

ORDINANCE # 625

AN ORDINANCE REGULATING THE KEEPING OF ANIMALS IN THE CITY OF ALTAMONT, KANSAS; PROVIDING FOR THE INOCULATION AGAINST RABIES; PROVIDING FOR PENALTIES FOR VIOLATIONS THEREOF; AND ANY OTHER ORDINANCE IN CONFLICT THEREWITH AND REPEALING ORDINANCE NO. 591: BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ALTAMONT, KANSAS that:

SECTION (1) DEFINITIONS

A. **Animal** shall mean all vertebrate and invertebrate animals such as but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.

B. **At large** shall mean to be outside of a fence or other enclosure which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be "At-large."

C. **Dog** shall mean all members of the species *canis familiaris*, regardless of sex.

D. **Cat** shall mean any member of the species *felis catus*, regardless of sex.

E. **Harborer or Keeper** shall mean any person who allows or permits any animal to remain or to be fed or lodged within or upon the premises of such person.

F. **Own** shall mean and include own, keep, harbor, shelter, manage, possess, or have part interest in any animal.

G. **Owner** shall mean the one who owns, his or her employee, agent, or other competent person into whose charge the owner has placed the animal.

H. **Police Officer** shall mean any officer designated by the governing body of the City of Altamont, to perform or enforce the provisions of this ordinance.

I. **Severe Injury** shall mean any of the following:

1. Any physical harm that carries a risk of death;
2. Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, incapacity;
3. Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;
4. Any physical harm that involves acute pain of a duration that results in suffering or any degree of intractable pain.

I. **Vicious Animal** shall mean any animal which,

1. Kills a human being; or
2. Inflicts severe injury to a human being through a sustained and vicious attack; or
3. Has been trained to fight and possess physical attributes such as size, build, or bite strength to inflict Serious Injury to a human being; for this purpose, the following shall be presumed to have been trained to fight: (i) any Animal involved in a staged fight, (ii) any Animal exhibiting wounds or bodily disfigurements commonly associated with Animal fighting, (iii) any Animal found or kept on premises at which equipment is located that is commonly associated with training Animals to fight, and (iv) any Animal found or kept with other Animals that (a) have been trained to fight or (b) are presumed to have been trained to fight; or
4. Because of its disposition and physical attributes, such as size, build, or bite strength, poses a substantial threat to the life and safety of public safety and emergency response personnel (such as law enforcement officers, fire fighters and paramedics) who are seeking or may seek lawful access to any property in order to perform their duties; or
5. Has the propensity, tendency or disposition to attack a human being without provocation and possesses physical attributes such as size, build, or bite strength to inflict Severe Injury to a human being;
6. Any warm-blooded, carnivorous or omnivorous, wild or exotic animal (including but not limited to nonhuman primates, raccoons, skunks, foxes and wild and exotic cats; but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes);
7. Any animal having poisonous bites;

Exceptions. Provided, however, that no Animal shall be deemed or declared a vicious Animal:

8. Solely because it inflicted Severe Injury on a human being if the human being was, at the time the Severe Injury was sustained, (i) assaulting the Owner or Possessor of the Animal, provided the Owner or Possessor of the Animal was not the aggressor, (ii) committing a willful trespass upon the premises of the Owner or Possessor of the Animal, or (iii) provoking, tormenting abusing, or assaulting the Animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the Animal at other times; or
9. Solely because it inflicted Severe Injury on a human being if the Animal was, at the time the Substantial Injury was sustained, (i) responding to pain or injury, (ii) protecting

itself, its kennel, its offspring, or its Owner or Possessor's property, or (iii) protecting or defending another human being within the immediate vicinity of the Animal from an unjustified attack or assault; or

10. Is Owned or Possessed by a federal, state, or local law enforcement agency.(g) Severe Injury means serious bodily injury, such as muscle tears, broken bones, serious disfigurement requiring corrective or cosmetic surgery, or serious impairment of any bodily function.

