

ORDINANCE NO. 1335

AN ORDINANCE AMENDING THE ANIMAL CONTROL ORDINANCES OF BALDWIN CITY, KANSAS.

WHEREAS, the City of Baldwin City, Kansas (hereinafter, "City") desires to amend its animal control ordinances; and

WHEREAS, the City has previously adopted animal control ordinances found at Chapter II of the City Code of Baldwin City should be replaced in its entirety.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BALDWIN CITY, KANSAS:

**SECTION 1.** The animal control ordinances contained in Chapter II of the City Code of Baldwin City shall be revised and replaced with the following:

**ARTICLE 1. GENERAL PROVISIONS**

**2-101. Definitions.**

For the purposes of this chapter, the following words and phrases shall mean:

(a) Abandon means for an owner or keeper to relinquish custody of an animal without the intent to recover or resume such custody. Abandon also includes the leaving of an animal by its owner or keeper for more than twenty-four (24) hours without making effective provisions for its proper care.

(b) Animals means all vertebrate and invertebrate animals such as but not limited to dogs, cats, bovine cattle, horses and other equines, hogs, goats, 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.

(c) Animal Shelter means the facility or facilities operated by the city or its authorized agents or contractors for the purpose of impounding or caring for animals under the authority of this chapter or state law.

(d) At-large means to be: (1) outside of the owner or keeper's property, fence, or other enclosure which restrains the animal to a particular premise, or (2) not under the control, by leash, chain, 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."

(e) Bite means any actual abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal.

(f) Cat means any member of the species felis catus, regardless of sex.

(g) Dog means any member of the species canis familiaris, regardless of sex.

- (h) Fowl means all animals that are included in the zoological class aves.
- (i) Keeper means any person who allows an animal to be kept or lodged at his or her home, store, yard, enclosure, place of business or any other premises where he or she resides or controls.
- (j) Humane Live Animal Trap means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.
- (k) Humanely Euthanize means the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method approved by the American Veterinary Medical Association or the American Humane Society.
- (l) Immediate Control means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.
- (m) Kennel means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, three or more dogs.
- (n) Livestock includes, but is not limited to cattle, horses, goats, sheep or other animals, commonly regarded as farm or ranch animals.
- (o) Neutered means any male or female cat or dog that has been permanently rendered sterile.
- (p) Own means and includes own, harbor, shelter, manage, possess, or have a part interest in any animal, including but not limited to cats, dogs, exotic animals, fowl and livestock. If a minor owns any such animal subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.
- (q) Owner means the one who owns, his or her employee, agent, or other competent person into whose charge the actual owner has placed an animal described in subsection (r) above. A parent or legal guardian shall be deemed the owner of an animal owned or maintained by a minor child upon their premises.
- (r) Vaccination means an injection of a vaccine, approved by the State Board of Public Health and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.
- (s) Veterinarian means a doctor of veterinary medicine licensed by the State of Kansas.

**2-102. Animal control officer; filing a complaint.**

- (a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. The animal control officer may be employed by the city or be contracted with by the city. Any police officer or animal control

officer commissioned by the governing body shall have such powers and authority as allowed by law in the enforcement of this chapter.

(b) Any person having personal knowledge of the violations of any of the provisions of this article may make a verified complaint of the facts showing a violation of this article before the municipal court judge and upon the filing of such a complaint, the municipal court judge may issue proper legal process to enforce the penalties provided herein.

**2-103. Same; live traps, tranquilizer gun, killing authorized.**

(a) When deemed necessary by law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may place a humane trap on the property if the resident requests such a trap for the purpose of capturing any animal defined in this chapter creating a nuisance in the city.

(b) The animal control officer shall be authorized to use a tranquilizer gun in the enforcement of this chapter.

**2-104. Same; right of entry.**

The animal control 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 code.

**2-105. Municipal Animal Shelter established.**

A municipal animal shelter shall be established to carry out the provisions of this chapter. The animal shelter may be operated by a contractor and all services required herein may be provided by a contractor. The animal shelter shall have the following services and facilities as a minimum:

(a) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this chapter.

(b) Group holding facilities for stray, ownerless and unvaccinated animals impounded for violation of the provisions of this chapter.

(c) Individual isolation facilities for sick, biting, rabid and suspected rabid animals.

(d) Facilities for the humane destruction of all unwanted and wanted animals.

**2-106. Breaking Animal Shelter.**

(a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the animal shelter, or to take or let out any animal placed therein, or take or attempt to take from an officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any officer or employee of this city in catching, taking up, or impounding any animal.

