

CHAPTER II. ANIMAL CONTROL AND REGULATION

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ARTICLE 1. GENERAL PROVISIONS

2-101. DEFINITIONS. For the purposes of this chapter, the following words and phrases shall mean:

(a) Abandon includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(b) Animals means 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.

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

(d) At-large means 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.

(e) Bite means any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

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

(g) Commercial Kennel Operation shall mean engaging in the commercial business of breeding, buying, selling, trading, training or boarding dogs.

(h) Commercial Kennel Premises shall mean real estate upon which commercial kennel operations are conducted, whose location has been identified on the operator's most recent license application resulting in issuance of a commercial kennel license under Ordinance No. 482 of the city, or this code.

(i) Dangerous or Vicious Animal means any animal deemed to be dangerous or vicious per section 2-115.

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

(k) Fixed Commercial Kennel shall refer to a commercial kennel operation on commercial kennel premises where no kennel building employed in the commercial kennel operations is moveable and each kennel building is fixed or attached permanently to the real estate, and not removable, as by means of cement, plaster, nails, bolts or screws.

(l) Fowl means all animals that are included in the zoological class aves, which shall include, but not limited to, chickens, ducks, geese, turkeys, guineas and pigeons.

(m) Harbor means any person who shall allow any animals to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure or place of business or any other premises where he or she resides or controls.

(n) 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.

(o) 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.

(p) Immediate Control means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(q) Kennel means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than two dogs.

(r) Licensee shall mean a person holding a valid unrevoked and otherwise current commercial kennel license issued under this chapter.

(s) Livestock includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(t) Moveable Commercial Kennel shall refer to a commercial kennel operation on commercial kennel premises where any kennel building employed in the commercial kennel operations is moveable and is not fixed or attached permanently to the real estate, and not removable, as by means of cement, plaster, nails, bolts or screws.

(u) Neutered means any male or female cat or dog that has been permanently rendered sterile.

(v) License Applicant shall mean a person who has applied for a dog kennel license by filing a valid written license application with the city clerk. (w) Own means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. 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.

(x) Owner means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (q) above.

(y) 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.

(z) Veterinarian means a doctor of veterinary medicine licensed by the State of Kansas.

(Ord. 498, Sec. 1; Code 1993)

2-102.

ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION ALTERNATIVE. (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. Any person employed by the city as an animal control officer and commissioned by the chief of police of the city shall have such powers and authority as allowed by

law in the enforcement of this chapter. All animal control officers shall be subject to the supervision and direction of the chief of police of the city.

(b) Except as provided in subsection (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 chapter.

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within 10 days, appear in the municipal court of the city to answer the charged violation of this chapter.

(Ord. 409, Sec. 4; Code 1993)

2-103. SAME; CAPTURE/DESTRUCTION. 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:

(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) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in section 2-115, or any animal creating a nuisance as defined in section 2-111, where such animal is impossible or impractical to catch, capture or tranquilize.

(Code 1993)

2-104. SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE. (a) 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.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

(Code 1993)

2-105. MUNICIPAL POUND ESTABLISHED. A municipal pound shall be established to carry out the provisions of this chapter. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor. When so contracted, the pound 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 animals.

(Code 1993)

- 2-106. BREAKING POUND. (a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized 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 authorized 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.
 (Code 1993)
- 2-107. RESERVED
- 2-108. RESERVED
- 2-109. KEEPING ANIMALS. It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:
 (a) The maintaining of a stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;
 (b) The maintaining of dogs which are regulated by Article 2 of this chapter;
 (c) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter;
 (d) The transporting of animals through the city by ordinary and customary means.
 (Ord. 407, Sec. 1; Code 1993)
- 2-109A KEEPING HORSES. Notwithstanding any other section of this chapter, it shall be lawful to keep horses within the city limits of the City of Glen Elder. Provided however, that if the keeping of such horses is done in such manner as to constitute a violation of those sections of the Glen Elder Code pertaining to the health and welfare of the community, the owner or keeper of the horses shall, when so notified by the governing body, remove the horses from the city limits.
 (Ord. 591; Code 2014)
- 2-110. 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.
 (Code 1993)

