

CHAPTER II. ANIMAL CONTROL AND REGULATION

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ARTICLE 1. GENERAL PROVISIONS

- 2-101. DEFINITIONS. As used in this chapter, unless the context otherwise requires:
- (a) Animal – means every living vertebrate except a human being.
 - (b) Domestic Pet – means any domesticated animal which is kept for pleasure rather than utility.
 - (c) Fowl – means any and all fowl, domesticated and wild, male and female, single and plural.
 - (d) Keeping or Harboring – means any person who shall allow any animal to habitually remain or to lodge or to be fed within his home, store, yard, enclosure or place.
 - (e) Farm Animal – means an animal raised on a farm or ranch and used or intended for use as food or fiber.
 - (f) Retailer – means a person regularly engaged in the business of selling tangible personal property, services or entertainment for use or consumption and not for resale.
 - (g) Wild Animal – means a living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal.
- 2-102. ANIMAL NUISANCES. No animal may be kept in the city under any condition constituting a nuisance. The board of health shall be authorized to abate any animal nuisance as provided by law and ordinances of the city.
- 2-103. TRESPASS ON PRIVATE PROPERTY. It shall be unlawful for any person or persons to picket any stock upon any land or property belonging to another within the city without the consent of the owner thereof or to picket such stock in a manner that the same can go upon the property.
- 2-104. CRUELTY TO ANIMALS. It shall be unlawful for any keeper or harbinger of any animal to:
- (a) Fail to provide such sufficient and wholesome food; potable water; shade and protection from the weather, which shall include a structurally sound, weather-proof enclosure large enough to accommodate the animal; opportunity for exercise; veterinary care when needed to treat injury or illness, unless the animal is instead humanely euthanized; or other care as is needed for the health or well-being of such kind of animal; or

(b) Abandon or leave any animal in any place. For the purpose of this provision, “abandon” means to leave any animal without demonstrated or apparent intent to recover or to resume custody; leave any animal for more than twelve (12) hours without providing for adequate food, potable water and shelter for the duration of the absence; or turn out or release any animal for the purpose of causing it to be impounded; or

(c) Leave any animal unattended in a vehicle, when such vehicle does not have adequate ventilation and temperature to prevent suffering, disability or death to such animal.

2-105. SAME; TREATMENT. Any public health officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly incorporated humane society, animal shelter or other appropriate facility, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals. 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 or licensed veterinarian for treatment, boarding or other care.

2-106. SAME; EXPENSES. Expenses incurred for the care, treatment, boarding of any animal taken into custody, or euthanasia, pending prosecution of the owner or harbinger of such animal for the crime of cruelty to animals shall be assessed to the owner or custodian as a cost of the case if the owner or harbinger is adjudicated guilty of such crime.

2-107. SAME; CUSTODY. If a person is adjudicated guilty of the crime of cruelty to animals, and the court having jurisdiction over the crime is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. The animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

2-108. DISPOSITION OF ANIMALS. An animal shall not be disposed of by an operator of an animal shelter until after expiration of a minimum of three (3) days of custody during which the public has clear access to inspect or recover the animal through time periods ordinarily accepted as usual business hours. Such an animal may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such animal was a gift animal to an animal shelter, or euthanized by a licensed veterinarian if it appears to an officer of such animal shelter or to such veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose.