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals. Any person violating section (a) or (b) above shall be guilty of a Class C violation.

**2-107. Cruelty to animals.**

(a) It shall be unlawful for any person to:

(1) Willfully, recklessly, or maliciously kill, maim, disfigure, torture; strike or beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

(2) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;

(3) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as provided in section 2-108 of this code.

(4) Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl, under two months of age in any quantity less than 12; or to sell, offer for sale, barter, give away, or display animals or fowls as specified in this section which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color; provided, however, that this section shall not be construed to prohibit the sale of animals or fowls as specified in this subsection, in proper facilities, by hatcheries or persons engaged in raising and selling such animals and fowls for recognized animal husbandry purposes;

(5) Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal;

(6) Neglect or refuse to supply such animal with necessary and adequate care, food, drink, air, light, space, shelter or protection from the elements as necessary for health and well-being of such kind of animal; and

(7) Abandon any animal within the city limits.

(b) These provisions shall not apply to the exceptions sanctioned under section 2-108 of this code.

(c) Any person violating section (a) above shall be subject to the general penalty provided in section 1-116 of this code. In addition to the penalties provided in section 1-116 of this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.

**2-108. Same; exceptions.**

(a) The provisions of section 2-107 shall not apply to:

(1) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of domestic animals, by the owner thereof or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, law enforcement officer, animal control officer, the operator of an animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such society, shelter or pound;

(2) With respect to farm animals, normal or accepted practices of animal husbandry including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(3) The killing by any person of any domestic animal which is found outside on private, owned, or rented property on which the domestic animal is trespassing, and which the animal is found injuring, worrying, or posing an immediate threat to any person, domestic animal, or farm animal;

(4) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, or trained police officer or animal control officer using a electronic control device, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(5) Laying an equine down for medical or identification purposes;

(6) Normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto;

(7) Accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006;

(8) In situations where delay would result in unnecessary and prolonged suffering of an injured or rabid animal, law enforcement officers may utilize alternative means to euthanize such animal;

(9) Bona fide experiments carried on by commonly recognized research facilities;

(10) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated; or

(11) Rodeo practices accepted by the rodeo cowboys' association;

**2-109. Keeping livestock; unlawful acts.**

It shall be unlawful for any person to keep, harbor or maintain any domestic animal or livestock in the city on any lot or tract of ground, or in any enclosure or building, located within 300 feet

of any house or residence of any person other than the owner, harbinger or keeper of such animal. Nothing in this section shall be construed to prevent the transportation of animals into or through the city and the keeping of animals within any stockyards lawfully operating within the corporate limits.

**2-110. Swine; rearing, keeping.**

It shall be unlawful for any person to rear or keep any swine in the city.

**2-111. Animal traps.**

It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices 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.

**2-112. Nuisance; animal activities prohibited.**

(a) It shall be unlawful for the owner or keeper of any animal to fail to take all reasonable measures to keep such animal from becoming a nuisance. For the purpose of this section, "nuisance" is defined as any animal which:

- (1) Molests or interferes with persons in the public right-of-way;
- (2) Has been found guilty of running at-large under Section 2-115 more than three (3) times in one twenty-four (24) month consecutive period.
- (3) Attacks or injures a person, or other domestic animal;
- (4) Damages public or private property by its activities or with its excrement;
- (5) Scatters refuse that is bagged or otherwise contained;
- (6) By loud, 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 loud or noisy animal or animals to abate the nuisance, and if he or she fails to do so, the city may abate the nuisance, by taking up, impounding and/or disposing of the animal at the expense of the owner.
- (7) Causes any condition which threatens or endangers the health, safety, well-being, or peace of mind of persons or other animals.

(b) A violation of this section is a violation of this code.

**2-113. Animal confines.**

(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 pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids.

(c) All animal pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized police officer, or public health official. If the officer or official determines from such inspection that the premises are not being 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.

#### **2-114. Death of animals.**

All dead animals shall be disposed of by their owner or keeper within 24 hours, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property.

#### **2-115. Animals Running at large.**

(a) It shall be unlawful for any person to willfully allow any animal under his or her control to be or to run at large within the city. Any animal or fowl found at large shall be impounded as provided in sections 2-117, 2-118, or 2-205 of this chapter.

