

ORDINANCE NO. 5208-26

AN ORDINANCE REGULATING ANIMALS WITHIN THE CITY, AMENDING CHAPTER THREE OF THE CODE OF THE CITY OF NEWTON, KANSAS PERTAINING TO ANIMALS AND FOWL AND REPEALING SECTION ONE THROUGH THIRTEEN OF ORDINANCE NO. 5038-21.

WHEREAS, the Governing Body of the City of Newton, Kansas hereby finds that to protect and preserve the public health, safety and welfare, it is necessary to prohibit the Ownership of certain Animals within the City, and to establish regulations governing the Ownership, possession and treatment of Animals within the City.

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

SECTION 1. Chapter III, Article 1 of the Code of the City of Newton, Kansas, is hereby amended, and restated in its entirety, as follows:

CHAPTER III. ANIMALS AND FOWL

ARTICLE 1. CONTROL, REGISTRATION, KEEPING

3-101. Animal Control Officer.

The Chief of Police with the approval of the City Manager is hereby authorized to appoint an Animal Control Officer to carry out the provisions of this Chapter.

3-102. Enforcement.

It shall be the duty of the Chief of Police, the Animal Control Officer, and their designees to enforce the provisions of this Chapter and the same are hereby authorized to make investigations and to issue such notices, orders or directions as are necessary for the enforcement of the provisions of this Chapter.

3-103. Exclusion.

Veterinary Hospitals licensed by the State of Kansas are excluded from the provisions of this Chapter.

3-104. Confiscation of Animals.

In addition to the authority of the Animal Control Officer, the Municipal Court Judge may order the confiscation of a prohibited Animal if the Animal poses a danger to the public or itself. Upon the conviction of a Person for any offense prohibited by this Chapter, the Municipal Court Judge shall have the discretion to order the confiscation and transfer the Ownership of any Animal.

3-105. Definitions.

For purposes of this Chapter, the following definitions shall apply:

- a) Adequate Food and Drink. Necessary food by veterinary standards, and water that is reasonably clean, clear and free of dirt and algae, with both such food and drink to be available to the Animal in adequate supply to maintain the Animal for a 24-hour period.
- b) Adequate Shelter. An Enclosure to which an Animal has adequate access and which provides an Animal with protection from the elements in reasonable comfort. At a minimum, said Enclosure has a water-tight roof, enclosing water-tight walls, a solid floor, an interior that is tall enough for the Animal to stand up in and large enough that the Animal can turn around in comfortably, and bedding covering the floor that is appropriate for the weather conditions; and, in addition to such Enclosure, one or more open or ventilated areas where shade is available to an Animal during daylight hours. The shelter should be elevated at an adequate height from ground level to provide protection from flooding.
- c) Aggressive Animal At-Large. Any Animal At-Large that, without Provocation, exhibits aggression or combativeness toward a Person or Domestic Animal, whether or not said Person or Domestic Animal is attacked, bitten, or scratched by the Aggressive Animal At-Large.
- d) Animal. Any live, non-human vertebrate creature excluding fish.
- e) Animal Control Officer. Any Person given authority to implement or enforce this Ordinance.
- f) Bite. Any abrasion, scratch, puncture, tear, bruise or piercing of the skin caused by any Animal, and which is reasonably presumed to be contaminated or inoculated with the saliva from the Animal, regardless of the health of the Animal causing such Bite.
- g) Cattery. Any Premises where there is being maintained or Harbored a total of more than three (3) cats or more than two (2) un-spayed female cats over the age of three (3) months; provided, however, that any residential Property licensed by the State of Kansas as a Foster Home Shelter pursuant to K.A.R. 9-22-4 shall be entitled to temporarily Harbor one (1) or more cats as foster Animals under that license, provided that the presence of the foster Animals at such residence does not cause the total number of cats Harbored at the residence to exceed the number otherwise allowed herein by more than one (1) cat.
- h) Chicks. Chickens which are no more than three (3) months of age.
- i) Dangerous Animal. Any Animal that has (a) attacked a human or a Domestic Animal without Provocation, including snapping or biting at a human or Domestic Animal and whether or not such attack was completed or any injury inflicted; or (b) such a vicious propensity that it is determined by the Animal Control Officer to create an unreasonable hazard or danger to the general public in the event of its release or escape from confinement.

- j) Dangerous Animal Enclosure. A fence or structure of at least six (6) feet in height, forming or causing an Enclosure suitable to prevent the entry of young children and suitable to confine a Dangerous Animal. An Enclosure shall be secure and locked and designed to prevent the Animal from escaping from the Enclosure. An Enclosure shall have a secure top suitable to confine a Dangerous Animal. If such Enclosure has no bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet.
- k) Domestic Animals. All Animals that have been tamed or Domesticated.
- l) Domesticated. Bred for and adapted to living dependently in a household setting.
- m) Feral Cat. Any free-roaming cat that displays avoidance behavior, lives in a colony and has no apparent Owner.
- n) Fowl. All Domesticated Animals that are included in the zoological class Aves.
- o) Harbor. Any Person who shall allow any Animal to habitually remain, lodge or be fed within his or her home, yard, place of business or any other Premises.
- p) Habitual Violator.

Any Person:

- i) Who is the Owner, keeper or Harboring of any Animal or Animals which have been impounded by the Animal Control Officer on three (3) or more occasions within any thirty-six (36) month period. Each incidence of an impoundment being regarded as a separate occasion, regardless of whether one or more Animals were impounded at the same time and regardless of whether the impoundment was as to the same or different Animals on each occasion; or
 - ii) Who was the Owner, keeper or Harboring of any Animal or Animals which have on two (2) or more occasions within any thirty-six (36) month period attacked a human or a Domestic Animal without Provocation including snapping or Biting at a Person or a Domestic Animal and whether or not such attack was completed or any injury inflicted. Each incidence of an attack being regarded as a separate occasion regardless of whether the attack was by the same or a different Animal on each occasion; or
 - iii) Who has been fined or convicted for three (3) or more violations under this Chapter, which violations occurred within any sixty (60) month period; or
 - iv) Who fails to confine or control in accordance with the provisions of this Chapter, any Animal that has been determined to be a Dangerous Animal.
- q) Hobby Breeder. Means any person who operates a Hobby Breeder Premise.
 - r) Hobby Breeder Premise. Means any premises where all or part of three, four or five litters of dogs or cats, or both, are produced for sale or sold, offered or maintained for sale per

license year. This provision applies only if the total number of dogs or cats, or both, sold, offered or maintained for sale is less than thirty (30) individual animals.

- s) Humane. Manner of care including, but not limited to, protection from harm, providing a shelter with adequate protection from the elements, ventilation, sanitation, and appropriate food and potable water consistent with the requirements and habits of the Animal's species, type, size, age and condition.
- t) Invisible Fence. Any premise where there is an underground cable buried along the boundaries of the premise that emits a signal field to keep an Animal from crossing or getting outside the boundaries of the premise. An Invisible Fence must:
 - i) Create a complete boundary around the premise with no gaps or areas where the Animal could get out and Run At-Large;
 - ii) The invisible fence must be clearly marked with boundary flags or other signage indicating to the public where is Invisible Fence is located; and
 - iii) The Animal, at all times when not confined by other means and is within the boundaries of the Invisible Fence, must be wearing a fully functional collar receiver.
- u) Kennel. Any premise where there is being Harbored a total of more than three (3) dogs over the age of six (6) months; provided, however, as follows:
 - i) A fourth dog over the age of six (6) months may be Harbored at a residence, if such dog is individually trained and certified to do work or perform tasks for the benefit of an individual with a disability, including physical, sensory, psychiatric, intellectual or other mental disability for a public safety agency or to assist disabled Persons and if such certification is on file with the City Clerk; or
 - ii) Any residential Property licensed by the State of Kansas as a foster home shelter pursuant to K.A.R. 9-22-4 shall be entitled to temporarily Harbor one (1) or more dogs as foster Animals under that license, provided that the Harboring of the foster Animals at such residence does not cause the total number of dogs there being Harbored to exceed the number otherwise allowed herein by more than one (1) dog.
- v) Neglect and Inhumane Treatment. Treatment of an Animal, or causing or permitting the treatment of any Animal, which consists of any of the following: overdriving, overloading, abandoning, overworking, torturing, tormenting, poisoning or attempting to poison any Domestic Animal, depriving of necessary sustenance, cruelly beating or mutilating, or failing to provide necessary medical care, or Adequate Food and Drink, or Adequate Shelter.
- w) Own or Owning. To keep, maintain, possess, control, sell, trade, or buy.
- x) Owner. The Person who keeps, Harbors or possesses an Animal.