ARTICLE 2. ANIMALS

- 2-201. **RUNNING AT LARGE PROHIBITED.** It shall be unlawful for the owner, keeper or harbinger of any dog or cat to permit such dog or cat to run at large in the city at any time. Any dog or cat shall be presumed to be running at large, and the owner shall be presumed to have permitted it to be at large, when found off the premises of the owner, keeper or harbinger of such dog or cat. Provided, that it shall be a defense for a person charged under this section that such dog or cat was merely passing along the streets, sidewalks, avenues, or parks of the city, or upon any private property, with the consent of the owner of said property, while such dog or cat was held upon a leash, chain, rope or harness by its master or keeper, or was in the immediate voice control of the owner, keeper or harbinger within a 50 foot radius.
- 2-202. **ENCLOSURES.** It shall be unlawful and made a misdemeanor for any owner, keeper or harbinger of any dog or cat to permit such dog or cat to be tied, kenneled, housed (other than in the domicile of the owner, keeper or harbinger of the dog or cat) or otherwise maintained within six feet of any property line or within six feet of any adjacent residence, whichever is the lesser distance, if at least 20 percent of the yard area is fenced, the dog or cat may be at large within such enclosure; or within six (6) feet of a public sidewalk or the front setback line.
- 2-203. **IMPOUNDMENT.** (a) All dogs or cats found upon the streets, alleys, public grounds, or upon the premises of another person not the owner of the dog or cat shall be seized and impounded by a police officer, animal control officer, or other person appointed for such purpose and held for three business days. The owner, keeper or harbinger of such dog or cat who desires to reclaim the same may do so by paying an impounding fee of \$10.00. In addition, the owner, keeper or harbinger of such dog or cat shall pay a fee of \$40 if such dog and cat is chemically captured. Under extenuating circumstances, and as authorized by the chief of police, a dog or cat may be impounded to a maximum of seven days. In addition to the \$10.00 impoundment fee, a \$2.00 fee per day will be charged for a dog or cat impounded longer than the three business days. The owner, keeper or harbinger of the dog or cat must also purchase a current dog or cat license and provide proof of vaccination, in accordance with sections 2-205 and 2-206, if necessary. The city clerk will thereupon issue an order for the release of the impounded dog or cat. The fee(s) so collected shall be applied to the general fund of the city.
- (b) An impounded dog or cat that is not claimed by the owner, keeper or harbinger of such dog or cat within three business days may be released to a non-owner wishing to adopt the dog or cat with the following conditions:
- (1) No impoundment fee will be collected.
 - (2) The dog or cat must be inoculated with anti-rabies vaccine and a current dog or cat license purchased if the dog or cat is to be kept within the city limits;

(3) Such dog or cat must first be surgically spayed or neutered. The adopting party must sign an agreement to have the dog or cat spayed or neutered and will deposit with the city clerk funds sufficient to insure the dog or cat will be sterilized. Any funds deposited pursuant to such an agreement shall be refunded to the adopting party upon presentation of a written statement signed by a licensed veterinarian that the adopted dog or cat has been spayed or neutered. No person shall spay or neuter any dog or cat unless such person is a licensed veterinarian.

(4) This section shall not be construed to require sterilization of a dog or cat which is being held by the Marysville animal shelter and which is claimed by its rightful owner, keeper or harbinger.

(c) A police officer, animal control officer, or other person appointed for such purpose shall have the authority to impound any animal alleged to be vicious. Such animal shall not be released unless authorized by the municipal court. The municipal court shall require the impounding fee and chemical capture fee to be paid the owner prior to the release of the animal. In addition, the Court may impose such conditions for release as the court may specify. If such conditions cannot be reasonably satisfied, the court may direct that the animal be held until disposition of any related criminal proceeding or investigation.

2-204. DISPOSITION OF DOGS OR CATS. If any dog or cat so impounded is not claimed within the time frame as provided in section 2-203, it shall be the duty of the animal control officer, chief of police, or any person or persons working under the direction of the chief of police to convey the dog or cat to dispose of the same. Euthanasia will be in accordance with K.S.A. 47-1718.

2-205. LICENSE REQUIRED; GENERAL. It shall be unlawful for any person to keep or harbor any dog or cat over six (6) months of age, unless such dog or cat is vaccinated and licensed as provided herein.

The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or government operated or licensed animal shelter.

2-206. SAME; DOGS. Application for a dog license shall be made annually at the city clerk's office between January 1 and March 15. The owner, keeper or harbinger of a dog brought into the city on or after March 16 must file with the city clerk an affidavit showing the date on which such dog was born or brought into the city and must obtain a license for the dog within 45 days from such date.