(b) Any person violating section (a) above shall be fined as follows: \$30.00 for the first offense in a twelve (12) month period; \$40.00 for the second offense within a twelve (12) month period; \$60.00 for the third offense within a twelve (12) month period; and \$100.00 for the fourth and any subsequent offense(s) within a twelve (12) month period. The fine shall be in addition to any applicable court costs and impoundment fees.

#### **2-116. Habitual Violator; Animals Running at Large.**

(a) It shall be a separate offense for any person to receive four (4) or more citations for violations of Section 2-115 within a twenty-four (24) month consecutive period. Such person shall be cited as an habitual violator.

(b) Any person found guilty of being a habitual violator in violation of section (a) above shall be fined not less than \$100.00 nor more than \$500.00 for each habitual violator conviction.

The Municipal Judge shall have no authority to suspend the minimum fine or any portion of the minimum fine. A person cited for a violation of this section shall be required to appear in person in the Municipal Court.

(c) It shall be a defense to any charged violation of this section if, under any citation issued under Section 2-115, the defendant was adjudged not guilty of the charge or the charge was otherwise dismissed.

**2-117. Same; impoundment.**

The animal control officer or police officer shall impound any animal or fowl found at large in the city or otherwise creating a nuisance in a suitable animal shelter or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible. Any impounded dog or pup which has not been claimed within the three day limit as hereinafter provided may be sold to any person or be given to the Lawrence Humane Society and that person shall be required to have the dog duly registered and inoculated as provided for in this article. The city shall be entitled to receive from such owner the actual cost of feeding and maintaining the animal while impounded. In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the animal shall be considered a stray.

(a) If the dog so impounded has no current registration tag, it shall be kept for three days and if within that same time the owner does not appear to claim such dog, it may be sold, euthanized or otherwise disposed of. If within three days of the impoundment date, the owner, shall appear and claim such dog, the dog shall be turned over to the person claiming it upon payment of an impounding fee of \$25, if picked up within 24 hours, and \$8 for each additional day or portion thereof the dog remains impounded, and upon compliance with the requirements of this article.

(b) If the dog so impounded has a current registration tag attached to it, the owner of such dog, as shown by the records of the city clerk or agent, shall be notified as soon as possible within a three day impoundment period. If at the end of three days, the animal control officer has been unable to locate the owner or the owner refuses to claim or redeem the dog, then the dog may be solid, euthanized, or given to the Lawrence Humane Society.

(c) If the dog so impounded does not have a current registration tag and a rabies vaccination certificate, and the same is reclaimed by the owner, then the city clerk or agent shall give the owner a registration form and a duplicate of which shall be presented to the animal control officer and such owner shall pay all impounding fees and register and have the dog vaccinated. If the owner has not complied within five days, the dog shall be subject to disposal or given to the Lawrence Humane Society.

**2-118. Impoundment of rabies suspects.**

Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in a veterinary hospital or animal care facility for a period directed by Kansas law and any applicable regulations during which time the local health officer shall determine whether or not such animal

is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner.

**2-119. Animals bitten by rabid animals.**

Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

- (a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and
- (b) If the bitten animal has a current vaccination, it shall be confined for 90 days; and
- (c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and
- (d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

**2-120. Vehicular accidents involving animals.**

Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer.

**2-121. Emergency; proclamation.**

The mayor is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to muzzle or confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the duly authorized animal officer of the city. The owner of such animal shall be prosecuted for such violation thereof.

**2-122. Dangerous Animals; Definition.**

- (a) A "Dangerous Animal", as used in this Article, shall mean:

(1) Any animal which attacks or bites any human being or domestic animal or has attacked or bitten a human being or domestic animal;

(2) Any animal with a known propensity, tendency or disposition to attack, cause injury to, or threaten the safety of human beings or domestic animals;

(3) 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

(4) Any animal which because of its size, physical characteristics and vicious propensities is capable of inflicting serious physical injury or death on a human being.

Notwithstanding anything to the contrary herein, no animal shall be deemed "dangerous" if any proscribed conduct listed herein took place at a time when: (1) the person who was the object of such conduct was committing a willful trespass or other tort upon the premises of the owner or keeper of the animal, or (2) the person who was the object of such conduct was at the time provoking, teasing, tormenting, abusing or assaulting the animal, or (3) the person who was the object of such conduct was committing or attempting to commit a crime, or (4) the animal who was the object of such conduct was provoking, tormenting, abusing, or assaulting the animal.

Any dog owned by governmental or law enforcement agencies when used in the service of those agencies, shall be exempt from the requirements of this section.