- 2-111. NUISANCE; ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as any animal which:
- (a) Molests or interferes with persons in the public right-of-way;
 - (b) Attacks or injures persons, or other domestic animals;
 - (c) Damages public or private property other than that of its owner or harbinger by its activities or with its excrement;
 - (d) Scatters refuse that is bagged or otherwise contained;
 - (e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.
- If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.
(Code 1993)
- 2-112. NOISY ANIMALS. The keeping, or harboring of any animal which 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 condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.
(Ord. 521, Sec. 1:2; Code 1993)
- 2-113. ANIMAL CONFINES; SHELTERS. (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 animal shelter, 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, and all such stored or accumulated wastes shall be disposed of at least once each week.
 - (c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.
 - (d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.
 - (e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on properties for which an agricultural classification permit is held or where the barbed wire fence or electrically charge fence is protected by an exterior fence.
 - (f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement 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. (Code 1993)

2-113A. SAME; STOCKYARDS; COMMERCIAL HOLDING PENS. Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

(a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.

(b) Grain or protein feed shall be stored in tightly covered rodent- proof metal containers or rodent-proof bins.

(c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601:608 of this code.

(d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.

(e) Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(f) Enclosures including fences where animals such as horses, cows, sheep and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property.

(g) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight- fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(h) Holding lots, pens and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into watercourses and such drainage system shall be subject to the approval of the health officer. The health officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses or sheep.

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer.

(Code 1993)

2-114. DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, 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. (Code 1993)

2-115.

VICIOUS ANIMALS. (a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

(b) Defined: For purposes of this chapter a vicious animal shall include:

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

(2) Any animal which attacks a human being or domestic animal without provocation;

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;

(4) Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

(c) Complaint: Whenever a sworn complaint is filed in the municipal court against the owner of an animal alleging that such animal is vicious and in violation of this section, the municipal judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and thereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one week prior to the hearing. In making a determination, the municipal judge shall consider the following:

(1) The seriousness of the attack or bite;

(2) Past history of attacks or bites;

(3) Likelihood of attacks or bites in the future;

(4) The condition and circumstances under which the animal is kept or confined;

(5) Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

The municipal judge shall order the impoundment, the muzzling in accordance with subsection (d) and/or the confinement of the animal accused of being in violation of this section in a manner and location that will insure that it is no threat to persons or other animals pending the outcome of the hearing. If such impoundment, muzzling or otherwise safe confinement is not possible or if prior court orders to restrain such animal have gone unheeded, the municipal judge may order the animal immediately destroyed.

(d) Vicious Dogs to be Muzzled: It shall be the duty of every owner, keeper or harborer of any dog in the city, which dog is vicious or has been known to bite, chase, or run after any person or animal in the streets, alleys, or any public place in the city, to keep the same muzzled with a good and sufficient wire or leather muzzle, securely fastened so as to wholly prevent such dog from biting any animal or person until such time as a determination has been made by the court as to whether the dog is vicious or not. Any person owning, keeping or harboring any dog within the city limits contrary to this section shall be guilty of a violation of this code.

(e) Immediate Destruction: Nothing in this chapter 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 animal without notice to the owner.

(f) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section. (Ord. 524, Sec. 1:2; Code 1993)

2-116. **RUNNING AT LARGE.** It shall be unlawful for any person to willfully allow any animal or fowl 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 section 2-102 or 2-207 (dogs). (Code 1993)

2-117. **IMPOUNDMENT; FEE; NOTICE; RECORD.** (a) The animal control officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this chapter in a suitable pound 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.

(b) The city shall be entitled to receive from such owner an impoundment fee of \$20 plus the actual cost of feeding and maintaining the animal while impounded.

(c) In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the animal control officer or police officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code.