J. Dangerous Animal shall mean any animal which,

1. Any animal with a known propensity tendency or disposition to attack, to cause injury, or otherwise threaten the safety of human beings or domestic animals; or
2. Any animal which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places; or on private property; or
3. Any animal which attacks or bites, OR has attacked or bitten a human being or domestic animal; or
4. Any animal which has killed or injured another domestic animal
5. Any animal owned or harbored primarily or in part for the purpose of animal fighting, or any animal trained for fighting. (1) Caused injury, other than killing or serious physical harm, to any person;
6. Been the subject of a second or subsequent violation of the following:
 - a. Without provocation, molests, chases or interferes with persons or vehicles in the public right-of-way by jumping upon, chasing, barking or biting at persons or vehicles;
 - b. Damages public or private property other than that of its owner or harbinger by its activities;
 - c. Scatters refuse that is bagged or otherwise contained;
 - d. Threatens or endangers the health or well-being of persons or other animals, or injures other animals;

SECTION (2) EMERGENCY MEASURES

In the event of rabies or other domestic animal epidemic, this ordinance may be temporarily suspended by order of the Mayor and such emergency measures as are necessary may be substituted by proclamation of the Mayor.

SECTION (3) CAPTURE/DESTRUCTION

When deemed necessary by Law Enforcement Officers or the Animal Control Officer for the health, safety and welfare of the residents, law enforcement, or Animal Control Officers of the City, such officers and/or their agents may:

- A. Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this Chapter as creating a nuisance in the City;
- B. Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the Animal Control Officer, in his or her discretion, to be of a danger to itself or to the public health and safety.
- C. The police, or humane officer of the city may slay, without notice, any animals that are dangerous, vicious, cause destruction to property while at large and unable to be taken up by means of cage trapping and or become a public Nuisance, or suspected of being infected with rabies, or injured with no apparent chance of survival, or in such pain as to warrant humane destruction.

SECTION (4) RIGHT OF ENTRY

The Animal Control Officer or any Law Enforcement Officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this Chapter. The Animal Control Officer or any Law Enforcement Officer shall have the right of entry upon any private unenclosed lots or lands to investigate cruelty to animals.

SECTION (5) LICENSE

It shall be unlawful for any person to own, keep, or harbor any animal over six (6) months of age within the city limits, without registering such animal and paying a yearly license tax thereon. It shall be unlawful for any person to own, keep, or harbor any animal that has been declared vicious. An annual license tax of \$1.00 will be assessed for each animal. Designated officer(s) may conduct an Animal Census whenever deemed necessary in any and all areas of the city as needed to insure that all animals over six (6) months old harbored in the City are vaccinated and licensed. Failure to comply with the requirements of this ordinance, owners who fail to have animals licensed and vaccinated, violate this ordinance. Their animals will be impounded at a local veterinarian facility at the owner's expense. All vaccination and city license requirements

must be met before being allowed back into the City. The above provisions (in section #5) shall not be intended to apply to “seeing eye” dogs or medically certified therapy dogs with proper paperwork. The animal control officer, the code enforcement officer, or any law enforcement officer shall have the right to inspect any premises licensed under this section at any reasonable time and nothing shall prevent the entry onto private property for the purpose of inspection

SECTION (6) VACCINATIONS

Any person making application for a license for an animal shall be required to present to the City Clerk, at the time of making such application a certificate issued by a licensed Doctor of Veterinary Medicine (DVM) showing that such animal has been vaccinated with anti-rabies vaccine. The showing that the vaccination must be current and effective at the time in which the application is made.

SECTION (7) DATE PAYABLE AND REGISTRATION TAGS

The license tax shall become due January 1st and each January 1st thereafter and payable on or before May 10th of each year. A penalty of \$5.00 will be assessed for the failure to register on or before May 10th. The owner or harbinger of any animal over the age of six (6) months in the city shall register such animal with the City Clerk or city official. Registration Tags will be issued by the City Clerk. The owner must keep the tag attached to the collar of the animal to be used on the animal so registered.