- y) Person. Any individual, firm, association, joint stock company, syndicate, partnership or corporation.
- z) Pet Shops. Any place of business keeping Animals for the purpose of sale or resale, which includes but is not limited to pet stores, feed stores, or commercial kennels.
- aa) Picket. The attaching directly or indirectly to the body of an Animal of a Tether which is also attached to another object which confines the Animal or limits the movement of the Animal, but does not include the maintenance of an Animal on a leash being held or otherwise under the direct physical control of a Person.
- bb) Property or Premises. Any unplatted parcel, tract or piece of land, improved or unimproved, which is under common Ownership, and any platted lot or combination of lots, or any separately developed portion of a platted lot or combination of lots, which is maintained for a single or common use. Each business or residential unit within a multi-unit development which is set aside for a tenant or resident's exclusive use shall constitute a separate Property or Premises.
- cc) Provocation. The willful and intentional teasing, harassment, injuring or abuse of an Animal; or the entry into a fenced or enclosed area or building in which an Animal is lawfully kept or Harbored, other than areas open to the general public during the hours of such public access; or any threatening or violent actions taken against a Person, without legal cause or justification committed in the presence of an Animal which is Owned, kept or Harbored by such Person or by a member of such Person's immediate family or household.
- dd) Refuse. All waste materials (except Animal body discharges) such as trash, garbage, paper, cardboard, tin cans, glass, wood, metals, salvage or inert materials produced or accumulated in connection with the maintenance of Domestic Animals.
- ee) Run At-Large. An Animal shall be deemed to be Running At-Large when not confined on the Premises of the Owner, Harbored, or keeper within a fenced area or Animal shelter or under the control of a Person, either by lead, cord, leash or chain. An Animal may be considered confined if on a lead rope or chain which is securely fastened or Picketed in a manner which is sufficient to keep the Animal on the Premises.
- ff) Spay or Neuter. To render permanently incapable of producing offspring.
- gg) Stray Cat. Any cat that interacts, engages or socializes with humans or displays social behavior. Any cat that seeks shelter inside a dwelling with humans. A cat that does not live within a colony, but has a known or suspected Owner.
- hh) Tether. Any leash, rope, chain, lead or other similar apparatus or device by which an Animal is Picketed.
- ii) Veterinary Hospital. A Domestic Animal hospital operated by a Doctor of Veterinary Medicine licensed by the State of Kansas.

3-106. Harboring Certain Animals Prohibited.

It shall be unlawful for any Person to Harbor within the City limits, any Animal except those Animals specifically allowed in Section 3-107.

3-107. Animals Allowed.

Animals allowed under this ordinance:

- a) Domestic dogs, except those hybridized with wild canines. Subject to specific limitations outlined in this Chapter.
- b) Domestic cats, except those hybridized with wild felines. Subject to specific limitations outlined in this Chapter.
- c) Bees. Subject to specific limitations outlined in Article 7 of this Chapter.
- d) Chickens. Subject to specific limitations outlined in Article 8 of this Chapter.
- e) Chicks.
- f) Horses. Subject to specific limitations outlined in Article 9 of this Chapter.
- g) Domesticated rodents, except that no more than three (3) Domesticated rodents over the age of six (6) months shall be permitted in a single Property.
- h) Domesticated European ferrets, except that no more than three (3) Domesticated European ferrets over the age of six (6) months shall be permitted in a single Property.
- i) Rabbits, except that no more than six (6) rabbits over the age of six (6) months shall be permitted in a single Property.
- j) Domesticated hedgehogs, except that no more than three (3) Domesticated hedgehogs over the age of six (6) months shall be permitted in a single Property.
- k) Birds, except for species protected by state or federal law.
- l) Nonvenomous snakes less than six (6) feet in length, except that no more than three (3) nonvenomous snakes less than six (6) feet in length shall be permitted in a single Property.
- m) Nonvenomous lizards, except that no more than three (3) nonvenomous lizards shall be permitted in a single Property.
- n) Turtles, except for species protected by state or federal law.
- o) Amphibians.

- p) Any Animal in the control of a Person temporarily and actively transporting such Animal through the City. Persons temporarily transporting such Animals through the City limits, provided that such Animals shall at all times be and remain in enclosed, secured cages or similar containers while within the City limits and do not remain within the City limits for a period in excess of twenty-four (24) hours.
- q) Any Animal in the Ownership of a *bona fide* medical institution or accredited educational institution.
- r) Any Animal temporarily held by an Animal Shelter licensed by the State of Kansas.
- s) The presence of any such Animals for purposes of demonstrations, livestock shows or exhibitions on any Premises or in any building or structure under the jurisdiction of the City or Harvey County or in connection with 4-H livestock shows or the Harvey County Free Fair.
- t) A Licensed Person or institution operating a Hobby Breeder Premise and possessing a current Kansas Department of Agriculture Hobby Breeder License and being in full compliance with Kansas Department of Agriculture regulations. The total number of adult used for Hobby Breeding is subject to the limitations set forth in this Chapter.
- u) Traveling circuses and carnivals, provided all necessary licenses and permits are obtained.

3-108. Violations and penalties.

Any Person who shall be convicted of violating any provisions of this Article shall be punished by a fine as hereinafter provided. Each day that a violation of this Article occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. The fine prescribed above for the first conviction for a violation of a provision of this Article shall be an amount not less than \$100 nor more than \$200; and for the second conviction for a violation of the same provision shall be an amount not less than \$200 nor more than \$500; and for the third or any subsequent conviction for a violation of the same provision shall be an amount not less than \$500 nor more than \$1,000. The fine shall be in addition to any applicable court costs or impoundment fees. For the purposes of this subsection, prior convictions shall include any past conviction of the same offense with a conviction date that is within five (5) years prior to the offense date of the offense prosecuted as a second, third or subsequent offense.

SECTION 2. Chapter III, Article 2 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 2. PROTECTION OF ANIMALS

3-201. Animal At-Large.

- a) It shall be unlawful for any Person to allow any Animal to Run At-Large within the corporate limits of the City. Running At-Large includes any Animal that is not confined to private Property by a physical boundary. An Animal shall not be deemed to be Running At-Large if:
 - i. The Animal is firmly attached to a leash or chain under the physical control of a Person; or
 - ii. The Animal is Picketed and is adequately restrained to private Property, pursuant to the terms of conditions of this Ordinance; or
 - iii. The Animal is within a structure or within a fenced area with the permission of the Owner or keeper of the structure or fenced area; or
 - iv. The Animal is within the boundaries of a clearly marked and functioning Invisible Fence. The Animal must be wearing a fully functioning collar receiver at all times when within the boundaries of the Invisible Fence.
 - v. The Animal is a dog and, under the supervision of its Owner or keeper, is using the City's off-leash dog park in accordance with the City's rules and regulations for any City off-leash dog park.
- b) Upon a second or subsequent conviction of this section, the Court may order the Owner or Harboring of the Animal to:
 - i. Have an identification microchip implanted in the Animal traceable to the current Owner or Harboring, and registered with the City of Newton;
 - ii. Have the Animal surgically sterilized by a licensed veterinarian within thirty days of the redemption of said Animal at the Owner or Harboring's expense; and
 - iii. Verification of sterilization shall be provided to the Animal Control Officer within the thirty-day period.

3-202. Neglect and Inhumane Treatment.

