

ORDINANCE NO. 060833

Amending Chapter 14, Code of Ordinances, relating to Animal Health and Public Safety by repealing Sections 14-1 and 14-29 relating to animals and enacting in lieu thereof two new sections 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, relating to Animal Health and Public Safety is hereby amended by repealing Sections 14-1 and 14-29 and enacting in lieu thereof two new sections of like number and subject matter to read as follows:

Sec. 14-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate care means normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific species of animal.

Adequate food means wholesome foodstuffs suitable for the species provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health in an animal considering its age and condition.

Adequate health care means the provision to each healthy animal of all immunizations and preventative care required to maintain good health, space adequate to allow the animal rest and exercise sufficient to maintain good health, and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death.

Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, condition and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions. The condition of the shelter should be such as to not exacerbate existing weather conditions, e.g., a metal doghouse in the hot sun.

Adequate water means a continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, condition and age of the animal in sufficient amounts to maintain good health in the animal. Such water will be provided in a secure manner so that the container cannot be overturned.

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

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Animal shelter means the facilities operated by the city or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Commercial animal establishment means any pet shop, grooming shop, boarding kennel, animal exhibit, auction, riding school, stable, carriage horse service, cattery, kennel, sentry or guard dog service, animal trainer, or business keeping animals in stock for retail or wholesale trade, or any establishment performing one or more of the principal activities of such establishments.

Dangerous dog means a dog that:

- (1) Has inflicted severe injury on a human being without provocation on public or private property; or,
- (2) Has killed a domestic animal, or other animal protected under federal, state or local rules without provocation while off the owner, keeper or harboring's property; or,
- (3) Has been previously found to be potentially dangerous, the owner or keeper received notice of such and the dog again aggressively bites, attacks, or endangers the safety of human beings or domestic animals without provocation; or,
- (4) Is a pit bull.

Domestic means any species of animal bred by human beings through several generations to select and successively achieve those qualities of domesticity required for the animals to live and/or work successfully with human beings.

Domestic animal avocation means the care, breeding, showing or sale of dogs or cats by an adult natural person who maintains a hobby-kennel or hobby-cattery containing more than four, but not more than 25, animals over the age of six months on the lot on which he or she is resident or on a contiguous lot, which lot or lots are not zoned for business.

Domestic canines means any breed of canines recognized by an American, Canadian, European or other reputable kennel club, or any mixture of those breeds, exclusive of any portion of wolf, coyote or other wild canid breeding.

Fowl means any and all fowl, domesticated and wild, male and female, single and plural.

Harboring means any person who offers asylum, refuge or sanctuary to any animal on a basis so temporary as to not be deemed to be owning or keeping shall be deemed to be harboring.

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Individual means one adult and competent human.

Large animal means any swine, bovine, goat, sheep or beast of burden, or any other domestic or wild animal of similar or larger size.

License tag means any system of animal identification approved by the commissioner of revenue.

Owning and keeping means any person who feeds or shelters any animal for three or more consecutive days or who professes ownership of such animal shall be deemed to be owning or keeping.

Pit bull means any and all of the following dogs:

- (1) A Staffordshire Bull Terrier breed of dog; and,
- (2) A American Staffordshire Terrier breed of dog; and,
- (3) A American Pit Bull Terrier breed of dog; and,
- (4) Any dog which has the appearance and characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier, or American Staffordshire Terrier.

Potentially dangerous dog means a dog that when unprovoked:

- (1) Inflicts bites on a human being or domestic animal or other animal protected under federal, state or local rules, either on public or private property; or,
- (2) Chases or approaches a person upon a street or a public grounds in a menacing fashion or apparent attitude or attack, a dog with a known propensity, tendency, or disposition to attack without provocation, to cause injury or otherwise threaten the safety of humans, domestic animals, or other animals protected under federal, state or local rules; or,
- (3) An offspring, older than eight weeks, later born to a dog found to be a dangerous dog.