SECTION (8) REGULATIONS FOR A VICIOUS ANIMAL

Upon conviction of keeping a vicious animal, the animal shall be kept subject to the following standards:

- A. Vicious Animals are declared to be a public nuisance and are hereby prohibited in the City of Altamont, Kansas.
- B. It shall be unlawful to Own or Possess a Vicious Animal in the City of Altamont, Kansas. An Owner or Possessor of an animal that falls within the definition of “Vicious Animal” shall be strictly liable under this Section and a conviction shall not require proof of any criminal intent, or the Owner or Possessor’s knowledge of any particular propensity, tendency or disposition of the Animal. Each Vicious Animal Owned or Possessed in violation of this Section shall constitute a separate offense.
- C. Ownership or Possession of Animal following Conviction. It shall be unlawful for any person convicted of Owning or Possessing a Vicious Animal to Own or Possess any Animal, whether or not found to be a Vicious Animal, for a period of 3 years following the date of such conviction.
- D. Upon conviction, the Court shall order that the animal be humanely euthanized, and direct the Chief of Police, or his or her designee, to insure that the order is enforced. The Court may enter such an order as part of a criminal proceeding or in a separate civil proceeding brought for such purpose and, in either event, shall impose against the Owner or Possessor of the Vicious Animal the expenses of impounding, keeping, and euthanizing the Vicious Animal. Regardless of whether part of a criminal proceeding or civil proceeding, the standard of proof to determine whether the Animal is a Vicious Animal shall be by a preponderance of the evidence. The Owner or Possessor shall be notified (at the Owner or Possessor’s last known address) at least 5 days in advance of the date and time of any evidentiary hearing pursuant to this Section and may present contrary evidence at such hearing. The failure of the Owner or Possessor to attend or participate in the hearing, however, shall not prevent the Court from making an appropriate determination concerning the Animal.

SECTION (9) REGULATION FOR A DANGEROUS ANIMAL

Upon conviction of keeping a dangerous animal, the animal shall be kept subject to the following standards:

A. Sterilization and Microchipping

The Owner shall pay for a Doctor of Veterinary Medicine to spay or neuter the dangerous animal before it will be released to the owner. The animal shall have a microchip inserted by the Oswego Regional Veterinary Service. The microchip shall detail the dangerous animal registration and such other information as may be appropriate to determine the ownership of the animal. The owner shall pay all costs associated with the microchip procedure and sterilization of the Animal. The owner shall file proof of sterilization and microchipping within 15 days of the conviction.

B. Registration.

The owner or keeper shall annually register the dangerous Animal with the City, on such forms designated by the City Clerk. The owner or keeper shall pay a \$50.00 annual registration fee. The owner or keeper shall be responsible for maintaining with the City Clerk the address of the owner or keeper and the dangerous animal. The owner or keeper

shall notify the City Clerk within seven (7) days of a change in address for the owner or keeper and dangerous animal.

C. Leash and muzzle.

No person shall permit a dangerous animal to go outside its kennel or pen unless such Animal is securely leashed with a leash no longer than four feet in length. No person shall permit a dangerous Animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such animals may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all dangerous animals 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. The muzzle shall be made and used in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

D. Confinement.

All dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine dangerous Animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house dangerous Animals must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

E. Confinement indoors.

No dangerous 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 screen doors are the only obstacle preventing the Animal from exiting the structure.

F. Dangerous animals shall also have "Dangerous Animal" signs posted on the front and rear of the property.

G. No dangerous animal may be maintained within 400 feet of a school, park or public playground.

H. No person under the age of 18 shall own or possess any dangerous animal within the city limits.

SECTION (10) FINES FOR A VICIOUS ANIMAL

Vicious Animal Provisions shall be guilty of a misdemeanor, punishable as follows:

A. First offense, a fine, which shall be set at \$500. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 90 days.

B. Second offense committed within 5 years of a prior offense, a fine, which shall be set at \$1,000. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 6 months.

C. Third offense committed within 5 years of 2 prior offenses, a fine, which shall be set at \$1,000. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall sentence the defendant to confinement in the county jail for a minimum of 30 days and a maximum of 6 months. The defendant shall be required to serve the minimum 30 day jail sentence and the Court shall have no authority to suspend the first 30 days of such sentence. Upon conviction of the third offense, it shall be permanently unlawful for such defendant to own, keep, or harborer any animals in the City of Altamont.

SECTION (11) FINES FOR A DANGEROUS ANIMAL

A fine of \$250 shall be assessed for each conviction of a dangerous animal as defined in Section 1. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof.