It shall be unlawful for any Person to Neglect or carry out inhumane treatment against any Animal. The Animal Control Officer may take charge of any Animal found abandoned or clearly showing evidence of Neglect or inhumane treatment, and may enter upon any private or public Property and inspect, care for, treat, remove or transport such Animal to a licensed Veterinary Hospital for treatment, board or other care, or for other disposition if it appears the Animal is diseased, disabled, or injured beyond recovery. If a Person is convicted of this subsection and the court determines that such Animal Owned or possessed by such Person is likely to be subject to future Neglect and Inhumane Treatment, such Animal shall not be returned to or remain with such Person. Instead the Animal shall be turned over to the Animal Control Officer for sale, adoption or other disposition.

3-203. Unlicensed Kennel or Cattery.

It shall be unlawful for any Person to maintain any Kennel or Cattery without a valid City license.

3-204. Dog Fighting.

It shall be unlawful for any Person to aid, abet or encourage any dog to attack or fight any other dog by words, signs or otherwise knowingly permit the dog to fight without endeavoring to prevent the same.

3-205. Breaking and Training Animals.

It shall be unlawful for any Person to break or train any Animal, except dogs and cats, on any street, sidewalk or other public place within the corporate limits of the City.

3-206. Picketing Animals.

It shall be unlawful for any Person to Picket any Animal in violation of any of the following regulations:

- a. A Tether must be at least ten (10) feet in length, but shall not be such length as will allow the Animal to leave the boundaries of the Property on which it is Picketed.
- b. Excluding the object to which an Animal is Picketed, the total weight of the Tether and any collar, harness or other parts or attachments thereto shall not exceed an amount which is one-eighth (1/8) of the weight of the Animal being Picketed.
- c. A Tether must be attached to an Animal only by means of a collar, harness other similar device which is designed for such a purpose and which is made from a material that prevents injury to the Animal. No Animal shall be Tethered by means of a choke chain, prong collar or metal chain.
- d. The area in which an Animal is Picketed and the manner in which an Animal is Picketed shall be such that it is free from objects which could lead to the entanglement of the Tether or to the strangulation of the Animal.
- e. The area in which an Animal is Picketed shall have Adequate Food and Drink within reach of the Animal, and shall have one (1) or more areas within reach of the Animal which at any time during the period of Picketing will provide shade from the sun and shelter from precipitation.
- f. No Animal shall be Picketed on public Property unless the Animal is under the direct supervision of its Owner.
- g. No Animal shall be Picketed outside between the hours of 11:00 P.M. and 5:00 A.M.

- h. No Animal shall be Picketed at any time if the temperature is below 32 degrees or above 85 degrees, or during any heat or wind chill advisory or watch or warning issued by the National Weather Service.

3-207. Killing Animals.

It shall be unlawful for any Person to willfully and unjustifiably kill any Animal within the corporate limits of the City; provided, that this sub-section shall not be interpreted as prohibiting any act done in self-defense or done to defend another Person.

3-208. Dyed Animals.

It shall be unlawful for any Person to sell or offer for sale, barter or give away any Animal or Fowl that has been dyed or treated so as to impart to them an artificial or unnatural color.

3-209. Animals in Streets.

It shall be unlawful for any Person to permit any Animal, whether or not restrained, to have access to public walkways or streets so as to impede safe pedestrian or vehicular traffic.

3-210. Striking Animals.

It shall be unlawful for any Person to strike down any Domesticated Animal with a motorized vehicle on the roadway without reporting the same to the Animal Control Officer or the Police Department.

3-211. Animals in Vehicles.

It shall be unlawful for any Person to place or confine an Animal or allow an Animal to be confined in a motor vehicle or trailer in such a manner or under such conditions or for such periods of time as to endanger the health or wellbeing of the Animal, including, but not limited to, extremes of heat or cold, lack of food or water, or any other circumstances which may cause suffering, disability, injury, or death.

3-212. Transporting Animals.

It shall be unlawful for any Person to transport an Animal in the trunk of a vehicle; or to transport any Animal in the open bed of a truck unless said Animal is secured in a cage.

3-213. Allowing an Aggressive Animal At-Large.

It shall be unlawful for any Person to allow any Animal to become an Aggressive Animal At-Large.

3-214. Habitual Violator.

It shall be a separate municipal offense for any Person to become a Habitual Violator as defined in this Chapter. Such Person shall be cited as a Habitual Violator upon meeting the definition of a Habitual Violator. A Person cited for violation of this Section shall be required to appear in Municipal Court.

3-215. Violations and penalties.

Any Person who shall be convicted of violating any provisions of this Article shall be deemed guilty of a Class "B" violation and shall be punished by a fine as hereinafter provided or by confinement in the county jail for a period not exceeding one hundred eighty (180) days or by both such fine and confinement. Each day that a violation of this Article occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. The fine prescribed above for the first conviction for a violation of a provision of this Article shall be an amount not less than \$100 nor more than \$200; and for the second conviction for a violation of the same provision shall be an amount not less than \$200 nor more than \$500; and for the third or any subsequent conviction for a violation of the same provision shall be an amount not less than \$500 nor more than \$1,000. For the purposes of this subsection, prior convictions shall include any past conviction of the same offense with a conviction date that is within five (5) years prior to the offense date of the offense prosecuted as a second, third or subsequent offense.

SECTION 3. Chapter III, Article 3 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 3. KEEPING ANIMALS

3-301. Sanitary Conditions.

It shall be unlawful for any Person Owning, occupying, maintaining or controlling any yard, pen, room, building or any other place where Animals or fish are Harbored to allow such place to become unsanitary, offensive, unwholesome or annoying to the neighborhood or to allow any decayed, putrid or offensive matter to accumulate therein.

3-302. Adequate Drainage.

All Animal pens and yards shall be located so that adequate drainage is obtained, normal drying occurs and standing water is avoided.

3-303. Storage of Materials.

Food for Animals and fish shall be stored in tightly covered, rodent-proof containers. Refuse shall be stored in proper containers or in a manner approved by the Animal Control Officer and disposed of at least once each week or as frequently as may be required to prevent a nuisance condition.

3-304. Habitual Barking.

- a) It shall be unlawful for any Person Owning or keeping any Animal to allow such Animal to disturb the peace of any other person by loud and persistent barking, yelping, howling or making other loud and persistent noise.
- b) No Person shall be charged with violating City Code Section 3-304(a) unless a written warning was given to the Person by the Animal Control Officer within twelve (12) months preceding the first date alleged as a date of violation of City Code Section 3-304(a). Such warning is sufficient if it references City Code Section 3-304, and states that a complaint has been received and that an Animal is disturbing the peace of an individual. A warning is given under this subsection if it is personally given to the Person or if it is mailed first class to the last known address of the person.

3-305. Harboring without a License.

It shall be unlawful for any Person to keep or Harbor a dog over five (5) months of age within the corporate limits of the City without securing an annual dog license as required by this Chapter and without the dog having a vaccination against rabies effective for the entire period for which the license is issued. Vaccination may not be required if the Owner of the dog shall exhibit to the City Clerk a statement from a Veterinary Hospital certifying that the vaccination would be injurious to the dog due to its health.

3-306. Violations and penalties.

Any Person who shall be convicted of violating any provisions of this Article shall be punished by a fine as hereinafter provided. Each day that a violation of this Article occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. The fine prescribed above for the first conviction for a violation of a provision of this Article shall be an amount not less than \$100 nor more than \$200; and for the second conviction for a violation of the same provision shall be an amount not less than \$200 nor more than \$500; and for the third or any subsequent conviction for a violation of the same provision shall be an amount not less than \$500 nor more than \$1,000. The fine shall be in addition to any applicable court costs or impoundment fees. For the purposes of this subsection, prior convictions shall include any past conviction of the same offense with a conviction date that is within five (5) years prior to the offense date of the offense prosecuted as a second, third or subsequent offense.

SECTION 4. Chapter III, Article 4 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 4. REGISTRATION, VACCINATION, LICENSING OF DOGS AND CATS; FEES.

