

ORDINANCE NO. 031275

Amending Chapter 14, Code of Ordinances, by repealing Section 14-10, Entry on private property by animal control officers, and enacting in lieu thereof a new section of like number and subject matter.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 14, Code of Ordinances of the City of Kansas City, Missouri, is hereby amended by repealing Section 14-10, Entry on private property by animal control officers, and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

Sec. 14-10. Entry on private property by animal control officers.

(a) In the interest of public health, safety and the general welfare and pursuant to Charter authority at section 1(47) to regulate or prohibit the keeping or running at large of any animal or fowl, any person keeping or harboring any animal or fowl in this city by so doing does thereby authorize the supervisor of animal control, or the supervisor's authorized representative, to enter without warrant upon private property he or she owns or controls where such animal or fowl is to be found, in plain sight, other than within any residence structure, for the purpose of enforcement of this chapter and to seize such animal from such private property to abate ordinance violation.

(b) By the authority of this section, any animal that is deemed by the supervisor of animal control, or the supervisor's authorized representative, to be cruelly mistreated in violation of this chapter, or suffering, may be seized from the property of its owner or keeper to abate the mistreatment or the suffering of that animal, and it may be confined at the municipal animal shelter for disposition under the terms of this chapter.

(c) Any animal that has possibly exposed a person to rabies through a bite wound or other tissue invasion and that is found on the property of the owner or keeper may be removed from that property by the supervisor of animal control, or the supervisor's authorized representative, if such owner or keeper is not available, willing and able to surrender the animal for the observation required by section 14-41 or 14-42.

(d) Any female dog in season and not confined in a building or solid enclosure as required by section 14-32 may be removed from the property of the owner or keeper to abate such nuisance.

(e) Any dog on the property of an owner or keeper that is roaming free or that is not effectively physically restrained shall be deemed to be in violation of section 14-33 and may be removed from that property.

(f) Search warrants.

1. If the supervisor of animal control, or the supervisor's authorized representative, determines that an animal has been reported pursuant to section 14-41 as having exposed a person to the possibility of rabies by a bite wound and such animal is being hidden or concealed in violation of section 14-41 or an animal is being abused or neglected, and the animal is on private property, is not in plain sight and consent has been denied the supervisor or representative to enter the property take custody of the animal for a rabies observation pursuant to section 14-41 or to inspect, care for or impound the abused or neglected animal, then the supervisor or representative, is authorized in the interest of public health to seek a warrant from a judge presiding in the Municipal Division, Kansas City, 16th Judicial Circuit Court of Missouri, to enter upon such private property, including any structure therein, to take custody of the animal for a rabies observation pursuant to section 14-41 or to inspect, care for, or impound neglected or abused animals. For the purposes of this subsection, denial of consent to enter private property shall include the failure to obtain such consent following reasonable attempts.
2. Request for a warrant shall be in writing and shall state that the supervisor, or the supervisor's authorized representative, has probable cause to believe there exists upon private property, as described in the request, a violation or violations of provisions of this chapter by the hiding or concealing of an animal that has been reported pursuant to section 14-41 and that requires a rabies observation pursuant to such section or by the causing of neglect or abuse of an animal, and that such private property is within the territorial jurisdiction of the city. The request shall be verified by oath or affirmation.
3. If the request for a warrant states evidential facts from which the judge can determine the existence of probable cause, then such judge shall issue a search warrant directed to the supervisor of animal control, or the supervisor's authorized representative, to search the private property therein described for the purposes requested. In determining if probable cause exists, the judge shall consider the requestor's account of the violation, including the specifics of any report received pursuant to section 14-41, or what such requestor saw, heard or smelled, and the nature of the alleged violation, including the threat to public health or safety, the cruelty being perpetrated on an animal or the suffering of an animal.
4. The search warrant may be executed and returned only within ten days after the date of its issuance. The execution of the search warrant shall be with the assistance of the police, which is hereby authorized.

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5. Prior to entering upon private property to perform the search, the person executing the search warrant shall knock at the door or entrance where entry is to be made and shall announce that such person is an animal control officer executing a search warrant. If not permitted entry after knocking and announcing the search warrant is being executed, then the person executing such warrant may enter by reasonable force. For the purposes of this section, the term “reasonable force” means only the force necessary to remove a physical obstruction or barrier that is impeding entry onto private property or that is obstructing access to the animal being hidden or concealed in violation of section 14-41 or to the abused or neglected animal on such private property and includes the cutting of a lock, opening of a door or the moving of debris.
6. The person authorized to search shall make a return promptly after concluding the search and such return shall contain an itemization of all violations of this chapter discovered pursuant to such search pertaining to any animal being hidden or concealed in violation of section 14-41 or to any abused or neglected animals.
7. Refusal to allow entry upon presentation of a search warrant shall be an ordinance violation.

Approved as to form and legality:

Alan L. Holtkamp
Assistant City Attorney