### **2-123. Dangerous Animal Determination and Disposition.**

(a) In the event that the City Prosecutor has probable cause to believe that an animal is dangerous, as defined by Section 2-122, the City Prosecutor may request a hearing before the Municipal Judge for the purpose of determining whether or not the animal in question should be declared dangerous as defined by Section 2-122. The Municipal Judge may order the animal to be impounded at a licensed veterinary clinic or the Lawrence Humane Society pending the determination of whether the animal is dangerous. The owner or keeper of the animal shall be liable for the costs of impounding and keeping such animal.

(b) If the City Prosecutor has requested a hearing, the Municipal Judge shall promptly set the matter for hearing. The Municipal Court shall then provide a notice of hearing to the owner or keeper of the animal in question specifying the date and time for the hearing. The Municipal Judge may continue the hearing from time to time for good cause shown.

(c) At the hearing, the City shall have the burden of proof to show by clear and convincing evidence that the animal is dangerous pursuant to Section 2-122 and that the animal is being kept or harbored within the city limits. The parties may present relevant evidence at the hearing as to whether the animal is dangerous pursuant to Section 2-122 and as to the appropriate disposition of the animal. The failure of the owner or keeper to attend or participate in the hearing shall not prevent the judge from considering evidence and making a determination concerning the animal.

(d) At the conclusion of the hearing, the Municipal Judge shall determine whether the animal is dangerous pursuant to Section 2-122. If a determination is made that the animal is dangerous, the Municipal Judge shall decide whether: (1) the animal shall be destroyed, (2) the animal shall be removed from the city under appropriate conditions, or (3) the owner or keeper shall be allowed to keep the animal subject to the provisions of Section 2-124. The owner or keeper of the animal shall be notified in writing of the Municipal Judge's determination.

#### **2-124. Control of Dangerous Animal; Registration and Confinement.**

(a) If the Municipal Judge determines that an animal is dangerous pursuant to this Article and allows the owner or keeper to remain in custody of the animal, the owner or keeper of the dangerous animal shall be required to comply with the following:

(1) Insurance. The owner or keeper of the dangerous animal must obtain and maintain public liability insurance in a single incident amount of at least one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping, or maintenance of such animal. Such insurance policy shall provide that no cancellation, termination, expiration or change of the policy will be made unless thirty (30) days' written notice is first given to the city clerk.

(2) Microchip. If available for a given animal, the animal shall have a microchip inserted into it by a veterinarian or the Lawrence Humane Society. 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 or keeper shall pay all costs associated with the microchip procedure for the animal.

(3) Signs. The owner or keeper of the dangerous animal must display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dangerous Animal" or "Beware of Dangerous Dog", if applicable. An identical sign must also be placed in a clearly visible location on the kennel or pen of such animal.

(4) Registration. The owner or keeper must register the dangerous animal with the City, on an annual basis on such forms designated by the City Clerk. In order to register the animal, the owner or keeper must provide the city clerk with proof of insurance required by Section 2-124(a)(1), proof that the animal has received a microchip as required by Section 2-124(a)(2), and proof that the signs required by Section 2-124(a)(3) have been posted. 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 of 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 of the dangerous animal.

(5) Confinement. All dangerous animals shall be kept confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided herein. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides. All structures used to keep 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 (2) feet. The sides of said structure shall be built so that no part of said animal may extend through

to the outside of the structure, and so that no part of the human body may extend through to the inside of the structure. It shall be unlawful for any owner or keeper to allow a dangerous animal to be outside of the dwelling, pen, kennel, or structure unless the dangerous animal is securely muzzled and restrained with a leash not exceeding four (4) feet in length and under the direct control and supervision of the owner or keeper of the dangerous animal. 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.

(6). Reporting. The owner or keeper of a dangerous animal shall immediately notify the police department if the animal is loose, unconfined or missing or has attacked another animal or a human being.

## **2-125. Violation of Requirements for Dangerous Animal.**

(a) It shall be unlawful for any person to violate the provisions of this Article. Any person found guilty of violating the provisions of this Article shall be assessed, fined, and the animal disposed of, as provided below:

(1) Failure to Register. Any dangerous animal that is not registered as required pursuant to this Article shall be impounded by an animal control or a law enforcement officer. In addition to all costs for impoundment, the owner or keeper shall pay a Two Hundred Fifty Dollar (\$250.00) fine. For a second offense within twenty-four (24) months, in which the animal is not registered as required pursuant to this Section, in addition to all costs for impoundment, the owner or keeper shall pay a Five Hundred Dollar (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the animal, and after the expiration of a five (5) day waiting period, exclusive of Sundays and holidays, shall destroy said animal. The judge shall have no authority to suspend the fine, penalty or any portion thereof