3-401. Registration, vaccination, licensing of dogs and cats; fees.

a) Registration. It shall be the duty of the Owner or Harbored of any dog maintained or Harbored within the corporate limits of the City to register each such dog with the City Clerk,

to acquire from the City Clerk a license for each such dog in compliance with the provisions of this Article, and to maintain as current such registration and licensure in the manner provided in this Article throughout the period such dog remains in the City. Registration is not transferable from Owner to Owner or from Animal to Animal.

b) Term. All such licenses shall be issued for the then applicable calendar year, expiring on December 31st of such calendar year, and must be renewed on or by January 1st of the next calendar year. The City Clerk shall issue a receipt for such registration and licensure, and for each renewal thereof, in the form of a tag of metal or other durable material stamped or engraved with the registration number and the year of registration. It shall be the duty of the Owner or Harbored of each such dog to attach such tag to a suitable collar kept on the dog at all times.

c) Vaccination. Except as otherwise provided in Section 3-402, it shall be the duty of the Owner or Harbored of any dog or cat maintained or Harbored within the corporate limits of the City to cause each such dog or cat to be vaccinated or inoculated with a recognized anti-rabies vaccine, and to cause each such dog or cat to be re-vaccinated or re-inoculated as often as necessary to maintain its effectiveness. Any Person applying for a license for a dog, or for a renewal thereof, shall be required to present the City Clerk a certificate issued by a licensed Veterinary Hospital showing that the dog has been so vaccinated or inoculated.

d) License Registration Fees. Any Person applying for a license for a dog shall pay a license registration fee in the amount of \$20.00 for each such dog; provided, however, that the license registration fee shall be reduced to \$10.00 upon presentation of a certificate by a licensed veterinarian, that such dog, if a male, has been Neutered, or that such dog, if a female, has been Spayed. The license registration shall be further reduced to \$5.00 upon presentation of a certificate by a licensed veterinarian, that such dog has been microchipped. This information shall be maintained by the City.

e) Late Fees. In the event a license is not acquired within thirty (30) days after a dog has attained the age of five (5) months, or a license is not renewed before sixty (60) days after the January 1st due date, a \$10.00 late fee shall be assessed.

f) Exemption. The foregoing provisions of this Article shall not apply to a dog or cat while it is under the age of five (5) months.

g) Ineligible Applicants for Registration. The following Persons shall not own or harbor an Animal or be eligible or entitled to apply for or receive a registration or license for any dog, or to renew any license for any dog:

- i. Any Person who, within the thirty-six (36) months immediately preceding such application, has been convicted of three (3) or more violations of this Chapter, or who resides in the same household with any Person who within the thirty-six (36) months immediately preceding such application has been convicted for three (3) or more violations of this Chapter;
- ii. Any Person who has been convicted as a Habitual Violator as defined in this Chapter.

h. Unlawful acts. It shall be unlawful for any Person to maintain or Harbor any dog within the corporate limits of the City which is required to be registered and licensed under the provisions of this Chapter, but which is not so registered or licensed.

3-402. Immunization of Dogs, Cats and Ferrets.

No Person shall Own any dog, cat or ferret, five (5) months of age or older, within the City limits if such Animal is not currently vaccinated against rabies. Any Person Owning a dog within the City shall cause such dog to wear a collar or harness at all times to which shall be attached a current tag reflecting that the dog is vaccinated against rabies. The tag shall be situated on the collar or harness in such a manner that it may be easily visible at all times. Owners of cats and ferrets may retain proof of current rabies vaccination on their Person or Premises.

3-403. Violations and penalties.

Any Person who shall be convicted of violating any provisions of this Article shall be punished by a fine as hereinafter provided. Each day that a violation of this Article occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. The fine prescribed above for the first conviction for a violation of a provision of this Article shall be an amount not less than \$100 nor more than \$200; and for the second conviction for a violation of the same provision shall be an amount not less than \$200 nor more than \$500; and for the third or any subsequent conviction for a violation of the same provision shall be an amount not less than \$500 nor more than \$1,000. The fine shall be in addition to any applicable court costs or impoundment fees. For the purposes of this subsection, prior convictions shall include any past conviction of the same offense with a conviction date that is within five (5) years prior to the offense date of the offense prosecuted as a second, third or subsequent offense.

SECTION 5. Chapter III, Article 5 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 5. ANIMAL BITES & QUARANTINE

3-501. Procedure for response to Animal bites.

All bite cases coming to the attention of the Chief of Police should be reported to the Animal Control Officer. While investigating cases in which Animals have bitten a Person or other Animal, the investigator shall immediately notify the Owners of the Animal and require the surrender of the Animal for immediate impoundment. In the event the Owner of the Animal is not available or is unknown, the police or Animal Control Officer shall cause the Animal to be impounded. The period of impoundment shall be at least ten (10) days. The Animal Control Officer shall authorize the release of the Animal upon the Owner's payment of all boarding fees and other applicable fees. The Animal Control Officer may authorize the Owner to keep the Animal on the Owner's Premises, provided that the Owner produces evidence that the Animal is currently vaccinated for rabies.

3-502. State Law.

Kansas Administrative Regulations (K.A.R.) 28-1-13, and amendments thereto, shall be followed concerning the isolation of biting animals for observation, examination and quarantine, unless the provisions of this Chapter require more stringent procedures.

SECTION 6. Chapter III, Article 6 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 6. DANGEROUS ANIMALS.

3-601. Procedure for the Determination of a Dangerous Animal

In the event that the Animal Control Officer has probable cause to believe that an Animal is dangerous, the Municipal Court Judge shall be empowered to convene a hearing for the purpose of determining whether or not the Animal in question should be declared a Dangerous Animal. The Animal Control Officer may order the dog to be impounded at a licensed Veterinary Hospital or humane society pending the determination of whether the Animal is a Dangerous Animal. The Owner of the Animal shall be liable for the costs of keeping such Animal. If the identity of the Owner of the Animal is known, the Animal Control Officer shall notify the Owner that the hearing will be held. The hearing before the Municipal Court Judge will allow evidence to be presented that the Animal is dangerous and at which time the Owner of the Animal may present evidence to rebut evidence presented by the City and present such other evidence as may be relevant. The failure of the Owner to attend or participate in the hearing shall not keep the Municipal Court Judge from making the appropriate determination concerning the Animal. 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 of the Animal. The City shall have the burden of proof to show that the Animal is dangerous pursuant to this Article. After the hearing, the Owner of the Animal shall be notified in writing of the determination. If a determination is made that the Animal is a Dangerous Animal, the Owner shall comply with the provisions this Article.

3-602. Disposition of Dangerous Animal

Any Animal that has been determined by the Municipal Court Judge to be a Dangerous Animal as defined in this Article shall be subject to disposition in the discretion of the Municipal Court Judge. The following instances shall create a rebuttable presumption that the animal shall be destroyed:

- a) If the Animal has attacked a human without Provocation and which the injuries inflicted required surgical suturing or hospitalization.
- b) If the Animal has attacked a human or a Domestic Animal without Provocation on two or more occasions and if in each such attack the Animal has bitten or inflicted any injury upon the Person or Domestic Animal.

- c) If during any impoundment of an Animal it is determined that the Animal has such a vicious propensity that it creates an unreasonable hazard of danger to the general public in the event of its release or escape from confinement.

3-603. Appeal to District Court.

Any Animal deemed a Dangerous Animal by the Municipal Court Judge shall be impounded for a period of ten (10) days to allow for an appeal to the district court before the disposition order is acted upon. Any appeal shall stay the order of the Municipal Court Judge. The Owner shall be responsible for all boarding costs pending appeal and through final disposition of all legal proceedings.

3-604. Control of Dangerous Animals.

No Animal determined to be a Dangerous Animal pursuant to this Article shall be returned to its Owner or kept within the City unless under the terms of a Dangerous Animal Agreement.

3-605. Dangerous Animal Agreement Requirement.

