

ORDINANCES OF THE CITY OF SEVERY, KANSAS
ORDINANCE NO. 438

**AN ORDINANCE PROVIDING FOR ANIMAL CONTROL AND REGULATION AND REPEALING
ORDINANCE NO. 368**

Be it ordained by the Governing Body of the City of Severy, Greenwood County, Kansas:

Section 1
DEFINITIONS

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

a. **Abandon** means leaving an animal, by its owner or other person responsible for its care or custody, without making effective provisions for its proper care.

b. **Animal(s)** means all vertebrate and invertebrate animals, including but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other tamed, domesticated, or captivated fowl, wild animals, reptiles, fish, bees, or birds.

c. **Animal Distributor or Animal Distributor Premises** means the person and premises of any person engaged in the business of buying animals for resale, as a principal, agent or person holding himself or herself out as an Animal Distributor, as further limited in K.S.A. 47-1701(z)(aa), 47-1702, *as amended*.

d. **Animal Shelter or Pound** means a facility that houses, contains, impounds, or harbors any seized stray, homeless, relinquished, or abandoned animal, or a person who rescues, collects, and cares for animals or offers them for adoption. These include:

(1) A facility owned, operated, or authorized by the State of Kansas, a county, or the City, for the purpose of impounding or caring for animals, as provided in this Ordinance or the Kansas Pet Animal Act, KSA 47-1701, *et seq.*, *as amended*.

(2) A facility of an individual or an organization, either for profit or nonprofit, maintaining 20 or more dogs, cats, or both for the purpose of collecting, accumulating, amassing, or maintaining animals or offering them for adoption, as further limited by the State of Kansas at KSA 1701(g), 47-1704

e. **At-Large** means to be outside of a fence or other enclosure which restrains animals to a particular premises; or not under control, by leash or lead, of the owner or other authorized person capable of restraining the animal. An animal tethered to a stationary object within contact range of anyone walking on a public thoroughfare also is deemed to be at-large.

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- f. **Attack** means violent or aggressive physical action or contact.
- g. **Domestic Animal or Pet Animal** means one that is sufficiently tame to live with or near an individual owner or family, including a formerly wild animal that has been tamed and trained to live as a companion to human beings. For example, in addition to felines and canines, "miniature pot-belly pigs," ferrets, guinea pigs, parrots, small fish, lizards, and non-poisonous snakes are typically considered Domestic Pets and not subject to the requirements for harboring livestock within the City limits.
- h. **Harbor or Harborage** means any person that allows any animal to habitually remain in or be fed in his or her home, place of business, yard, enclosure, or other premises where he or she resides or controls.
- i. **kennel** means any establishment or location, whether residential, commercial, or otherwise, where more than three pet animals are kept for breeding, rearing, grooming, or boarding, or are otherwise harbored.
- j. **Livestock** means a domesticated animal raised to produce commodities for human use, such as food, fiber, and labor. Livestock are "useful animals" as opposed to being a "domestic animal" or "pet." This group includes but is not limited to cattle, horses, goats, sheep, or other animals commonly regarded or used as farm or ranch animals.
- k. **Own** means owning, keeping, harboring, sheltering, managing, possessing, or having a part interest in an any animal. If a minor owns any animal, a parent or head of the household where such minor is a member is deemed to own the animal for purposes of this Ordinance.
- l. **Owner** means the one who owns an animal, or an employee, agent, or other competent person into whose charge an animal has been placed by the actual owner, as described in Section 1.k. above.
- m. **Veterinarian** means a doctor of veterinary medicine licensed by the State of Kansas.
- n. **Vicious or Dangerous Dog** means any dog which was previously determined by a municipality to be vicious or dangerous; which is uncontrollable by its owner or harborage; which has attacked or bitten a person or domestic animal; which has a propensity to attack a person or domestic animal without provocation; or which attacks when urged by its owner or harborage to attack.

Notwithstanding these definitions, no dog may be declared dangerous if an injury to a person or domestic animal was sustained, but:

- (1) The person was committing a willful trespass or other tort on premises occupied by the owner or harborage of the dog;

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- (2) The person was committing or attempting to commit a crime;
- (3) The person or domestic animal at the time teased, provoked, or injured the dog; or
- (4) The dog was protecting itself, its owner, its offspring, or another human being.