(2) At-Large. Any dangerous animal that is at-large in violation of this Article shall be impounded by an animal control officer or a law enforcement officer. In addition to all costs for impoundment, the owner or keeper shall pay a Two Hundred Fifty Dollar (\$250.00) fine. For a second offense within twenty-four (24) months, in which the animal is at-large in violation of this Article, in addition to all costs for impoundment, the owner or keeper shall pay a Five Hundred Dollar (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the animal, and after the expiration of a five (5) day waiting period, exclusive of Sundays and holidays, shall destroy said animal. The judge shall have no authority to suspend the fine, penalty or any portion thereof.

(3) Attack on Human. If any dangerous animal shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, the owner or keeper shall pay a Five Hundred Dollar (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the animal, and after the expiration of a five (5) day waiting period, exclusive of Sundays and holidays, shall destroy the animal. The judge shall have no authority to suspend the fine, penalty or any portion thereof.

(4) Attack on other animal. If any dangerous animal shall kill or wound, or assist in killing or wounding, any animal, the owner or keeper shall pay a Two Hundred Fifty Dollar (\$250.00) fine, and the animal control officer or law enforcement officer is empowered to impound the animal,

and after the expiration of a five (5) day waiting period, exclusive of Sundays and holidays, shall destroy said animal. The judge shall have no authority to suspend the fine, penalty or any portion thereof. If the owner or keeper of an animal impounded pursuant to this Section shall believe that there shall not have been a violation of the provisions of this Section, such owner may petition the Municipal Court, on forms approved by the Municipal Judge, praying that the impounded animal not be destroyed. The impounded animal shall not be destroyed pending the resolution of such owner's petition if the petition shall have been filed within five (5) days of impoundment of such animal and notice shall have been delivered within five (5) days of the impoundment of such animal to the Humane Society. The animal shall remain impounded pending the determination of the petition. If the court shall find that there shall not have been a violation, such animal shall be released to the custody of the owner or keeper upon the payment of the expenses of impoundment by the owner or keeper.

(5) In addition to the fines provided in this Section, the Municipal Judge shall have the authority to sentence the person adjudicated guilty of this Article to serve up to a maximum of six (6) months in jail.

## ARTICLE 2. DOGS

### **2-201. Registration; vaccination; tax.**

(a) Every owner, keeper or harbinger of any dog over three months of age shall register his or her name with the name, sex and description of each dog, provided that all dogs belonging to the same household shall be registered in the name of the head of such household, and provided further, The city clerk or designated agent shall collect an annual license fee of \$5 for each spayed/neutered dog, and \$10 for each non-spayed/neutered dog. Replacement tags shall be issued for ½ price of current tags.

(b) Upon registration, the owner, keeper or harbinger shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document.

(c) The owner, keeper or harbinger of any dog shall, at the time of applying for a license, present to the city clerk a certificate from an accredited veterinarian showing that a male dog has been neutered or a female dog has been spayed, if the dog has been neutered or spayed. Failure to register and inoculate a dog(s) is in violation of this section and a Class C violation.

(d) The license year shall be from January 1st through December 31st of each year. The fee shall be payable before January 31st of each year. The dog owner shall register all dogs owned by him or her at the office of the city clerk or agent by January 31<sup>st</sup> of each year without penalty.

(e) Late registration fees of \$2 shall be collected by the city clerk or agent for each month in which the owner fails, neglects, or refuses to pay the registration fee. Any person acquiring a dog during the license year shall have 30 days to register such dog without penalty; and provided further, that new residents of the city or persons acquiring a dog or owning a dog that attains age of registration after January 1st of any year, shall have 30 days in which to register such dog at

the regular fee and without penalty as set out in this section. If registered after July 1st, then the fee shall be ½ the regular fee as set forth in this section. Failure to register is a Class C violation.

**2-202. Dog tags.**

It shall be the duty of the city clerk or designated agent, upon receipt of the license tax herein before required, to keep in a book suitable for the registration of dogs, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor, and shall deliver to the owner or keeper of the dog a certificate in writing, stating that the person has registered the dog and the number by which the dog is registered, and shall also deliver to the owner or keeper of the dog a tag with the registration number and the licensed year thereon, which shall be by the owner or keeper attached to the collar to be used on the dog so registered. When it shall be made to appear to the city clerk that any tag has become lost, he or she shall, upon presentation of the certificate, issue a duplicate of such tag upon the payment of ½ in which they paid for the current dog tag. It shall be unlawful for any person to counterfeit city dog tags, take off or remove the city license tag from any dog belonging to another, or remove the strap or collar on which the same is fastened. Failure to exhibit a tag on the dog is a Class C violation.