Any Person Owning or harboring a Dangerous Animal must enter into a written agreement with the Animal Control Officer outlining the requirements of keeping a Dangerous Animal. The Animal Control Officer, at their discretion, shall be authorized to modify or waive any of the following requirements if deemed unnecessary under the circumstances.

a) Annual Registration. The Owner of a Dangerous Animal shall annually register the Dangerous Animal with the Newton Police Department on such forms designated by Newton Police Department and shall have the Dangerous Animal microchipped by a licensed veterinarian so that the microchip is traceable to both the Dangerous Animal and the Owner. The Animal Control Officer shall review the annual registration forms and must approve prior to obtaining a City issued Identification Collar. The Owner shall pay a \$100.00 annual Dangerous Animal Registration fee to the City of Newton in place of the registration requirements in Section 3-401 and shall be responsible for the costs of the microchip procedure.

b) Identification Collar. The Owner shall affix a City-issued "Dangerous Animal" collar that must be worn by the Animal at all times and renewed annually.

c) Insurance. All Owners of Dangerous Animals must provide proof of public liability insurance in a single incident amount of \$100,000.00 for bodily injury to or death of any Person or Persons or for damage to Property associated with the Ownership or keeping of such animal. The insurance policy will provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the Newton Police Department. A copy of the Insurance Policy shall be provided to the Animal Control Officer as part of the Annual Registration.

d) Leash and Muzzle. No Person shall permit such Animal to go outside its Kennel or pen unless such Animal is securely leashed with a leash no longer than four (4) feet in length. No Person shall permit such Animal to be kept on a chain, rope or other type of Tether outside its Kennel or pen unless the Owner or another person listed in the Annual Registration is in physical control of the leash. Such Animal may not be leashed to inanimate objects such as trees, posts,

buildings, etc. In addition, any such Animal on a leash outside the Animal's Kennel must be muzzled by a muzzling device sufficient to prevent such Animal from biting Persons or other Animals.

e) Confinement. All such Animals shall be securely confined indoors or in a Dangerous Animal Enclosure, except when leashed and muzzled as above provided. The Dangerous Animal Enclosure shall be approved by the Animal Control Officer annually as part of the Annual Registration.

f) Confinement Indoors. No such Animal may be kept on a porch, patio or in any part of a house or structure that would allow the Animal 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 screen windows or screened doors are the only obstacle preventing the Animal from exiting the structure.

g) Signage. All Owners, keepers or Harborers of such Animals within the City shall display in a prominent place on their Premises a sign easily readable by the public using the words "Beware of Dog" or such other words of warning as shall be designated by the Animal Control Officer. In addition, a similar sign is required to be posted on the Kennel or Enclosure of such Animal.

h) Identification Photographs. All Owners must file, with the Newton Police Department, current color photographs of each Animal which have the date of the photographs marked thereon and which clearly show the color, markings and approximate size of the Animal. Further, all Owners of such Animals must provide two (2) current replacement photographs meeting such specifications in relation to the renewal of the license for such Animal.

i) Restrictions on Sale or Transfer of Ownership. No Person shall transfer such Dangerous Animal to any other Person within the City unless the Person taking possession of such Animal first files with the Animal Control Officer a written agreement to confine and control such Animal as herein provided.

j) Reporting Requirements. All Owners of such Animals must report the following information in writing and within ten (10) days of the occurrence to the Newton Police Department as required hereinafter:

- i. The removal from the City or death of any such Animal;
- ii. The new address of the Owner should such Person move to another location within the corporate City limits.

3-606. Exceptions.

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

3-607. Failure to Comply with Dangerous Animal Agreement.

It shall be unlawful to fail to comply with the terms and conditions of an active Dangerous Animal Agreement.

3-608. Dangerous Animal At-Large.

It shall be unlawful to allow a Dangerous Animal to be At-Large.

3-609. Attack on Human or Animal

It shall be unlawful to allow a Dangerous Animal to attack, assault, wound, Bite, or otherwise injure or kill, or assist in such injury or killing of a human being or animal

3-610. Violations and penalties.

It shall be unlawful for any Person to violate the provisions of this Article. Any Person found guilty of violating the provisions of this Article shall be subject to a term of confinement in the City or County jail which shall be fixed by the Court and shall not exceed one (1) year. The fine prescribed shall be an amount not less than \$250; and no more than \$1,000. In addition, the Court shall order the Animal confiscated and shall have the discretion to order the disposition of the Animal.

SECTION 7. Chapter III, Article 7 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 7. Beekeeping

3-701. Keeping of Bees.

It shall be unlawful for any Person to place, establish, or maintain any Hive, box stand, or Apiary or keep any Bees in or upon any Premises within the City limits unless the Bees are kept in accordance with the provisions of this Section.

a) Definitions.

- i) "Abandoned Hive" includes, but is not limited to, a Colony or Hive and equipment a Beekeeper has ceased to manage, is deserted, not maintained or left unattended.
- ii) "Apiary" a Hive or collection of Hives including the immediate area surrounding the Hive.
- iii) "Bees" means any stage of the common domestic honey bee, *Apis Mellifera* species.
- iv) "Beekeeper" is any Person or Persons who Owns, operates, maintains, possesses or otherwise controls a Hive or is the Owner of Property upon which a Hive is situated.

- v) "Colony" is a single managed Colony or Hive consisting of a queen and all life stages to support sustenance and reproduction kept by a Beekeeper and synonymous with Hive.
 - vi) "Flyover Barrier" is a solid wall, fence, or dense vegetation or combination thereof that provides an obstruction through which Bees cannot readily fly.
 - vii) "Hive" is where a managed Colony is located. A Hive consists of a managed Bee Colony kept in a structure intentionally provided by the Beekeeper for Bee housing. The Bee housing structure has movable frames to allow the Beekeeper and inspector complete access to the inner living area of the Colony and its contents for manipulations such as re-queening, viewing, evaluation and sampling.
 - viii) "Hive Pests" means any agent or characteristic in a managed Bee Colony or Hive that makes the existence of such Colony or Hive detrimental to the apicultural industry, other neighboring apiaries, the environment, or public safety by being kept in a manner as to contain any unhealthy conditions or be a source of Bee Pests which include but is not limited to disease, parasites, fungi, foulbrood, bacteria, microsporidia, virus, insect, nematode, mites, or other organisms that damage Bees or Bee products.
 - ix) "Neighboring Dwellings" means a place where a Person resides and may include, but is not limited to, the following: any part of an attached home, unattached residential office, unattached garage, mobile home, guest home, condominium or apartment.
 - x) "Undesirable Bee Behavior" is any behavior exhibited by Bees from a Hive that may result in harm to others. Undesirable Bee Behavior includes, but is not limited to, characteristics of Africanized Bees guarding a larger territorial perimeter around the Hive in greater numbers than is typical of European Bees, responding to minimal or no Provocation into over-defensiveness, aggressiveness, repeated swarming, unpredictability, reactiveness, and agitation during, but not limited to, Hive inspection. Bees foraging on flowering vegetation is considered normal and desirable.
- b) Registration and License. Beekeepers shall register the number of Hives and the location of each Hive on the first day of January of each year or 30 calendar days prior to acquiring a Hive. The Beekeeper shall provide written approval from all adjacent residents. After submitting all required information, the City will issue a revocable license to the Beekeeper. No registration fee shall be required.
 - c) Approved Hives, Colonies, or apiaries. Beekeepers shall maintain Bees in a Hive intentionally provided by the Beekeepers for Bee housing. The Bee housing structure shall have movable-frames to allow full access to the inner Bee living quarters for viewing, evaluation and sampling of the structure and its contents including by not limited to drones, queens, workers, beeswax, comb, honey, and pollen.
 - d) Distance Restrictions. Hives must be located at or greater than the following distances:
 - i) 25 feet from Neighboring Dwellings.