2-207. SAME; CATS. Application for a cat license shall be made annually at the city clerk's office between January 1 and March 15. The owner, keeper or harbinger of a cat born or brought into the city on or after March 16 must file with the city clerk an affidavit showing the date on which such cat was born or brought into the city and must obtain a license for the cat within 45 days from such date.

2-208. ANTI-RABIES VACCINATION REQUIRED. Any person applying for a license for a dog or cat shall be required to present, at the time of making such

application, a certificate issued by a licensed veterinarian showing that such dog or cat has been vaccinated or inoculated with an approved anti-rabies vaccine and showing the inoculation so administered to such dog or cat will be effective for the entire period of time for which such license is issued.

- 2-209. LICENSE FEE. (a) A fee of \$10.00 shall be imposed for the registration and issuance of each license for a dog or cat issued under the provisions of this section. The license fee shall become delinquent after March 15 and will be subject to a penalty of \$5.00 plus the license fee for each dog or cat. From and after April 1, should the tax remain unpaid, the owner, keeper or harbinger of the dog or cat shall be guilty of a misdemeanor and, upon conviction, shall be fined as provided in section 1-112.
- (b) License fees shall be waived for dogs serving the blind or deaf or government owned dogs used for law enforcement. All other licensing provisions shall apply to such animals.

- 2-210. TAGS. The city clerk shall issue a tag of metal or other durable material, having stamped or engraved thereon the registration number and the year of registration. The license tag issued under the provisions of this section shall be attached to a suitable collar and kept on the dog or cat for which issued at all times. Such tags are not transferable. The city clerk shall keep a record of the person to whom the tag is issued and a description of the dog or cat for which the tag was issued.

- 2-211. NUISANCES. (a) Any person who keeps or harbors any dog or cat shall prevent such dog or cat from being a nuisance. A dog or cat shall be considered a nuisance if it: damages, soils, defiles or defecates on private property other than its keeper's or harbinger's, or on public rights-of-way or recreation areas, unless such waste is immediately removed and properly disposed of by its keeper or harbinger; causes unsanitary, dangerous or offensive conditions; or chases vehicles, or molests, attacks or interferes with persons or domestic animals on property other than property of its harbinger or keeper.
- (b) The keeping or harboring of any animal which by frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner. Any complaint under this sub-paragraph must be signed by at least one landowner or occupant who resides within 300 feet of the property whereon such noisy animal is located.
- (c) There shall be a rebuttable presumption that a nuisance is created if any person keeps or harbors more than three (3) dogs or cats, or any combination of such animals exceeding five (5) in number, over the age of six months, upon any premises within the city of Marysville, unless such premises are licensed as a kennel by the city of Marysville and the State of Kansas.

- 2-212. **POISON FOOD.** It shall be unlawful for any person to willfully and maliciously administer or cause to be administered, poison of any sort whatsoever to any dog or cat, the property of another, with the intent to injure or destroy such dog or cat, or willfully and maliciously place any poison or poisoned food where the same is accessible to any such dog or cat.
- 2-213. **BREAKING POUND.** It shall be unlawful for any person or persons to obstruct, hinder or prevent the impounding of any dog or cat running at large contrary to the provisions of this article; or to break open, destroy or injure the animal shelter door, gate or enclosure thereof; or to take or attempt to take therefrom a dog or cat therein impounded without first paying the fee and costs as provided in this article.
- 2-214. **VISITING DOG OR CATS.** The provisions of this article shall not apply to a dog or cat not kept or harbored within the city limits, nor to a dog or cat belonging to any person or persons, firm or corporation on a sojourn or brought into the city for bench or show purposes or other temporary purposes, provided the dog or cat is not permitted to run at large. However, if a dog or cat belonging to such person remains in the city 45 days or longer, the dog or cat shall be subject to the provisions of this article, including licensing and vaccination.
- 2-215. **VICIOUS ANIMALS.** (a) The owning or keeping of a vicious animal or animals within the city limits is prohibited. For the purpose of this section, “vicious” is defined as an animal which:
- (1) Attacks, injures or bites any person or other domestic animal;
 - (2) Causes any condition which threatens or endangers the health or well-being of persons or other animals.
- (b) Upon submission of a notarized statement and written complaint by a complainant with the Marysville police department, the municipal court shall make a determination at the time of trial as to whether or not an animal is vicious. In making such determination, the municipal court may consider the following:
- (1) The seriousness of any injury or damage to persons or property that may have been inflicted;
 - (2) The past history of the animal with respect to injury or damage to person or property;
 - (3) The potential propensity of the animal to injure or damage person or property;
 - (4) The conditions existing when the animal may have inflicted injury to person or property;
 - (5) Whether or not a person or property has been threatened by the animal;
 - (6) The conditions under which the animal has been kept or maintained.
- (c) If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify under oath to the viciousness of the animal.