Primary enclosure means any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, run, cage, compartment, pool or hutch.

Proper enclosure to confine the dog means:

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- (1) A securely confined indoor area of the owner's or keeper's premises, or a securely enclosed and locked pen, kennel, or other exterior structure on the premises, suitable to prevent the entry of young children or human extremities and designed to prevent a potentially dangerous or dangerous dog from escaping; and,
- (2) A pen, kennel or other structure having secure sides and a secure top, and providing adequate shelter from the elements for the dog; and,
- (3) If a pen, kennel or structure has no bottom secured to the sides, the sides are embedded not less than two feet into the ground; and,
- (4) Doors, windows or other openings enclosed solely by wire or mesh screening shall not be considered a proper enclosure as defined in this subsection.

Provocation means taunting, teasing, willfully causing undue pain, or unlawfully entering upon or into the property of the owner or keeper.

Public nuisance means:

- (1) Any animal (or group of animals which contains any animal) which:
 - a. Molests any passerby or chases passing vehicles, including bicycles.
 - b. Attacks any other animal.
 - c. Is in heat and not properly confined as provided in section 14-32.
 - d. Is at large in violation of section 14-33.
 - e. Damages public or private property.
 - f. Barks, whines, howls, meows or creates any other disturbance which is continuous or untimely so as to disturb an individual who is a neighbor and who does in writing state that he will so testify if called upon to testify about such matter under oath. For purposes of this subsection, a neighbor is defined as an individual residing in a residence structure which is within 100 yards of the property on which the animal is kept or harbored.
 - g. Is ridden on public property without a permit or which obstructs or interferes with vehicular or pedestrian traffic.
 - h. Causes injury to a person.

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- i. Threatens or causes a condition which endangers public health or safety.
 - j. Impedes refuse collection by ripping any bag or tipping any container of refuse.
- (2) Any animal or fowl which defecates on public or private property other than that of the owner, keeper or harborer.

Qualities of domesticity means characteristics of an animal which indicate that the animal does not possess an inherent, overpowering instinctive, danger to human beings during physical contact.

Sanitary means clean and free from infectious or deleterious influences.

Severe injury means a physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

Small animal means any animal not within the definition of large animal, but including all dogs without reference to size.

Supervisor of animal health and public safety means the supervisor of animal health and public safety and staff assigned to work under the direct control of the supervisor of animal health and public safety, who may act through staff to perform any duty under this chapter unless otherwise specifically stated.

Under control means control by leash so as to thereby be restrained from approaching a bystander or another animal or from causing or being the cause of physical property damage or personal injury, when off the premises of the owner or keeper.

Unfit owner means any person who by past violations and convictions has proven himself or herself unworthy to own, keep or harbor a pet in the city.

Veterinary medical care facility means a facility which has the primary function of providing medical care for animals and is operated by a currently licensed veterinarian.

Vicious animal means an animal other than a dangerous dog or potentially dangerous dog displaying the characteristics or propensity to do an act that might endanger the safety of a person, animal, or property or another, including but not limited to a disposition to mischief or fierceness as might occasionally lead to attack on human beings or other animals without provocation whether in play or outbreak of untrained nature.

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Wild animal means any species or a portion of a species of animal inherently free-roaming not specifically bred by human beings to select and successfully achieve those qualities of domesticity required for the animal to live and/or work successfully with human beings.

Sec. 14-29. Dangerous dogs.

(a) *Registration and licensure of potentially dangerous dogs and dangerous dogs.*

(1) *Registration and licensure required.* Other than when using a dog as a guard dog or when a commissioned officer is using a dog for law enforcement or when a dog is being held in quarantine pursuant to law by a licensed veterinarian, no person shall own, keep, harbor or allow to be upon any premises occupied by him or her or under his or her charge or control a potentially dangerous dog or dangerous dog without first having obtained the following:

- a. *Non pit bull.* For a dog that is not a pit bull, a certificate of registration and a license within 30 days of the date of declaration provided for by this section.
- b. *Pit bull.* For a dog that is a pit bull, a certificate of registration and a license.