**2-203. Visiting dogs.**

The provisions of this article with respect to registration shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times.

**2-204. Redeeming dog; fees.**

Any person desiring to redeem a dog impounded as provided by this article shall do so upon payment as follows:

(a) The owner or owners of any dog with the required city license is to be fined for the following offenses for permitting his or her dog to run at-large, to wit: First offense - \$20, Second offense - \$20, third and subsequent offenses - \$50, and that the fines are to be based upon a calendar year. The owner or owners of any dogs running at-large that have no city license are to be fined in the following amounts, to-wit: First offense or first time - \$30, second offense - \$30, third offense and subsequent offenses - \$60 per calendar year. The owner or owners shall be responsible for payment of the fines and penalties.

(b) In all cases, any person redeeming an impounded dog shall pay to the city clerk the sum set by the impound facility for each day or any portion thereof that the dog is impounded to defray the cost of maintenance.

(c) Before any dog shall be released from impoundment, it will be necessary that the owner, harbinger or keeper purchase a dog tag, if not previously done, to pay the impounding fee and to furnish a receipt from a veterinarian showing that the dog has been vaccinated for rabies.

(d) Upon the owner, keeper, or harbinger furnishing information as previously mentioned herein and paying the cost of the dog tag, the receipt showing the shots and the impounding

charges, the city clerk shall then issue a release which will be furnished to the person in charge of impounding the dog, authorizing that the dog may then be released. No dog is to be released until a release slip has been obtained from the office of the city clerk authorizing the release of the dog so impounded.

**2-205. Impoundment.**

Any dog found in violation of the provisions of this article shall be subject to impoundment by the city. A record of all dogs impounded shall be kept by the city containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date and place of impoundment, public notice of such posted in the city hall within 24 hours of taking such dog into custody.

- (a) If the dog impounded has a current registration tag attached to its collar, the owner of such dog, as shown by the records of the city clerk shall be notified in writing as soon as possible. If, at the end of five days the city clerk has been unable to locate the owner, or the owner, upon having been located, refuses to claim or redeem said dog, then the dog may be sold, euthanized or given to the Lawrence Humane Society.
- (b) If the dog impounded has no current registration tag, it shall be kept for three full business days. If within that time the owner does not appear to claim the dog it may be sold, euthanized or given to the Lawrence Humane Society.
- (c) If within the impounding period, the owner of an impounded dog does appear and redeem the dog, it shall be turned over to the person claiming it upon payment of the actual costs of impoundment, and upon compliance with the registration provisions of this article.
- (d) Any dog impounded may not be released without a current rabies vaccination.
- (e) Impoundment hereunder shall not preclude any court from imposing and executing any fine which might otherwise be levied under this article for violation of any of the provisions thereof; nor shall impoundment be a defense in any prosecution commenced hereunder.

**2-206. Kennel licenses.**

- (a) No person or household shall own or harbor more than four dogs of six months of age or older or more than one litter of pups, or more than four cats of more than six months of age or more than one litter of kittens, or more than a total of four dogs and four cats more than six months of age or engage in the commercial business of breeding, buying selling, trading, training, or boarding cats or dogs or both cats and dogs, without having obtained a kennel license from the city clerk.
- (b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been by the animal control officer certifying approval of the kennel and compliance with the applicable laws of the city and the State of Kansas, and a certificate by the zoning code enforcement officer has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the city clerk has not received any protest against the kennel, the city clerk may issue a renewal of an existing kennel license at the same

location without any report from the animal control officer and zoning code enforcement officer. If the animal control officer or the zoning code enforcement officer finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the city clerk, and the license shall not be renewed except after a public hearing before the city council.

(c) The animal control officer, the zoning 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. The application for a kennel shall constitute consent to such entry and inspection.

(d) The city council may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following:

(1) The kennel is maintained in violation of any applicable law of the State of Kansas, or of the city.

(2) The kennel is maintained so as to be a public nuisance.

(3) The kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

(e) The annual kennel license fee shall be \$25. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this article.

(f) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital.

#### **2-207. Confinement of dogs in heat.**

Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisances, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. Failure to comply with the order of the animal control officer shall be a violation of this article, and the animal will then be impounded by this chapter. A violation of this section is a Class C misdemeanor.