(d) The animal control officer shall each month submit a report to the mayor showing the number of animals impounded and disposed of, and the fees collected pursuant to this article and shall pay those fees to the city clerk for credit to the general operating fund. (Ord. 534, Sec. 1; Code 2001)

2-118. **REDEMPTION OF IMPOUNDED ANIMALS.** At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-115 (vicious) and 2-119 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment. (Ord. 427, Sec. 1; Code 1993)

2-119. **IMPOUNDMENT OF RABIES SUSPECTS.** (a) 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 the city pound, securely penned and separated from other animals, or in a

veterinary hospital or animal care facility for a period of not more than 30 days 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. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the state board of health.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal. (Code 1993)

2-119A. **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 of not more than 30 days 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. (Code 1993)

2-120. **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. (Code 1993)

- 2-121. 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 or any law enforcement officer.
(Code 1993)
- 2-122. 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 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 animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof. (Code 1993)
- 2-123. KENNELS; PUBLIC POLICY. The city council of the city has considered and deemed it advisable to regulate within the corporate limits of the city, owning or harboring of dogs, and commercial kennel operations and commercial kennel premises in the city in the following particulars:
- (a) By limiting private ownership or harboring of dogs by persons occupying residential premises to allowing a person or household members residing in a residential dwelling unit to own or harbor not more than two dogs of more than six months of age or older; and
 - (b) By restricting commercial kennel operations on commercial kennel premises in the following particulars:
 - (1) By prohibiting establishment or operation of any new commercial kennel operation on any new commercial kennel premises in said city after September 5, 1989.
 - (2) By allowing licensee operating a commercial kennel operation on commercial kennel premises existing on the effective date of this ordinance to continue to operate subject to:
 - (A) Annual relicensing and relicensing standards under this chapter; and
 - (B) Subject to limitations on transferability of any licensee's right to continue any moveable commercial kennel; and
 - (C) Subject to limitations on rebuilding, replacing or repairing damaged or destroyed kennel buildings or structures employed in the commercial building or structure to substantially similar size, nature, features and location on the commercial kennel premises as the original, all as specifically provided in this chapter. (Ord. 498, Sec. 2; Code 2001)
- 2-124. SAME; PROHIBITIONS.
- (a) No person or household within the City of Glen Elder shall own or harbor more than two dogs of six months of age or older.
 - (b) No person shall establish or operate any new commercial kennel operation.
 - (c) Except as otherwise provided herein:

- (1) No person shall continue to operate any fixed commercial kennel.
- (2) No person shall continue to operate any moveable commercial kennel. (Ord. 498, Ord. 601; Code 2014)

2-125. SAME; EXEMPTIONS. Except as otherwise provided herein, after September 5, 1989, the following persons shall be exempt from certain prohibitions set out in section 2-124:

- (a) A licensee shall be exempt from the provisions of sub-section 2-124(c)(1).
- (b) A licensee shall be exempt from the provisions of sub-section 2-124(c)(2), provided, however, that a moveable commercial kennel shall not be relicensed hereunder, and any current valid license shall terminate upon any transfer of possession or title to the commercial kennel premises.
- (c) An Ordinance No. 482 license applicant shall be exempt from the provisions of sub-section 2-124(c)(1) until and if the license is granted.
- (d) An Ordinance No. 482 license applicant shall be exempt from the provisions of sub-section 2-124(c)(2) until and if the license is granted, provided, however, that a moveable commercial kennel, if licensed, shall not be relicensed hereunder, and any current valid license shall terminate, upon any transfer of possession or title to the commercial kennel premises.
(Ord. 498, Sec. 4; Code 2001)

2-126. SAME; APPLICATION FOR A RENEWAL LICENSE. (a) (1) All license applications hereunder shall be applications for renewal of existing licenses, and not applications for new licenses for previously unlicensed commercial kennel premises.

(2) All licenses granted shall be limited to the commercial kennel operation on the commercial kennel premises identified in the application.

(b) All applications for renewal on a license shall be made on or before April 1st of the year and shall be on forms provided by the city. The applicant shall attach to and incorporate into the application a detailed plan or blueprint of the existing kennel buildings and structures and any proposed rebuilding, replacement or repair. The building and site plan shall describe the same in detail and shall provide all pertinent information concerning the type and height of the fence and location of the surrounding structures and information relative to the property lines and the proposed rebuilding, replacement or repair, or existing buildings. A current blueprint or site plan must be kept on file and any modification of the original blueprint or site plans must be approved by the council.