(2) *Issuance of certificate of registration.* A certificate of registration for a potentially dangerous dog and a dangerous dog shall be issued by the city upon a showing of compliance with the following:

- a. *Enclosure.* Placement of a proper enclosure on the owner's or keeper's property to confine the dog; and,
- b. *Notice.* A conspicuous notice, which shall be at least two feet by three feet, posted at the place of confinement stating either "Potentially Dangerous Dog" or "Dangerous Dog," in at least two-inch block letters, so as to warn the public of the nature of the dog therein confined; and,
- c. *Insurance.* For a potentially dangerous dog, a surety bond issued by a surety company authorized to do business in the state in a sum of not less than \$100,000.00 payable to a person injured by the dog or a policy of liability insurance issued by an insurer authorized to do business in the state in an amount not less than \$100,000.00 insuring the owner or keeper for personal injuries inflicted by the dog; or, for a dangerous dog, a surety bond issued by a surety company authorized to do business in the state in a sum of not less

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than \$250,000.00 payable to a person injured by the dog or a policy of liability insurance issued by an insurer authorized to do business in the state in an amount not less than \$250,000.00 insuring the owner or keeper for personal injuries inflicted by the dog. An insurance policy issued to satisfy the insurance requirements of this section shall provide for written notice to the city within 30 days of cancellation, reduction of limits, or termination of coverage; and

- d. *Microchip.* That a microchip has been placed into the dog by animal health and public safety for the purpose of registering such dog with animal health and public safety. The microchip shall contain the owner's, keeper's or harborer's animal health and public safety generated and assigned 'dangerous dog registration number' and such other information as required pursuant to the rules and regulations of animal health and public safety. Animal health and public safety shall keep records of the microchip placement and of the registration number.
- (3) *Declaration.* The supervisor of animal health and public safety may declare an animal a potentially dangerous dog or a dangerous dog if the supervisor has probable cause to believe that the animal falls within the definition set forth in this chapter.
- a. *Probable cause to declare.* For the purposes of this section, probable cause includes:
 - 1. A prior court conviction that indicates the dog has acted in a manner causing it to fall within the definition of a potentially dangerous dog or a dangerous dog; or
 - 2. A dog bite report filed with the supervisor of animal health and public safety; or
 - 3. Actions of the dog witnessed by any animal health and public safety officer or law enforcement officer; or
 - 4. A verified report that the animal previously has been found to be either a potentially dangerous dog or a dangerous dog by any animal control authority; or
 - 5. Other substantial evidence admissible in a court of law.
 - b. *Service of declaration.* The declaration shall be in writing, and shall be served on the owner or keeper either by regular United

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States mail to the owner's, keeper's or harborer's last known address or by personal service.

- c. *Contents of declaration.* The declaration shall state at least:
1. A description of the animal; and,
 2. The name and address of the owner, keeper or harborer of the animal, if known; and,
 3. The whereabouts of the animal if it is not in the custody of the owner, keeper or harborer; and,
 4. The facts upon which the declaration is based; and,
 5. The availability of a hearing in case the person objects to the declaration, if a request is made in writing within five days of the date of receipt of the declaration; and,
 6. The restrictions placed on the animal as a result of the declaration; and
 7. The penalties for violation of the restrictions, including the possibility of the destruction of the animal, and imprisonment or fining of the owner, keeper or harborer.
- d. *Appeal of declaration.* The owner, keeper or harborer may, within five days of receipt of the declaration, request a hearing before the director of neighborhood and community services. Following the director's decision pursuant to this subsection, the owner, keeper or harborer shall be considered to have exhausted such owner's, keeper's or harborer's administrative appeal. If the director finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled. If the director finds sufficient evidence to support the declaration then it shall be affirmed.
- e. *Impoundment pending appeal.* Following the service of a declaration of a potentially dangerous or a dangerous dog, and pending appeal pursuant to this subsection, the supervisor of animal health and public safety may, if circumstances require, impound the animal at the owner's, keeper's or harborer's expense, pursuant to the provisions of this chapter, until the director of neighborhood and community services orders either its redemption or destruction.