#### **2-208. Picketing of dogs.**

It is unlawful to attach chains, leashes, ropes, cables, or other tethers, restraints or implements

directly to a dog without the proper use of a collar, harness, or other device designed for that purpose

and made from a material that prevents injury to the animal. No person shall:

- (a) Continuously picket a dog for more than thirty continuous minutes without supervision;
- (b) Picket a dog, with a chain, leash, rope or tether less than ten (10) feet in length; or
- (c) Use a chain, leash, rope, collaring device, tether or any assembly or attachments thereto to picket a dog 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
- (d) Picket a dog in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees or other man-made or natural obstacles; or
- (e) Picket a dog without access to shade when sunlight is likely to cause overheating, or appropriate shelter to provide insulation and protection against cold and dampness when atmospheric temperature falls below 40 degrees Fahrenheit; or
- (f) Picket a dog in a bare area where earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

**2-209. Disposition of unclaimed dogs.**

- (a) If any dog is not redeemed by its owner or harborer within the time allowed for redemption as specified in section 2-204 thereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian, any authorized Lawrence Humane Society personnel, or any other duly authorized animal shelter personnel may destroy such dog or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year.
- (b) No dog may be transferred to the permanent custody of a prospective owner unless:
  - (1) Such dog has been surgically spayed or neutered before the physical transfer of the dog occurs; or
  - (2) the prospective owner signs an agreement to have the dog spayed or neutered and deposits with the city not less than the lowest nor more than the highest cost of spaying or neutering in the community as determined by the city. Any funds deposited pursuant to such an agreement shall be refunded to such person upon presentation of a written statement signed by a licensed veterinarian that the dog has been spayed or neutered. If such person does not reclaim the deposit within six months after receiving custody of the dog, the city shall keep the deposit and may reclaim the unspayed or unneutered dog.
- (c) Nothing in this section shall be construed to require sterilization of a dog which is being held by the city and which may be claimed by its rightful owner within the holding period established in section 2-204.

**2-210. Dogs; threats to public safety.**

Notwithstanding any other provision of this Article to the contrary and irrespective of whether the dog has been declared dangerous pursuant to this Article, the Municipal Judge may order any dog destroyed if the Judge determines that the dog is an immediate threat to public health and safety and that confinement and registration of the dog by the owner or keeper of the dog as provided in this Article will not adequately protect public health and safety. No person shall harbor, own, or possess a dog that is an immediate threat to public health and safety. In making such determination the Judge may consider the severity of any relevant attack and such other relevant information. The Municipal Judge shall have the authority to sentence the person adjudicated guilty of this Section to serve up to a maximum of six (6) months in jail and to pay a fine not exceed \$1,000.00.

**ARTICLE 3. Intentionally left Blank**

**ARTICLE 4.**

**2-401. Enforcement of Douglas County Resolution No. HR-03-7-3 within the corporate limits of the City of Baldwin City.**

Pursuant to K.S.A. 19-101a(a)(5), the City of Baldwin City, Kansas (hereinafter the "City") hereby consents that Resolution No. HR-03-7-3 (relating to the regulation of vicious dogs within Douglas County, Kansas and imposing criminal penalties for the violation thereof) (hereinafter the "Resolution"), as adopted by the Board of County Commissioners of Douglas County, Kansas on July 9, 2003, shall apply within the City limits of the City of Baldwin City.

**2-402. Enforcement by Douglas County sheriff.**

The Sheriff of Douglas County, Kansas and said Sheriff's deputies and other agents are hereby expressly granted permission and jurisdiction to investigate and enforce violations or suspected violations of Douglas County Resolution No. HR-03-7-3 within the City limits of the City of Baldwin City.

**2-403. Joint cooperation.**

It is hereby declared the policy of the City that the City's law enforcement officers, animal control officers, and other agents shall jointly cooperate with the Sheriff of Douglas County, Kansas and said Sheriff's deputies and other agents in sharing intelligence, investigating, and enforcing violations or suspected violations of the Douglas County Resolution No. HR-03-7-3 within the City limits of the City of Baldwin City.

**2-404. Other City of Baldwin City animal control regulations.**

The provisions of Douglas County Resolution No. HR-03-7-3 shall apply within the City of Baldwin City in addition to all other City ordinances or regulations. Nothing in this Article shall,

by implication or otherwise, serve to repeal or invalidate any other animal control regulations otherwise applicable within the City.