(d) If the municipal court determines that an animal is vicious, the court may cause the animal to be picked up and destroyed or order the removal of the animal from the corporate limits of the city.

(e) In lieu of making a finding that the animal is vicious, the court may make a finding that the animal has a propensity to be vicious and, in such case, may allow the owner or keeper of the animal to continue the keeping of the animal under such terms and conditions as the court may specify.

(f) Any person found guilty of violating the provisions of this section shall be punished by a fine not less than \$200.00 nor more than \$1,000.00 or by imprisonment not to exceed six months, or both fine and imprisonment.

2-216.

CONFINEMENT OF RABIES SUSPECTS. (a) Any animal which is suspected of having rabies, or any animal which has bitten a human being and has thereby caused a laceration of the skin of such human being, shall be seized and confined in a veterinary hospital for a period of 10 days; provided however the period of confinement may be shortened at the discretion of the veterinarian in charge of the hospital;

(b) Any animal bitten by a known rabid animal shall be seized and confined in a veterinary hospital, as provided in subpart (a) of this section.

(c) All expenses incurred during the period of confinement in a veterinary hospital for the purposes of this section shall be paid by the owner of the animal. If any animal so impounded cannot be identified as to ownership within the 10-day period, then the veterinarian shall dispose of the animal and the city incur the costs thereof.

(d) In lieu of this, the owner may elect to begin immediately a series of protective treatments for the rabies suspect.

It shall be the duty of such owner to furnish satisfactory evidence of the completion of such treatment to the city health officer. In case such satisfactory evidence is not furnished, the chief of police or licensed veterinarian has the duty to kill the affected animal.

2-217.

SAME; STATE OF EMERGENCY. When there exists sufficient evidence to believe that rabies exists in or near the city, the governing body may, by resolution, require all dog and cat owners within the corporate limits of the city to confine their dogs or cats or securely muzzle dogs with a wire or leather muzzle for such length of time as may be designated in the resolution or until otherwise ordered; and it shall be unlawful for any person to permit a cat or dog to run at large in violation of the terms of the resolution. Such resolution shall not become effective unless and until the same is published one time in the official city newspaper and posted in at least four conspicuous places within 24 hours.

2-218.

KEEPING ANIMALS. It shall be unlawful for the owner, occupant, lessee or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, pigeons, chickens, ducks, geese, or any other undomesticated animals are kept.

This provision shall not apply to:

- (a) The maintaining of horses and cows located on two or more contiguous acres of land;
- (b) The maintaining of dogs which are regulated by Article 2 of this chapter;
- (c) The maintaining of nonpoisonous and non-vicious animals and fowl which are commonly kept as household pets, such as hamsters, rabbits, parakeets and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-220 of this chapter. For purposes of this section and ordinance, pigeons, including racing pigeons, shall not be deemed household pets.
- (d) The transporting of animals through the city by ordinary and customary means.
- (e) The raising of stock and poultry as regulated by zoning regulations in the A-1 Agricultural District.