Section 2
KEEPING LIVESTOCK

a. Unless a permit shall have been obtained from the City for harboring livestock within the City limits ("a livestock permit") or an exception is expressly provided for in this Ordinance, it is unlawful for any person to keep or maintain any livestock, as defined herein, within the City limits of Severy, Kansas.

b. Any owner seeking a permit to harbor livestock within the City limits shall make an application in writing through the City Clerk. The application shall set out the name and address of each owner(s) of the real property where livestock is to be harbored, the physical and mailing addresses of the property, and the number and type of each animal proposed to be permitted.

c. A City official must determine that the following requirements have been met for a livestock permit to be issued:

(1) A structure and/or enclosure exists where the animal(s) is to be harbored. If an enclosure, it contains, at a minimum, 20,000 square feet per animal; and it is of sufficient construction strength and quality to restrain the type of animal sought to be harbored.

(2) Every such structure or enclosure shall maintain a water-tight and fly-tight receptacle for manure and/or animal wastes and refuse, of such size as to hold all accumulations. Such receptacle is to be emptied sufficiently often and in such a manner as to prevent it from becoming a nuisance and shall be kept covered except when open for deposit or removal.

(3) All food for animals for which a livestock permit has been issued shall be stored in a sealed container located no closer than forty (40) feet from any neighboring property and kept sealed except for purposes of feeding/filling.

d. A livestock permit may be summarily rescinded and not reissued if the owner or harborer fails to continue to meet the requirements of Section 2.c. above.

e. **Exception One.** Livestock being raised and harbored in connection with a 4-H activity, FFA activity, or any school-related activity shall be exempt from livestock permit requirements in this Ordinance, after the student or member who will control that animal:

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- (1) Personally completes the City's exception application form through the City Clerk, describing the type and number of such animal(s); and
- (2) Provides a building and/or enclosure that meets the requirements of Section 2.c. above; and
- (3) Provides a written "sponsor's statement" from a 4-H, FFA, or school adult supervisor, verifying that the animal is being harbored according to the requirements of the applicable sponsoring organization.

f. **Exception 2.** A pair or small group of domestic fowl (such as chickens and ducks) which are typically kept in one location may be permitted as if they were a single livestock animal.

Section 3
HEALTH AND SAFETY REQUIREMENTS

Any person who maintains any animal in any building, pen, or enclosure on permitted premises which are not kept clean, sanitary, and free from filth, debris, garbage, and offensive odors, or which have become unreasonably offensive to those nearby, shall be deemed to be maintaining a public nuisance. Such a nuisance shall be abated pursuant to the procedures set out in Ordinance 431 of the City of Severy.

Section 4
HARBORING ANIMALS ON PROPERTY WHERE NO PERSON RESIDES

It shall be unlawful for any person to knowingly confine, keep, harbor, or maintain any animal on property that is uninhabited by humans within the City limits, whether because there are no habitable structures on the premises or because habitable structures are uninhabited. This prohibition does not apply to:

- a. Medical institutions;
- b. Educational institutions;
- c. Licensed veterinary clinics or hospitals;
- d. Persons engaged in the buying, selling, training, or boarding of animals, if permitted under this Ordinance or licensed under Kansas law; or
- e. Animals maintained on commercial properties for security purposes.

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Section 5
ANIMAL ACTIVITIES PROHIBITED

It shall be unlawful for any person to willfully allow any animal owned by him or her or under his or her control to run at-large within the City. It shall be unlawful to own or harbor a vicious or dangerous animal in the City or to own or harbor an animal which is a public nuisance.

An animal is a public nuisance if it:

- (1) Molests or interferes with persons in the public streets, alleys, sidewalks, or other public right-of-way; or
- (2) Attacks and/or injures a person; or attacks and/or injures or a domestic animal when the other animal is under control of a person or confined in an enclosure; or
- (3) Damages public or private property other than that of its owner or harborer.