## ARTICLE 5.

### **2-501. Exotic animals; keeping prohibited.**

(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) Hippopotami.
- (15) Hyenas.
- (16) Jaguars.
- (17) Leopards.

- (18) Lions.
- (19) Lynxes.
- (20) Monkeys.
- (21) Ostriches.
- (22) Pumas; also known as cougars, mountain lions and panthers.
- (23) Raccoons.
- (24) Rhinoceroses.
- (25) Skunks.
- (26) Tigers.
- (27) 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 animal deemed vicious confined, destroyed or removed from the city.

**2-502. Animals; keeping prohibited.**

It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the city:

- (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.

**2-503. 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 and not more than \$1,000. 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 pit bull 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.

#### **2-504. Bond forfeiture.**

Any bond imposed under this Chapter shall be for a period of one year and shall be held by the city clerk or agent and no interest shall incur to the benefit of any person posting such bond during the period of the bond. Upon the failure of any person to reclaim the cash bond within 60 days following its expiration shall be deemed a forfeiture and the bond shall be paid to the city treasurer and paid to the general operating fund of the city.

#### **2-505. Chickens and Ducks**

##### **Purpose.**

The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Baldwin City, it is necessary to regulate the keeping of chickens and ducks within the City limits.

##### **Definitions.**

The following words, terms and phrases, when used in the Article, shall have the following meanings, except where the context clearly indicates otherwise.

(A) "Fowl" shall mean those domestic bird commonly kept for the production of meat, eggs or feathers. For the purposes of this Article, Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, ostriches and emus.

(B) "Permitted Fowl" shall, for the purpose of this Article, mean ducks and female chickens, excluding Roosters. Roosters will not be allowed within the City limits of the City of Baldwin City.

##### **Keeping of Fowl Prohibited; Exceptions.**

(A) Except as provided in subsection (b), no person shall own, keep or harbor, on a temporary or permanent basis, any Fowl within the City.

(B) A person may own, keep or harbor Permitted Fowl within the City, subject to the following restrictions:

a. The maximum number of Permitted Fowl shall not exceed twenty fowl, regardless of the size of the lot.

### **Coops; Roosts; Laying Boxes.**

(A) In addition to other requirements of this Chapter that specify standards applicable to the keeping of animals, or of the Article relating to the keeping of Permitted Fowl, any person who owns, keeps or harbors Permitted Fowl shall provide a coop or other similar shelter.

a. Any coop or shelter shall be screened or walled in a manner that allows the permitted Fowl to be reasonably protected from predators.

b. Any coop or shelter shall be maintained in a clean and sanitary fashion to prevent the unreasonable accumulation of waste or other noxious substances, the emanation of noxious odors, or the presence of vermin.

### **Unlawful Acts.**

(A) Except as otherwise permitted by this Article, it shall be unlawful to own, keep or harbor Fowl within the City limits.

(B) It shall be unlawful to own, keep or harbor, within the City limits, Permitted Fowl in numbers exceeding those permitted.

(C) It shall be unlawful to violate any of the regulations regarding coops, roosts and laying boxes as established.

## **ARTICLE 6. ANIMALS AT EVENTS**

### **2-601. Animals at events prohibited.**

The presence of animals of any size, whether on a leash or not, shall be prohibited at all special events on public property within the corporate limits of the city.

### **2-602. Special events defined.**

Special events shall be any event where the city or any public or private individual, club or organization has promoted an event that is open to the general public intending to attract, or resulting in attracting, visitors to the city. Specifically, this includes (but is not limited to) the annual Maple Leaf Festival.

### **2-603. Exception for animal participants in events.**

When a special event within the corporate limits of the city is intended to highlight animals as participants in the event, (including, but not limited to, parades, petting zoos, exhibitions, or shows) such animal participants may be permitted to attend the event for the specific period that their attendance at the event is required. At such time when an animal's participation is complete or interrupted for a prolonged period of time, the animal shall be removed from the event.

### **2-604. Exception for service animals.**

Service animals accompanying disabled persons shall be exempt from the provisions of this Article.

**SECTION 2. EFFECTIVE DATE OF ORDINANCE.** This Ordinance shall take effect on its passage and upon its publication as required by law.

Passed by the City Council this 20<sup>th</sup> day of June, 2016.

Marilyn Pearce  
Mayor

ATTEST: Laura E. Hartman  
Laura E. Hartman, City Clerk



(Approved as to Form):

Matthew H. Hoy  
Matthew H. Hoy, City Attorney