- ii) 15 feet from neighboring Property lines.
- iii) 40 feet from any public road or sidewalk.
- iv) 40 feet from any public park or school.
- e) Identification Signs. Beekeepers shall identify the Beekeeper's name and telephone number information on all Hives in black letters, not less than one inch high, on a background of contrasting color.
- f) Regular Hive Check. Beekeepers shall inspect each Hive at least once a month to detect Undesirable Bee Behavior or Hive Pests in order to take corrective action in a timely manner. Beekeepers shall practice swarm prevention techniques and provide additional space for Colony growth to minimize Bee swarming.
- g) Water Supply Required. Beekeepers shall maintain an adequate and accessible supply of fresh water available at all times.
- h) Flyover Barrier. Beekeepers must maintain an adequate Flyover Barrier of at least six (6) feet in height to shield any part of a Property line that is within twenty-five (25) feet of a Hive.
- i) Queen Bee. Each Hive shall be re-queened if the Colony exhibits Undesirable Bee Behavior.
- j) Transportation of Bees. No Person shall transport a Colony of Bees between sunrise and sunset or cause Bees to be transported during that time period unless the Bees are transported in a vehicle with screens or other devices that will prevent Bees from escaping from the vehicle.
- k) Undesirable Hives. No Beekeeper shall Own or operate a Hive that exhibits Undesirable Bee Behavior, contains Hive Pests, or is an Abandoned Hive.
- l) Maintenance. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container.
- m) Number of Hives. No more than two Hives shall be maintained on any Property.
- n) Revocation of License. The City may revoke a license at any time, or decline to renew a license, due to any failure to comply with the applicable restrictions and limitations. Notice of any intended revocation or non-renewal of a license shall be given in writing to the license holder at the address provided in the application, identifying the reasons therefor, and such revocation or non-renewal shall become effective ten (10) days thereafter unless the license holder has by such time submitted to the City Clerk a written request for a hearing on the matter before the governing body, in which case the revocation or non-renewal shall not be effective unless upheld by the governing body following a hearing

thereon. The license holder shall be given not less than fifteen (15) days notice of the date, time and place of any such hearing.

3-702. Violations and penalties.

Any Person who shall be convicted of violating any provisions of this Article shall be punished by a fine as hereinafter provided. Each day that a violation of this Article occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. The fine prescribed above for the first conviction for a violation of a provision of this Article shall be an amount not less than \$100 nor more than \$200; and for the second conviction for a violation of the same provision shall be an amount not less than \$200 nor more than \$500; and for the third or any subsequent conviction for a violation of the same provision shall be an amount not less than \$500 nor more than \$1,000. The fine shall be in addition to any applicable court costs or impoundment fees. For the purposes of this subsection, prior convictions shall include any past conviction of the same offense with a conviction date that is within five (5) years prior to the offense date of the offense prosecuted as a second, third or subsequent offense.

SECTION 8. Chapter III, Article 8 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 8. Chickens

3-801. Keeping of Chickens.

Female chickens may be maintained subject however to the following restrictions and limitations:

- a) Up to twelve (12) female chickens may be maintained as part of a single-family residence with the issuance of a permit therefor approved by the Animal Control Officer and issued by the City Clerk.
- b) An application for a permit must contain the following items:
 - i) The name, phone number, and address of the applicant.
 - ii) An original permit fee of \$20, with no annual renewal permit fee.
 - iii) The size and location of the subject Property.
 - iv) The number of chickens the applicant seeks to keep on the Property.
 - v) A description of any coops or outdoor Enclosures providing precise dimensions and the precise location of these Enclosures in relation to Property lines and adjacent properties.

- c) Permits will be granted and renewed on an annual basis. The City may revoke a permit at any time, or decline to renew a permit, due to any failure to comply with the applicable restrictions and limitations. Notice of any intended revocation or non-renewal of a permit shall be given in writing to the permit holder at the address provided in the application, identifying the reasons therefor, and such revocation or non-renewal shall become effective ten (10) days thereafter unless the permit holder has by such time submitted to the City Clerk a written request for a hearing on the matter before the governing body, in which case the revocation or non-renewal shall not be effective unless upheld by the governing body following a hearing thereon. The permit holder shall be given not less than fifteen (15) days notice of the date, time and place of any such hearing.
- d) Chickens shall be provided access to both a predator-proof coop and a run which shall be built in compliance with all building code requirements and setback regulations applicable to residential accessory structures, as well as the following additional minimum standards:
 - i) Coops and runs shall be well ventilated and designed to be easily accessed for cleaning. Any wooden materials must be treated and sealed.
 - ii) The coop and run must be cleaned on a regular basis to prevent the accumulation of waste and must be kept in a sanitary condition free from offensive odors. Deceased chickens shall be promptly removed.
 - iii) The coop shall be enclosed on all sides and shall be designed in such a way as to protect the chickens from the elements.
 - iv) Windows and vents must be covered with predator and bird-proof wire of less than one-inch openings. Access doors must be able to be securely shut.
 - v) The coop shall have three (3) square feet per chicken and the run shall have an additional three (3) feet per a chicken for a total of six (6) square feet per chicken.
 - vi) The run shall be completely enclosed and shall consist of sturdy wire or wooden fencing.
 - vii) Chickens shall not be allowed out of these Enclosures unless a responsible individual, over eighteen (18) years of age, is directly monitoring the chickens and able to immediately return the chickens to the run or coop if necessary.
- e) There shall be no outdoor slaughtering of chickens.
- f) The permit holder shall comply with all orders and regulations issued by the Animal Control Officer or other legal authority in the event of outbreak in the region of any disease or affliction potentially affecting or being passed by Fowl, or in the event of any other matter of public health or safety necessity.

3-802. Violations and penalties.

Any Person who shall be convicted of violating any provisions of this Article shall be punished by a fine as hereinafter provided. Each day that a violation of this Article occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. The fine prescribed above for the first conviction for a violation of a provision of this Article shall be an amount not less than \$100 nor more than \$200; and for the second conviction for a violation of the same provision shall be an amount not less than \$200 nor more than \$500; and for the third or any subsequent conviction for a violation of the same provision shall be an amount not less than \$500 nor more than \$1,000. The fine shall be in addition to any applicable court costs or impoundment fees. For the purposes of this subsection, prior convictions shall include any past conviction of the same offense with a conviction date that is within five (5) years prior to the offense date of the offense prosecuted as a second, third or subsequent offense.

SECTION 9. Chapter III, Article 9 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 9. HORSES

3-901. Keeping of Horses.

Horses may be maintained and kept within the City, subject to the following restrictions and limitations:

- a) One (1) Horse may be maintained on a minimum of a (3) three-acre contiguous tract of land. A minimum of two (2) additional acres of land, contiguous with the first tract stated herein, shall be required for each additional horse Harbored. The maximum number of horses allowable on any single Property is (3) three.
- b) Stallions are expressly prohibited.
- c) All horses must have a current rabies vaccination.
- d) All Enclosures where horses are kept shall be secured by gates and fencing that is in good repair and sufficient to prevent the horse from leaving such Enclosure.
- e) All horses shall receive hoof care to maintain proper hoof-pattern alignment and foot balance.
- f) Potable water shall be accessible to horses at all times.
- g) Each horse shall be provided with their own stall, of at least one hundred sixty (160) square feet, with an exterior paddock space.
- h) No horse or horses shall be maintained on any such acreage such that the portion thereof accessible to the horses is closer than one hundred (100) feet to any residential structure.

- i) Prior to placement of such horses on the Property pursuant to the foregoing, the Owner or occupant of such Property must obtain written authorization from the Animal Control Officer. The Animal Control Officer shall verify that sufficient land area does exist to permit the total number of horses for which such authorization is obtained, that adequate provision has been made for compliance with all applicable health and sanitation laws in relation to the keeping of such horses and that adequate fences or other barriers exist in order that the horse or horses can be maintained upon the Property in conformance with the restrictions and limitations of this paragraph. If at any time after such authorization has been issued it is determined by the Animal Control Officer that a problem of health or sanitation exists due to the maintenance of such horses, that a condition of mistreatment of the horses exists, or that the presence or maintenance of such horses is creating a nuisance or that the horses are otherwise being maintained in violation of the restrictions and limitations of this paragraph, then the authorization of the Animal Control Officer shall be withdrawn and the horses shall be removed. Failure to comply with the requirements stated herein shall cause the forfeiture of any and all rights to Harbor the horses. Nothing stated or implied in this paragraph shall exempt Persons from complying with all provisions of this Article and all applicable City, county and state health, sanitation and zoning laws.