SECTION (12) FINES FOR AN ANIMAL AT LARGE

It shall be unlawful for any owner, keeper, or harbinger of any animal to allow that animal to run at large within the city limits. At large means any animal off the premises occupied by the owners household as their abode and when not accompanied by its owner on a leash. Any animal found running at large within the city can be taken up by the designated officer and held at a veterinary shelter until the animal is claimed by owner. All license fees need to be paid, rabies vaccination completed, and any cost incurred to Doctor of Veterinary Medicine (DVM) paid before animal will be released. DVM will hold Animals impounded by officers for a certain

amount of days as determined by DVM. If animal is not claimed, the DVM will become property owner and dispose of animal in a humane manner or adoption.

Any animal found running at large within the City of Altamont, whether captured or not, shall be punishable as follows:

- A. First offense, a fine, which shall be set at \$50.00. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof.
- B. Second offense, a fine, which shall be set at \$75.00. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof.
- C. Third offense and any offense thereafter, a fine, which shall be set at \$100.00. In addition, the animal shall be impounded and all fees and cost must be paid prior to the release of such animal. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof.

Any animal that has been deemed dangerous or vicious and found running at large within the City of Altamont, whether captured or not, shall be punishable as follows:

- A. First offense, a fine, which shall be set at \$250.00. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof.
- B. Second offense, a fine, which shall be set at \$500.00. In addition the animal shall be deemed vicious and follow standards set out in Section 8 of this ordinance. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof.

SECTION (13) NUISANCE ANIMALS

Any person who maintains any animal in any building, enclosure, runway, pen on his or her premises which is not kept clean, sanitary, and free from filth, garbage, and offensive odors at all times, or which is or becomes offensive to those residing in the vicinity, upon written complaint to the City and an investigation completed, the city may deem said person(s) to maintain a nuisance. The keeping of any animal which by loud, frequent, and habitual barking, howling, yelping, meowing, or screeching shall disturb the peace of any neighborhood or area, upon written complaint to the city and an investigation completed, the City may deem said person(s) to maintain a nuisance animal. It shall be the duty of any person(s) found to be in violation of this section to abate said nuisance. If he or she fails to do so after receiving notification from the City, the City may abate the nuisance by taking up, impounding or disposing of said animal(s) at the expense of the owner.

SECTION (14) REMOVAL OF ANIMAL FECES REQUIRED

The owner of any animal, when such animal is off the owner's property, shall be responsible for the removal of any feces deposited by such animal on public walks, streets, recreation areas, or private property. It shall be a violation of this section for such owner to fail to remove or provide for the removal of such feces before taking such animal from the immediate area where such defecation occurred.

SECTION (15) QUARANTINE

It shall be unlawful for any owner, or harbinger of any animal, when notified that such animal has bitten or so injured any person or another animal as to cause an abrasion or breaking of the skin, to allow such animal to be taken beyond the city limits, except to place under the care of a licensed Doctor of Veterinary Medicine (DVM), for a period of not less than 10 days. It shall be the duty of the owner or keeper to immediately place such animal in a quarantine area where no contact with persons or other animals besides the harbinger, as long as current proof of rabies vaccination is provided to the police department. If a quarantine area is not available or current proof of rabies vaccination cannot be provided, the animal shall be placed with a licensed DVM hospital where such animal shall be confined for a period of not less than 10 days, at the owner's expense. The owner shall notify the City of the name and location of the hospital and date of confinement.

SECTION (16) CRUELTY TO ANIMALS

A. It shall be unlawful for any person:

1. to willfully or maliciously kill, maim, disfigure or torture, strike, hit or beat with a stick, board, chain, club or other object; mutilate, burn, or scald with any substance; or drive over any domesticated animal, or cruelly set an animal upon another animal, except that reasonable force may be employed to drive off vicious or trespassing animals; or
2. by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health; or
3. to fail, refuse or neglect to provide any animal in his or her charge or custody as owner or otherwise with proper food, drink, shade, care, or shelter. Any animal kept outside

shall be provided with a structurally sound weatherproof enclosure, large enough to accommodate the animal; or

4. to drive or work any animal cruelly; or

5. to abandon any animal within the City limits. For the purposes of this Section, “abandon” means for the owner or keeper to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than 12 hours without providing adequate food and shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded; or