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- f. *Pit bulls.* The provisions of this subdivision (3) shall not be applicable to pit bulls. Pit bulls are defined as dangerous dogs pursuant to this chapter. The owner, keeper or harbinger of a pit bull is subject to the provisions of this section absent a declaration of the supervisor of animal health and public safety.
- (4) *Licensure.* The owner, keeper or harbinger of a potentially dangerous dog or a dangerous dog shall obtain a license from the supervisor of animal health and public safety for any such dog.
- a. *Licensure fees.* The owner, keeper or harbinger shall pay the fee for such potentially dangerous dog or dangerous dog license in the amount set forth in this subsection. In addition, the owner, keeper or harbinger of such dog shall pay an annual renewal fee for such license in the amount set forth in this subsection. Annual renewal of any license shall be conditioned on compliance with the requirements of this chapter. The supervisor of animal health and public safety is authorized to pro rate the license fee for the remainder of the first year during which an animal becomes subject to the registration requirements of this subsection.
- b. *Licensure information.* The owner, keeper or harbinger of a dog that is subject to a potentially dangerous dog or dangerous dog license shall furnish the following information along with the appropriate license fee:
1. The animal's age, weight, coloring, breed, and any other special identifying characteristics; and
 2. Two 3" × 5" color photographs of the animal; and
 3. Proof of current rabies vaccination for the animal; and
 4. For potentially dangerous dogs, a certification under penalty of perjury that the animal has not been previously found to be a potentially dangerous or dangerous dog; or, for dangerous dogs, a certification under penalty of perjury that the animal has not been removed from another jurisdiction to avoid any penalties arising from the animal's previous status.
 5. For a dog that is a pit bull and that is not owned by a person having a pit bull breeder permit pursuant to subdivision (5) of this subsection, proof that such pit bull has been spayed or neutered.

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- c. *Fee amounts.* The license fee for each potentially dangerous dog to be licensed pursuant to this subsection is \$100.00. The annual renewal fee for each potentially dangerous dog licensed pursuant to this subsection is \$50.00. The license fee for each dangerous dog to be licensed pursuant to this subsection is \$250.00. The annual renewal fee for each dangerous dog licensed pursuant to this subsection is \$50.00.
- (5) *Pit bull breeder permit.* A person may breed pit bulls for retail sale pursuant to the following:
- a. *Permit.* The person shall obtain a pit bull breeder permit from the supervisor of animal health and public safety subject to all the same inspections, requirements and conditions necessary for the issuance of a commercial animal establishment permit. Such permit shall be renewable on an annual basis.
 - b. *Fee.* The fee for a pit bull breeder permit shall be \$500.00.
 - c. *Dual permits not required.* A person who has satisfied the provisions of this subdivision shall not also have to obtain a commercial animal establishment permit for the breeding of pit bulls.
 - d. *Reporting.* The person shall immediately notify the supervisor of animal health and public safety in writing of the transfer in ownership of any pit bull and the name and address of the new owner.

(b) *Violations, impoundment and exemptions for potentially dangerous dogs and dangerous dogs.*

- (1) *Confinement and posting, violation.* An owner, keeper or harbinger of a potentially dangerous dog or a dangerous dog who fails to comply with the requirements of this subsection related to confinement in a proper enclosure or posting of warning notices shall be guilty of a violation of this chapter.
- (2) *Noncompliance violation, potentially dangerous dog.* An owner, keeper or harbinger of a potentially dangerous dog who fails to obtain a license and certificate of registration, or renewal, for such dog as required in this subsection shall be guilty of a violation of this chapter; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner, keeper or harbinger is notified by the supervisor of animal health and public safety that such license or renewal for such

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potentially dangerous dog is required, or until any appeal has been completed, whichever is later.