3-902. Violations and penalties.

Any Person who shall be convicted of violating any provisions of this Article shall be deemed guilty of a Class "B" violation and shall be punished by a fine as hereinafter provided or by confinement in the county jail for a period not exceeding one hundred eighty (180) days or by both such fine and confinement. Each day that a violation of this Article occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. The fine prescribed above for the first conviction for a violation of a provision of this Article shall be an amount not less than \$100 nor more than \$200; and for the second conviction for a violation of the same provision shall be an amount not less than \$200 nor more than \$500; and for the third or any subsequent conviction for a violation of the same provision shall be an amount not less than \$500 nor more than \$1,000.

SECTION 10. Chapter III, Article 10 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 10. FERAL CAT TRAP-NEUTER-RETURN PROGRAM

3-1001. Caring Hands Humane Society authorized to conduct a Feral Cat Trap-Neuter-Return program.

The Caring Hands Humane Society of Newton, Kansas ("Caring Hands Humane Society"), is hereby authorized to conduct a Trap-Neuter-Return program ("TNR Program") in the City in the following manner:

- a) Definitions. For the purposes of this ordinance, the following terms are hereby defined as follows:

- i) “Caregiver” means a Person who is registered with the Caring Hands Humane Society to provide assistance with the TNR Program through the provision of food and shelter for Feral Cats while At-Large in the City, and through providing accommodations and assistance in the trapping and return of such Feral Cats.
 - ii) “City Law Enforcement Officer” shall include any member of the Newton Police Department designated as an Animal Control Officer.
 - iii) “Ear-tip” means a mark identifying a Feral Cat as having been trapped, sterilized, vaccinated and returned through the TNR Program, specifically by the removal of approximately three-eighths of an inch off the tip of the cat’s left ear in a straight line while the cat is anesthetized.
 - iv) “Feral Cat” means any free-roaming cat that displays avoidance behavior, lives in a colony and has no apparent Owner.
- b) The TNR Program shall be carried out in the following manner:
- i) Caring Hands Humane Society shall recruit Caregivers in selected portions of the City who are willing to provide assistance on the Caregiver’s Property to provide food and care for Feral Cats, to assist Caring Hands Humane Society in Humanely trapping cats on the Caregiver’s Property for the purposes of the TNR Program, and to permit Caring Hands Humane Society to release such Feral Cats back onto the Caregiver’s Property.
 - ii) The Caregivers must agree in writing, as a condition of participation in the TNR Program, to abide by all of the requirements and regulations of the TNR Program as approved by this Ordinance, and to follow the direction of Caring Hands Humane Society as to best practices so as to minimize as much as reasonably possible the creation or maintenance of any nuisance or unsanitary conditions, and to minimize impacts upon nearby Property Owners and residents. Caring Hands Humane Society shall have the complete right and discretion in the selection of Caregivers into the TNR Program and in the discharge or discontinuance of any Caregiver from the TNR Program; provided, however, that the Caring Hands Humane Society shall not utilize any Caregiver who is or has become disqualified from participation by virtue of the provisions below.
 - iii) Before being released, Feral Cats captured by Caring Hands shall be medically evaluated and treated, sterilized, vaccinated and ear-tipped. Previously captured and released Feral Cats which have been re-captured may be immediately released unless they are in need of medical care or need to be re-vaccinated. Caring Hands Humane Society shall have complete discretion to make the following decisions as an alternative to the release of a captured Feral Cat:
 - (1) To euthanize or otherwise Humanely dispose of a Feral Cat deemed too ill or injured, or deemed to be too dangerous to be released; or
 - (2) To retain for adoption a Feral Cat deemed appropriately Domesticated or capable of domestication.

- iv) If a City Law Enforcement Officer in the exercise of his or her lawful authority determines that a cat in the possession of a Caregiver or the Caring Hands Humane Society should be impounded as provided under the Newton City Code or otherwise by law, then the further handling of such cat shall be subject to the lawful orders and directions issued pursuant to that impoundment authority.
- v) Should it be determined by Caring Hands Humane Society that a cat captured by Caring Hands is a Stray Cat owned by an identifiable Person, Caring Hands Humane Society may return such Stray Cat to such Owner; provided, however:
 - (1) Caring Hands Humane Society shall report the same, including the name and address of the Owner(s), to the City's Animal Control Officer; and
 - (2) Caring Hands Humane Society shall be entitled to charge the Owner a reasonable fee for the care and boarding of the Stray Cat as a condition or precondition to its return to the Owner, upon proof of current rabies vaccination.
- vi) Caring Hands Humane Society shall create and maintain a registry of all Feral Cats which have been captured and then released, which registry shall include a photograph of the Feral Cat and other identifying information, the date and place of capture, the date of sterilization and vaccination, the date and place of release, and such other information as Caring Hands Humane Society deems appropriate and useful for the program. Such registry shall be available at all reasonable times for inspection by or on behalf of the City.
- vii) The Caring Hands Humane Society shall maintain a registry of the name, current address and other contact information of each Caregiver participating in the TNR Program, which registry shall be available at all reasonable times for inspection by or on behalf of the City. The Caring Hands Humane Society shall give prompt notification to the Newton Police Department of each Person who is added to the Caregiver registry, and shall likewise give prompt notification of the removal of any Person from such registry.
- viii) The Caring Hands Humane Society shall promptly remove from the Caregiver registry and discontinue participation by any Person who:
 - (1) Voluntarily withdraws from the TNR Program;
 - (2) Is removed by Caring Hands Humane Society from the TNR Program for such reasons as the Caring Hands Humane Society deems appropriate;
 - (3) Is removed by Caring Hands Humane Society from the TNR Program at the request and direction of the Chief of Police of the City for failure to abide by requirements and regulations of the TNR Program as approved by this ordinance; or
 - (4) Is disqualified from participation in the TNR Program due to the conviction of such Person in the Newton Municipal Court for any violation of the City's Animal control ordinances.

- ix) The Caring Hands Humane Society shall prepare such reports to the City Governing Body as may be requested from time to time to enable the governing body to evaluate the effectiveness of the TNR Program.

3-1002. Same; exemption from Animal code.

To the extent that any actions taken by the Caring Hands Humane Society, its officers, employees, agents and Caregivers, which are authorized under this Article, and which would otherwise constitute a violation of any provisions of Chapter III of the Newton City Code, such Persons are hereby granted an exemption from such provisions as to such authorized actions.

SECTION 11. Chapter III, Article 11 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 11. IMPOUND, REDEMPTION AND DISPOSITION OF ANIMALS

3-1101. Impoundment of Animals.

Unless the Animal obtained pursuant to this Chapter is being held as an evidentiary subject of a pending prosecution, the Owner of the Animal shall have a maximum of three (3) days after the Animal is taken into custody to claim the Animal. The City shall make a reasonable attempt to locate and notify the Owner once the Animal is impounded.

3-1102. Redemption of Animals.

All boarding fees, veterinarian fees, impoundment fees and permit fees, where required, must be paid to the City prior to claiming an Animal. The impoundment fees are as follows:

- a) \$10.00 upon first redemption of the Animal.
- b) \$20.00 upon second redemption of the Animal.
- c) \$30.00 upon third of subsequent redemption of the Animal.

3-1103. Disposition of Animals.

If the Owner of any Animal which comes into the custody of the City pursuant to the provisions of this Ordinance shall fail to make arrangements to care for such Animal within three (3) days of the time the City takes possession of the Animal, the Animal may be turned over to an Animal shelter or licensed veterinarian for sale, adoption or other disposition or destroyed as an abandoned Animal, in accordance with applicable City ordinances, unless the Owner files a bond or deposit equal to thirty (30) days of care and treatment. The Owner shall be required to update the bond or other deposit as necessary.