6. to leave any animal confined in a vehicle for more than five (5) minutes in extreme weather conditions, defined as less than thirty degrees Fahrenheit or more than 80 degrees Fahrenheit; or

7. to transport an animal in the trunk of a vehicle; or

8. to transport any animal in the open bed of a truck unless said animal is restrained in a cage or on a leash that will prevent the animal from jumping or falling off the vehicle; or

9. to cause, instigate, stage, or train any animal to fight or permit any fight between any animal and another animal or human; or

10. except a licensed veterinarian, to crop animal ears or dock animal tails; or

11. to give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

12. Continuously picket an animal for more than one continuous hour, except that picketing of the same Animal may resume after a hiatus of three continuous hours, for up to three hours total time on picket per day; provided that for the purpose of picketing an animal, a chain, leash, rope or tether shall be at least 10 feet in length; or

13. Use a chain, leash, rope, collaring device, tether, or any assembly or attachments thereto to picket a Animal that shall weigh more than 1/8 of the animal’s body weight, or due to weight, inhibit the free movement of the animal within the area picketed; or

14. Picket an animal in such a manner as to cause injury, strangulation, or entanglement of the Animal on fences, trees, or other man made or natural obstacles.

B. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal’s owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.

C. Exceptions: Nothing in subsection A of this Section shall:

1. Be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine, or any action taken by a law enforcement officer pursuant to the interests of public health and safety.

2. Be interpreted as prohibiting any act done in self-defense or done to defend another person.

SECTION (17) PROCEDURES FOR CRUELTY TO ANIMALS; FINES.

A. Any public health officer, law enforcement officer, licensed veterinarian or officer may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined by Section 16; provided that entry upon private property shall only be accomplished with the assistance of a law enforcement officer. Such officer, agent or veterinarian may inspect, care for, or treat such animal or place such animal in the care of a licensed veterinarian for treatment, boarding or other care or, if an officer of the Humane Society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane destruction.

B. The owner or keeper of an animal destroyed shall not be entitled to recover damages for the destruction of such animal unless the owner proves that such destruction was unreasonable and unwarranted.

C. Expenses incurred for the care, treatment or boarding of any animal taken into custody pending prosecution of the owner or keeper of such animal for the crime of cruelty to animals shall be assessed to the owner or keeper as a cost of the case if the owner or keeper is adjudicated guilty of such crime.

D. If a person is adjudicated guilty of the crime of cruelty to animals and the court determines that such animal owned or possessed by such person would be in the future subject to any cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale, adoption or other disposition.

E. Unless the animal obtained pursuant to this Section is the evidentiary subject of a pending prosecution, the owner or keeper of the animal shall have a maximum of twenty (20) days after the animal is taken into custody to obtain the animal from the veterinarian having custody of the

animal. The veterinarian shall notify the owner or keeper of the animal, if known or reasonably ascertainable. The failure of the owner or keeper to obtain custody of the animal in the time provided shall provide the authority for the Municipal Judge to declare that the animal be disposed of by the veterinarian by adoption or destruction.

F. Violation of Section 16 shall be a municipal offense and upon conviction, the defendant shall be fined a minimum fine of \$500.00 and a maximum fine of \$1,000.00 per offense. The Municipal Judge shall not have authority to suspend the minimum fine. In addition to, the Municipal Judge shall have authority to sentence the convicted defendant to a maximum six (6) month sentence in jail.

SECTION (18) FINANCIAL RESPONSIBILITY

In the event any owner, keeper or harbinger or other person found in violation of any section of this ordinance, any financial liability incurred for the care and treatment of such animal shall be the personal financial responsibility of such person.

SECTION (19) COLLECTIONS

All fees for registration and license, and fines collected hereunder, shall be paid into the general fund of the City of Altamont.

SECTION (20) EFFECTIVE DATE OF ORDINANCE

This ordinance shall take effect and be in full force from and after its passage and publication in the official city newspaper.

PASSED AND APPROVED by the Governing Body and signed by the Mayor of the City of Altamont, Kansas on MARCH 25, 2021.

Richard Hayward, Mayor

ATTEST: LeaAnn Myers, City Clerk