- (3) *Noncompliance violation, dangerous dog.* An owner, keeper or harbinger of a dangerous dog who fails to obtain a license and certificate of registration, or renewal, for such dog as required in this subsection shall be guilty of a violation of this chapter; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner, keeper or harbinger is notified by the supervisor of animal health and public safety that such license or renewal for such dangerous dog is required, or until any appeal has been completed, whichever is later.
- (4) *Restraint and muzzling, violation.* An owner, keeper or harbinger of a potentially dangerous dog or a dangerous dog shall not allow such animal to be outside the proper enclosure, unless the dog is muzzled and restrained by a substantial chain or leash not longer than 48 inches and under the physical control of a person 18 years of age or older who is capable of restraining such animal. The muzzle shall be made of metal and shall be constructed so that it will not cause injury to the dog or interfere with its vision or respiration. Such muzzle shall be constructed so that it will prevent the dog from biting any person or animal. Such dogs shall not be leashed or otherwise tied tethered to inanimate objects, such as trees, posts, buildings, mail boxes, newspaper vending machines, and the like. Dogs subject to the provisions of this subsection shall wear a bright orange collar not less than two inches in width, at all times.
- (5) *Age, violation.* It is a violation of this chapter for any person under the age of 18 years to own, keep or harbor a potentially dangerous or dangerous dog within the city limits.
- (6) *Number of dogs allowed, violation.* It is a violation of this chapter for any person to own, keep or harbor more than one potentially dangerous dog or dangerous dog within the city limits.
- (7) *Transfer of dogs, violation.* It is a violation of this chapter to transfer ownership or possession of a potentially dangerous dog or dangerous dog within the city limits unless the recipient has complied with the registration and licensing requirements of this subsection for such animal.
- (8) *Unregistered offspring, violation.* It is a violation of this chapter to own, keep or harbor the offspring of a dangerous dog that is not a pit bull within the city limits for more than eight weeks following the birth of such offspring unless the offspring are registered as potentially dangerous dogs pursuant to this subsection. All offspring born of a pit bull shall be removed from the City within eight weeks of the birth of such offspring.

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- (9) *Failure to report injury, violation.* It is a violation of this chapter for the owner, keeper or harbinger of any animal which is subject to the licensing requirements of this subsection to fail to report any bites or injuries suffered by any person or domestic animal as a result of an attack incident or other contact with such animal, regardless of the geographical location where such attack, incident or other contact occurs.
- (10) *Failure to report certain information, violation.* It is a violation of this chapter for an owner, keeper or harbinger of any animal subject to the licensing requirements of this subsection to fail to immediately notify the supervisor of animal health and public safety in writing of the removal from the city or death of any dog registered pursuant to this subsection, or of the birth of offspring of any dangerous dog, or of the new address of the owner, keeper or harbinger of any dog registered pursuant to this subsection if such person moves within the city limits.
- (11) *Compliance, generally, violation.* It is a violation of this chapter to fail to comply with the mandatory or prohibitory provisions of this subsection.
- (12) *Noncompliance, impoundment.* Any potentially dangerous dog or dangerous dog, for which a license and certificate of registration, or renewal, has not been obtained by its owner, keeper or harbinger pursuant to this subsection, is subject to being impounded by the supervisor of animal health and public safety. The owner, keeper or harbinger of any potentially dangerous dog or dangerous dog so impounded shall be subject to any impoundment fees. Any potentially dangerous dog or dangerous dog which is impounded due to the failure of the owner, keeper or harbinger of such dog to obtain the required license or certificate of registration, and which remains impounded for a period of at least five days due to the failure of the owner, keeper or harbinger to obtain such license or certificate of registration, or renewal, may be destroyed in an expeditious and humane manner by the supervisor of animal health and public safety.
- (13) *Impoundment, immediate.*
- a. The supervisor of animal health and public safety may immediately impound a potentially dangerous dog or dangerous dog if:
1. The dog is not validly licensed or registered pursuant to this subsection; or