SECTION 12. Chapter III, Article 12 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 12. TRAPPING

3-1201. Trapping.

No Person shall do any trapping anywhere in the City, provided, however, that the Animal Control Officer may, by duly issued permit, approve the use of traps and methods in certain limited circumstances and for a limited amount of time, when another method is shown to be Humane and necessary to protect health, safety and welfare of the public.

A permit may be issued for the use of traps upon application showing that another method is both Humane and necessary to protect the health, safety and welfare of the public and demonstrating the following:

- a) The Animal or species of Animal poses a specific and imminent threat to the public or Property and there is reason to believe that there are no other means to remove the Animal or species.
- b) The proposed trapping will comply with Kansas law.
- c) The proposed trapper, except by means of cage-type live trap, has a valid Nuisance Wildlife Control Permit issued by the State of Kansas.
- d) The proposed trapping will be targeted to the specific Animal or Animal species and will be restricted to areas shown on a map provided to the City prior to approval and will be limited to Property owned by the those providing consent to such trapping.
- e) The number and type of trapping devices must be specifically identified and provided to the City prior to approval.
- f) The exact proposed time frame for the trapping shall be stated and shall not exceed thirty (30) days.
- g) The trapping devices shall be designed to be as non-lethal as practicable yet still remain effective in capturing the targeted Animal or species. Unless given prior approval by the Animal Control Officer, body gripping or steel jaw leg-hold traps shall not be used.
- h) The application for permit shall state the proposed disposition of the trapped Animals. If it is proposed that the Animal shall be euthanized, the method of euthanization shall be stated.
- i) The application shall state the proposed disposition of the Animal once captured. The perimeter of the trapping area shall be posted at reasonable intervals with notice of the trapping operation.

- j) The notice shall be posted seven (7) days in advance of the commencement of the operation and shall contain the name and telephone number of the trapper.

The Governing Body may allow an authorized trapper to provide trapping on lands owned by the City.

All traps shall be clearly marked with the Owner's name, address and telephone number of the Owner of the trap or the trap shall be confiscated by the Police Department and destroyed if not claimed within twenty-four (24) hours.

All traps will be kept in good and working order and will be checked every twelve hours while set to ensure that no Animal is unreasonably suffering and to remove and properly dispose of the Animal.

This Section does not apply to the use of traps specifically designed to kill rats, mice, gophers, or moles when used on Property in which the Owner or occupant has provided their consent.

3-1202. Interference with Animal Control Officer Traps.

No person shall interfere with the Animal Control Officer in relation to the trapping of Animals within the City. No person shall move or alter a trap set by the Animal Control Officer or release or dispose of an animal from a trap set by the Animal Control Officer.

3-1203. Violations and penalties.

Any Person who shall be convicted of violating any provisions of this Article shall be deemed guilty of a Class "B" violation and shall be punished by a fine as hereinafter provided or by confinement in the county jail for a period not exceeding one hundred eighty (180) days or by both such fine and confinement. Each day that a violation of this Article occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. The fine prescribed above for the first conviction for a violation of a provision of this Article shall be an amount not less than \$100 nor more than \$200; and for the second conviction for a violation of the same provision shall be an amount not less than \$200 nor more than \$500; and for the third or any subsequent conviction for a violation of the same provision shall be an amount not less than \$500 nor more than \$1,000. For the purposes of this subsection, prior convictions shall include any past conviction of the same offense with a conviction date that is within five (5) years prior to the offense date of the offense prosecuted as a second, third or subsequent offense.

SECTION 13. Chapter III, Article 13 of the Code of the City of Newton, Kansas, is hereby amended to read as follows:

ARTICLE 13. PET SHOPS

3-1301. Pet Shop Conditions.

Pet Shops shall meet the following conditions:

- a) Pet Shops must maintain a current and valid Pet Shop Operator License as issued by the State of Kansas.
- b) Pet Shops shall be maintained to provide the Animals with a safe environment and shall be structurally sound and in good repair.
- c) Electrical power shall supply adequate heating, ventilation, and lighting.
- d) Water shall be supplied at sufficient pressure and quantity to clean facilities and enclosures of debris and excrete.
- e) Adequate food, water and bedding shall be provided and stored in facilities adequate to provide protection against infestation or contamination by insects and rodents. Refrigeration shall be provided for perishable foods or substances.
- f) Provisions shall be made for the removal and disposal of Animal and food waste, bedding, dead Animals, and debris.
- g) Washroom facilities, including sinks with hot and cold water and toilets, shall be conveniently available to maintain cleanliness among Animal caretakers and for the purpose of washing equipment.
- h) Sick, diseased or injured Animals shall be quarantined from those appearing healthy. These Animals shall be removed from display and sale quarters with adequate ventilation to keep them from contaminating other Animals.
- i) No Pet Shop shall misrepresent an Animal to a consumer in any way nor shall they sell a sick or injured Animal.
- j) Adequate care, feeding and licensing instructions must be given in writing to each purchaser.
- k) Caged Animals that are closely confined or restrained shall be permitted daily, and for an appropriate length of time as determined by their size, age, and species to exercise in an area suitable for that purpose.
- l) No Pet Shop shall cause or allow garbage, waste, debris, offensive material, or Animal feces to gather or collect on the premises in such a manner as to be offensive or injurious to the public health.
- m) Dogs and cats for sale or resale shall be held in quarantine for a minimum of five (5) days from the date the Animals are obtained by the Pet Shop.

3-1302. Facilities.

Pet Shops shall adhere to and be in compliance with the following requirements:

- a) Sufficient heating or cooling to protect the Animals from temperatures they are not accustomed to by taking into consideration their age, size and species.
- b) Adequate ventilation to provide for the health of the Animals and to remove foul odors therefrom.
- c) Supply ample lighting either natural or artificial of good quality and well distributed to provide for such illumination as is necessary to inspect and clean the premises. Such facilities shall be in place as to protect Animals from excessive illumination.
- d) Cleaned regularly and not have offensive odor omitted to be offensive or injurious to public health.

3-1303. Permit and Inspection Requirements.

All Pet Shops are required to obtain a revocable Pet Shop permit from the City, which shall be valid for a period of one year and shall not be transferable. The fee for this permit shall be set by resolution. All facilities may be inspected by the City for compliance with this Ordinance prior to granting the permit and whenever the City has observed or been given reason to believe there has been a violation of this code.

3-1304. Exempt from Certain Regulations.

The holder of a Pet Shop permit from the City shall be exempt from the maximum number of Animals allowed by this Article. Upon the issuance of a City Pet Shop Permit, the Animal Control Officer should establish the maximum number of Animals allowed based upon the size and amenities of the Pet Shop.

3-1305. Revocation of Permit.

Any Pet Shop permit issued by the City shall be subject to revocation upon any violation of this Article.

3-1306. Permit Required.

It shall be unlawful to operate a Pet Shop in violation of this Article.

3-1307. Penalties.

Any Person who shall be convicted of violating any provisions of this Article shall be deemed guilty of a Class "B" violation and shall be punished by a fine as hereinafter provided or by confinement in the county jail for a period not exceeding one hundred eighty (180) days or by

both such fine and confinement. Each day that a violation of this Article occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. The fine prescribed above for the first conviction for a violation of a provision of this Article shall be an amount not less than \$100 nor more than \$200; and for the second conviction for a violation of the same provision shall be an amount not less than \$200 nor more than \$500; and for the third or any subsequent conviction for a violation of the same provision shall be an amount not less than \$500 nor more than \$1,000. For the purposes of this subsection, prior convictions shall include any past conviction of the same offense with a conviction date that is within five (5) years prior to the offense date of the offense prosecuted as a second, third or subsequent offense.

SECTION 14. Repealer. Sections one through thirteen of Ordinance No. 5038-21 are hereby repealed.

SECTION 15. Effective date. This Ordinance shall take effect and be in force from and after summary publication in the official newspaper of the City.

PASSED AND ADOPTED this 13th day of October, 2026.



Rich Stinnett, Mayor

ATTEST:



Denise R. Duerksen, City Clerk