(c) No application for relicensing shall be authorized until the applicant obtained the license or permits, if any, required by the applicable Kansas State law, the Animal Welfare Act, and rules and regulations of the United States Department of Agriculture regarding the operation and licensing of such kennels.
(Ord. 498, Sec. 5; Code 2001)

2-127. SAME; APPROVAL; DENIAL. Upon receipt of the application for a renewal license and the attached site plan, the city council shall have a reasonable time, not to exceed 60 days, to review the application and investigate the circumstances surrounding the same, and the city council may, as hereinafter provided, at its discretion, approve or deny renewal of the applicant's license of a kennel license under this ordinance, the city marshal shall make an inspection of the commercial kennel premises to determine whether or not the kennel has been maintained in

accordance with this chapter. If the application is approved, the renewal license will be granted by the city clerk upon receipt of the renewal license fees.
(Ord. 498, Sec. 6; Code 2001)

2-128. SAME; FACTORS TO BE CONSIDERED. In determining whether a renewal license shall be granted, the city council shall consider the following factors along with any other relevant information pertinent to the commercial kennel operation to insure that the kennel may not be offensive to the health, safety and general welfare of the general public:

(a) The number of dogs on the commercial kennel premises and the breed(s) or type(s) of dogs;

(b) Location of the facilities, buildings, and structures on the commercial kennel premises. In this regard consideration should be given to their distance from existing property, structures and buildings of adjoining land owners.

(c) Suitability of the proposed kennel facilities, buildings, and structures. The city council shall consider the size and type and material used for construction of the kennel, facilities, buildings and structures well as amount and methods used for insulating and soundproofing the same. The building and site plan shall describe in detail the facilities, buildings and structures and shall provide all pertinent information concerning the type and height of the fence and location of the surrounding structures and information relative to the property lines and the proposed repairs, rebuilding or replacement, or existing buildings, and shall identify any change in dog population from the prior year.

(d) Plan for dealing with odor and noise problems.

(e) Plan for providing sewage disposal.

(f) The impact of the commercial kennel operation on the residents of the vicinity.

(g) If the applicant shall, in the discretion of the governing body, be found to be in compliance with all requirements of this chapter, the license shall be granted without the need for public hearing thereon, provided, however, that upon the filing of a written protest by any resident living within 200 feet of the boundaries of the applicant's commercial kennel premises on or before April 15th of the year in which relicensing is sought, stating specific reasons for which relicensing should be denied, aggrieved persons shall be provided an opportunity to be heard in support or opposition to the proposed commercial kennel operation.

(Ord. 498, Sec. 7; Code 2001)

2-129. SAME; TERM OF KENNEL LICENSE. The license must be renewed annually and the term for each license will expire on the 30th day of April of each year unless revoked or otherwise terminated as herein provided.

(Ord. 498, Sec. 8; Code 2001)

2-130. SAME; FEES. (a) The annual fee for the license to operate a commercial kennel operation on specific commercial kennel premises, shall be as follows: \$2.00 per dog with a minimum fee of \$50 (for dogs over six months old).

(b) Provided, however, the maximum number of dogs shall be established at the time of the initial or annual inspection of the city marshal, and shall be stated in writing on the face of the license.

(Ord. 498, Sec. 9; Code 2001)