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2. The owner, keeper or harborer does not secure or maintain the surety bond or liability insurance coverage required pursuant to this subsection; or
 3. The dog is not maintained in a proper enclosure; or
 4. The dog is outside of the dwelling of the owner or keeper, or outside of the proper enclosure, and not muzzled and restrained by a substantial chain or leash and under proper physical restraint by the responsible person; or
 5. The dog is otherwise in violation of the licensure or registration provisions of this subsection.
- b. The owner, keeper or harborer of any dog immediately impounded pursuant to this subsection may redeem such dog from the supervisor of animal health and public safety only upon proof of a valid license and registration pursuant to this subsection and payment of all applicable fees each day such dog has been in the control of the supervisor, provided however, that in the event the owner, keeper or harborer has not redeemed such dog within five days of being notified of the immediate impound, the dog shall be destroyed in an expeditious and humane manner.
- (14) *Impoundment for biting.* If a dog classified as a dangerous dog bites a person or another domestic animal, such dog shall be immediately impounded by the supervisor of animal health and public safety and thereafter destroyed in an expeditious and humane manner. Any such animal which is deemed uncatchable by the supervisor or an animal health and public safety official may be killed by such supervisor or official if no other reasonable means of capture is available or such animal continues to be a threat to persons or domestic animals. Reasonable means of capture may include the use of tranquilizers which, depending upon the animal's age, size, and physical condition, may cause death.
- (15) *Exceptions.* A dog shall not be declared potentially dangerous or dangerous if the threat, injury, or damage otherwise giving rise to action pursuant to this subsection was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner, keeper or harborer of the dog or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.
- (c) *Guard dogs.* Any guard dog (for the purpose of this chapter, defined as a dog not owned by a governmental unit which dog is used to guard private commercial

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property or public property) used in the city by virtue of such use is hereby declared to be subject to the license requirements of this chapter; must be vaccinated against rabies by a licensed veterinarian; must, if brought into the city from outside the state, be accompanied by the official health certificate required by the state, currently set out in 2 CSR 30-2.010(9), which certificate shall be exhibited upon the request of any city animal health and public safety or police officer; must be effectively physically restrained to the premises guarded; must be controllable by its keeper; and must not be used in a manner which, as determined by the supervisor of animal health and public safety, endangers individuals not on the premises guarded. Any person operating a guard dog service in the city shall register such business with the supervisor of animal health and public safety and shall list all premises to be guarded with the supervisor of animal health and public safety before such service begins.

(d) *Biting dogs running at large.* It shall be unlawful for any person owning, keeping or harboring any dog to permit, suffer or allow the dog to run at large, as defined in section 14-33(a), within the city. If the dog causes injury to a human by biting or scratching while running at large, the owner, keeper or harbinger shall upon conviction be punished pursuant to this section and section 14-51(a).

(e) *Destruction of dogs in custody of supervisor of animal health and public safety.* Any dog which is in the custody of the supervisor of animal health and public safety, and which in the judgment of the supervisor of animal health and public safety would constitute a menace to the health, safety or welfare of the public if released from such custody, may be humanely killed by the supervisor of animal health and public safety.

(f) *Penalty; authority to order destruction of dog.* Any violation of this section shall be punishable pursuant to section 14-51(a), except that the minimum fine for violation of any provision of this section shall be \$250.00. Upon conviction of failure to comply with any provision of this section, in addition to the usual judgment on conviction, if it shall appear to the municipal judge that such dog is still living, he may order that such dog be humanely killed, and direct the supervisor of animal health and public safety to enforce that order, and the police department shall assist as may be required by the supervisor of animal health and public safety.

Section 2. This ordinance shall become effective forty-five (45) days after passage.

Approved as to form and legality:

Alan L. Holtkamp
Assistant City Attorney