the fourth or subsequent conviction of any one provision of this title, the Court may order the animal removed permanently from the City within forty-eight (48) hours of such order.

~~(D)~~ (E) Mediation, Diversion or Other Alternative Dispute Remedies. The City Prosecutor may offer mediation, diversion or other alternative dispute remedies for violations of this title."

SECTION THIRTY-THREE: Section 9.14.020 of the Olathe Municipal Code is hereby amended to read as follows:

**"9.14.020 Unlawful Possession of Dog Fighting Paraphernalia;
Unlawful Attendance of Dog Fighting.**

A. ~~Unlawful dog fighting is:~~

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~~1.—Causing, for amusement or gain, any dog to fight with or injure another dog;~~

~~2.—Knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or~~

~~3.—Training, owning, keeping, transporting or selling any dog for the purpose or with the intent of having it fight with or injure another dog.~~

~~B.—~~ Unlawful possession of dog fighting paraphernalia is possession of any braking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia together with evidence that the paraphernalia is being used or is intended for use in the unlawful conduct of dog fighting, as defined in K.S.A. 21-6414.

~~C. B.—~~ Unlawful attendance of dog fighting is entering or remaining on the premises where the unlawful conduct of dog fighting is occurring, whether the person knows or has reason to know that dog fighting is occurring on the premises.

~~D.—~~ Unlawful conduct of dog fighting is a class A public offense.

~~E. C.—~~ Unlawful possession of dog fighting paraphernalia is a class A public offense.

~~F. D.—~~ Unlawful attendance of dog fighting is a class B public offense.

~~G. E.—~~ A person who violates the provisions of this Section may also be prosecuted for, convicted of, and punished for cruelty to animals.”

SECTION THIRTY-FOUR: Existing Sections 8.02.020, 8.04.010, 8.04.020, 8.04.030, 8.06.040, 8.06.050, 8.06.070, 8.06.080, 8.06.090, 8.06.100, 8.08.010, 8.08.020, 8.08.021, 8.08.040, 8.08.050, 8.08.060, 8.08.090, 8.08.095, 8.08.130, 8.10.010, 8.10.020, 8.10.050, 8.10.080, 8.10.100, 8.10.110, 8.10.130, 8.12.010, 8.12.020, 8.12.030, 8.12.050, 8.14.025, 8.14.030, and 9.14.020 of the Olathe Municipal Code are hereby repealed.

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SECTION THIRTY-FIVE: This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

PASSED by the Governing Body this _____ day of _____, 2025.

Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.