Section 6
ANIMAL CONTROL OFFICER; INSPECTION; IMPOUNDMENT OR CITATION

- a. There is hereby created the position of Animal Control Officer for the City. Such officer shall be charged with enforcement of this Ordinance. Any such officer employed by the City shall have all powers and authority as allowed by law in the enforcement of this Ordinance and shall be subject to supervision and direction of the Mayor.
- b. All premises on which animals are kept shall be subject to inspection by the animal control officer, a duly authorized law enforcement officer, or a public health official. Each such officer or official shall have the right of entry upon any private property to make such inspection during reasonable hours, without notice. It shall be unlawful for any person to interfere with such officer or official in the exercise of his or her duties.
- c. It shall be the duty of the Animal Control Officer to take up and impound all animals found in the city in violation of the provisions of this Ordinance.
- d. As an alternative to the provisions of Section 6.c. above, any law enforcement officer or the Animal Control Officer may issue a citation to the owner, harborer, or keeper of an animal. The person receiving the citation shall abate the violation within ten (10) days of receiving the citation. Otherwise, the person receiving the citation shall be deemed to be maintaining a nuisance and be subject to the procedures set out in Ordinance 431 of the City of Severy.

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Section 7
CAPTURE OR DESTRUCTION

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

- a. Place a humane trap on public property or a requesting resident's property for the purpose of capturing any animal the officer defines as creating a nuisance in the City; or
- b. Use any tranquilizing gun, humane trap, or other suitable device to subdue and capture any animal that is deemed by a law enforcement officer or the Animal Control Officer to be a danger to itself, the Officer, or the public health and safety; or
- c. Use firearms or other suitable weapons to capture or destroy any rabid animal.
- d. Nothing in this Ordinance shall be construed to prevent the Animal Control Officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any vicious or rabid animal, without notice to an owner or harbinger of the animal.

Section 8
KENNELS

a. It shall be unlawful to own or harbor three or more dogs over six (6) months of age, or more than one litter of pups; or more than three cats of more than six (6) months of age or more than one litter of kittens; or more than a total of four dogs and cats more than six months of age in any combination, without obtaining a permit from the City to exceed those numbers. Merely owning or harboring such animals shall not be deemed to be operating a kennel for purposes of this Ordinance.

Engaging in the business, either for profit or nonprofit, of breeding, buying, selling, trading, training or boarding animals shall be unlawful, unless a kennel license shall have been obtained through the City Clerk.

b. No kennel license shall be issued until an applicant has provided proof that he, she, or it has a kennel operating license from the State of Kansas pursuant to KSA 47-1723, and until an inspection certificate has been issued by the Animal Control Officer certifying approval of the kennel and compliance with the applicable City Ordinances and the laws and regulations of the State of Kansas for a kennel.

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c. The Animal Control Officer or any duly authorized law enforcement officer shall have the right to inspect any premises licensed as a kennel under this Ordinance at any reasonable time, and nothing shall prevent the entry onto private property for the purpose of inspection. Application for a kennel license or for renewal of a kennel license shall constitute consent to such entry and inspection.

d. The annual City kennel license fee is \$200.00. Kennel licenses must be renewed annually and will be renewed only after the City Clerk receives an inspection report prepared by the Animal Control Officer and certifying that the kennel remains in compliance with City Ordinances and State laws and regulations.

e. If the Animal Control Officer finds cause for nonrenewal of a kennel license, the license shall not be renewed except after a public hearing before the Governing Body. The Governing Body may suspend or revoke the 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 any Ordinance of the City of Severy; or
- (2) The kennel is maintained so as to be a public nuisance; or
- (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.

Section 9

POUND OR ANIMAL SHELTER; ANIMAL DISTRIBUTOR

It shall be unlawful for any person, partnership, company, corporation, or organization to operate a pound or animal shelter within the corporate limits of the City of Severy, except for the City, its contractors or agents, or a licensed veterinarian who operates such pound or shelter from his or her clinic or hospital, and which veterinarian has obtained a license for such purposes from the Animal Health Commissioner, Kansas Department of Agriculture.

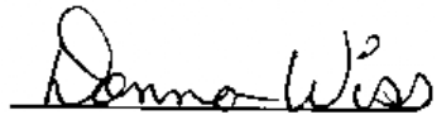
Section 10

This Ordinance shall not be applicable to transporting animals through the City by ordinary and customary means, nor to those persons visiting or traveling through the City by means of animal-drawn vehicles, nor to animals being utilized for parade or other ceremonial purposes on City thoroughfares.

This Ordinance shall be in full force and effect from and after its adoption, approval, summary publication in the official City newspaper, and publication on the City's website. Any prior ordinances or parts of prior ordinances are repealed in whole or in part, to the extent they may conflict with this Ordinance, and Ordinance 368 is hereby repealed in its entirety.

Adopted by the City Council on the 1st day of May 2023.

Approved on May 12, 2023:



Donna Wiss, Mayor

Attest:

