

ORDINANCE NO. 19-XX

AN ORDINANCE AMENDING TITLE 8 OF THE OLATHE MUNICIPAL CODE PERTAINING TO ANIMALS; ADDING SECTION 8.08.021; AMENDING SECTIONS 8.08.020, 8.10.070, AND 8.12.050 AND REPEALING THE EXISTING SECTIONS; ALSO REPEALING SECTION 8.08.030.

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

NEW SECTION ONE: Section 8.08.021 of the Olathe Municipal Code is hereby added 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 of unlawful dog fighting or cruelty to animals within five (5) years of the date of such conviction.

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

SECTION TWO: 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.

(B) It is unlawful for any person to drive or work 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

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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.

(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.

(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 crop animal ears or dock animal tails.

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

(I) Any person who, as the operator or 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) 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 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;

(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) A violation of this section is a class A public offense.

SECTION THREE: Section 8.10.070 of the Olathe Municipal Code is hereby amended to read as follows:

“8.10.070 Keeping of Dangerous Animals; Dangerous Animals at Large

(A) No person shall keep or permit to be kept on his premises any dangerous animal for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibitions or circuses, bona fide licensed veterinary hospital for treatment, bona fide educational or medical institutions, museums, or any other place where they are kept as live exhibits or for study.

(B) No person shall keep or permit to be kept any dangerous animal as a pet.

(C) No person shall keep or permit any dangerous animal to be at large;

(1) Permitting a dangerous animal to be at large is the act or omission of the owner or custodian of an animal of dangerous or vicious propensities who, knowing of such propensities, permits such animal to go at large or keeps such animal without taking ordinary care to restrain it.

(2) Permitting a dangerous animal to be at large is a Class B public offense.

(D) Upon the written complaint of any person that a person owns or is keeping or harboring a dangerous animal on premises in the City, the Chief of Police or designee shall forthwith cause the matter to be investigated and if after investigation, the facts indicate that such person, named in the complaint is in fact the owner or is keeping or harboring any such dangerous animal in the City, the Chief of Police or designee shall forthwith send written notice to such person requiring such person to safely remove said animal from the city within three (3) days of the date of said notice. Notice as herein provided shall not be required where such dangerous animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the Chief of

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Police or designee shall cause said animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

~~(D)~~(E) The Chief of Police or designee shall forthwith cause to be seized and impounded any dangerous animal where the person owning, keeping or harboring such animal has failed to comply with the notice sent. Upon a seizure and impoundment said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals.

If, during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the Chief of Police or designee may render said animal immobile by means of tranquilizers or other safe drugs or if that is not safely possible, then said animal may be killed.

~~(E)~~(F) Any reasonable costs incurred by the Chief of Police or designee in seizing, impounding and for confining any dangerous or wild animal shall be charged against the owner, keeper, or harbinger of such animal. Such charges shall be in addition to any fine or penalty provided for violating this ordinance.”

SECTION FOUR: Section 8.12.050 of the Olathe Municipal Code is hereby amended to read as follows:

“8.12.050 Holding Animals ~~in~~ at the Shelter; when required.

“(A) Any person who finds and takes possession of a dog running at large must notify the animal control officer and deliver such animal to the shelter as soon as practicable.

(B) An animal considered by the animal control officer to be suitable for adoption shall be held in the shelter for at least four (4) calendar days following the mandatory retention period if not claimed by the owner during the retention period. The animal control officer may hold the animal in the shelter beyond four (4) days if there is sufficient capacity and ability to do so.”

SECTION FIVE: Existing sections 8.08.020, 8.08.030, 8.10.070, and 8.12.050 are hereby repealed.

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SECTION SIX: 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 _____, 2019.

SIGNED by the Mayor this _____ day of _____, 2019.

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.