2-219. ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out or deploy any animal trap above ground which makes use of a spring gun, spring jaw, clamping device, cutting or stabbing mechanism or any other device that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals.

2-220. ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

- (b) Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. All such stored or accumulated waste shall be disposed of at least once each week in adequate fly-tight containers.
- (c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.
- (d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.
- (e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines.
- (f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition

which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

2-221. PROHIBITED ANIMALS. (a) No animal, leashed or unleashed, shall be permitted on the premises of Lakeview Complex and Feldhausen Field during city-sponsored events (b) This section shall not apply to animals under the control and supervision of a law enforcement officer or any service animal being used or trained to serve those citizens with disabilities. (c) Any person convicted of violating this ordinance shall be guilty of an unclassified misdemeanor punishable by a fine or not more than \$500 and/or imprisonment not to exceed 30 days in jail.

2-222. HANDLING OF COMPLAINTS. When a complaint is filed that an offense has been committed in violation of this article, the municipal judge may issue a summons instead of a warrant at the request of the city attorney. If a defendant fails to appear in response to the summons, a warrant shall be issued. The summons shall be served upon a defendant by delivering a copy to him personally or by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the defendant's last known address.

2-223. PENALTIES. Except as otherwise provided in Article 2, Chapter II, Animal Control and Regulation, any person violating or permitting the violation of any provision of this article shall, upon conviction in municipal court, be fined a sum not less than of \$25.00 for the first offense, \$50.00 for the second offense, and \$100.00 for the third offense in any one year period.

ARTICLE 3. PIT BULL DOGS

2-301. ANIMALS; KEEPING PROHIBITED. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the city of Marysville, Kansas:

(a) Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including but not limited to non-human primates, raccoons, skunks, foxes and wild and exotic cats; but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes);

(b) Any animal having poisonous bites;

(c) Any pit bull dog. "Pit bull dog" is defined to mean:

(1) The Staffordshire bull terrier breed of dog;

(2) The American pit bull terrier breed of dog;

(3) The American Staffordshire terrier breed of dog, or

(4) Any dog being of the breed of Staffordshire bull terrier. American pit bull terrier; American Staffordshire terrier, or any combination thereof.

2-302. VIOLATIONS AND PENALTIES. Any person violating or permitting the violation of any provision of this Article shall, upon conviction in municipal court, be fined a sum not less than \$200.00 and not more than \$1,000.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days. In addition, the Court shall order the dog removed from the city. Should the defendant refuse to remove the dog from the city, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this Article continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this Article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this Article.

ARTICLE 4. OTHER ANIMALS

2-401.

EXOTIC ANIMALS. (a) It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.

(b) It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the city any of the following animals:

- (1) All poisonous animals including rear-fang snakes.
- (2) Apes; chimpanzees; gibbons; gorillas; orangutans; and siamangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cheetahs.
- (9) Crocodilians, 30 inches in length or more.
- (10) Constrictor snakes, six feet in length or more.
- (11) Coyotes.
- (12) Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
- (13) Elephants.
- (14) Game cocks and other fighting birds.
- (15) Hippopotami.
- (16) Hyenas.
- (17) Jaguars.
- (18) Leopards.
- (19) Lions.
- (20) Lynxes.
- (21) Monkeys.
- (22) Ostriches.
- (23) Pumas; also known as cougars, mountain lions and panthers.
- (24) Raccoons.
- (25) Rhinoceroses.
- (26) Skunks.
- (27) Tigers.
- (28) Wolves.

(c) The prohibitions of this section shall not apply to bona fide pet shops, zoos, circuses, carnivals, educational institutions, or medical institutions, if:

- (1) Their location conforms to the provisions of the zoning ordinance of the city.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) Animals are maintained in quarters so constructed as to prevent their escape.

(d) The municipal judge shall have the authority to order any exotic animal or any animal deemed vicious confined, destroyed or removed from the city. (Code 2011)