- 2-131. SAME; REGULATIONS. (a) All commercial kennel premises shall be cleaned and disinfected on a regular schedule and shall be kept in a sanitary condition in compliance with the rules and regulations of the United States Department of Agriculture, the Animal Welfare Act, and the laws of the State of Kansas. The City Marshal shall have the right to inspect the commercial kennel premises at any reasonable time for the purpose of determining whether or not the commercial kennel operation is being operated so as not to be offensive to the health, safety or general welfare of the general public or the residents of the vicinity in which the commercial kennel premises is located. The application for a kennel license renewal shall constitute consent to such entry and inspection.
- (b) If the City Marshal shall at the time of the annual renewal, or upon subsequent inspections, find that the commercial kennel operation does not comply with any of the provisions of this ordinance, or the rules and regulations herein referred to, he may then file a written complaint to the city council specifying the alleged violations and set the same for hearing before the city council. A hearing before the city council may also be held upon the filing of a verified complaint by any aggrieved person specifying alleged violations noted above.
- (Ord. 498, Sec. 10; Code 2001)
- 2-132. SAME; SUSPENSION OR REVOCATION. The governing body may suspend or revoke a kennel license if, after a public hearing, it finds any of the following:
- (a) The commercial kennel operation on commercial kennel premises is maintained in violation of the applicable federal, state or city laws.
- (b) The commercial kennel operation on commercial kennel premises is maintained so as to be a public nuisance.
- (c) The commercial kennel operation on commercial kennel premises is maintained so as to be detrimental to the health, safety or general welfare of persons residing in the immediate vicinity.
- (d) The commercial kennel operation on commercial kennel premises is not repaired, maintained or operated in accordance with the information contained within the application and the current blueprint or site plan on file.
- (e) That the license fees are not paid.
- (f) The city council in lieu of the suspension or revocation of the kennel license (except in case of transfer of possession or title of a moveable commercial kennel after September 5, 1989) may provide the licensee a reasonable opportunity to correct the alleged violations giving rise to the filing of the complaint. Provided further, the license holder shall be provided with written notice at least five days prior to the date and time of the hearing before the governing body.
- (Ord. 498, Sec. 11; Code 2001)
- 2-133. SAME; ADDITIONAL PENALTIES. Any person violating any of the provisions of this ordinance, may upon conviction thereof, be fined in a sum not to exceed \$500 in addition to the revocation, suspension or non-renewal of the license as provided herein.
- (Ord. 498, Sec. 12; Code 2001)
- 2-134. SAME; ALTERNATIVE ENFORCEMENT. As a complete alternative to the enforcement measures, penalties, and regulations provided in this chapter, the city council may, at any time, and in its discretion, enforce the provisions hereof by seeking injunctive or other appropriate relief in the District Court of Mitchell County, Kansas. (Ord. 498, Sec. 13; Code 2001)

ARTICLE 2. DOGS

- 2-201. REGISTRATION AND VACCINATION REQUIRED; FEE. (a) Every owner of any dog over six months of age shall annually register with the city clerk his or her name and address with the name, sex and description of each dog owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or any dog brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog into the city. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog.
- (b) Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document, and it shall be unlawful for the owner of any dog over six months of age to fail to maintain effective rabies immunization of such dog.
- (c) The owner or harbinger of any dog shall, at the time of registering such dog, 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.
- (d) The city clerk shall collect an annual registration fee of \$2.50 for each neutered male dog and for each spayed female dog, and \$7.50 for each unneutered male dog and for each unspayed female dog.
- (e) The registration year shall be from May 1st through April 30th of each year. The fee shall be payable before May 1st of each year without penalty.
- Registration fees as enumerated above may be prorated for newly acquired dogs or for dogs owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of dog or dogs who shall fail to register the same prior to the 1st day of May of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration of \$5. (Ord. 409, Sec. 1; Ord. 534, Sec. 1; Code 2001)
- 2-202. DOG TAGS. It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore 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 registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog so registered. When any tag has become lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of a \$2 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog belonging to another, or remove the strap or collar on which the same is fastened. (Ord. 534, Sec. 1; Code 2001)
- 2-203. SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog a tag issued for any other dog or to make or use any false, forged or counterfeited tag or imitation thereof. (Code 1993)

- 2-204. EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog within two years, when requested by the animal control officer or any law enforcement officer.
(Code 1993)
- 2-205. 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.
(Code 1993)
- 2-206. RUNNING AT LARGE; FINE. (a) It shall be unlawful for the owner or harborer of any dog to permit such dog to run at large within the city at any time;
(b) Any dog running at large within the city shall be impounded as set out in section 2-207;
(c) The owner of any dog impounded for running at large without the tag required by section 2-202 shall, for the first offense, pay a fine of \$25 plus the board bill;
(d) For the first offense of an animal running at large with a tag as required by section 2-202, the owner or harborer claiming any animal, shall, in addition to presenting a registration receipt, pay the cost of the board bill. For a second offense within a one year period, the owner or harborer shall pay a fine of \$50 plus the board bill. For a third and all subsequent offenses within a one year period, the owner or harborer shall pay a fine of \$75 plus the cost of the board bill.
(Ord. 534, Sec. 1; Code 2001)
- 2-207. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.
(a) Any dog found in violation of the provisions of this article shall be subject to impoundment by the city.
(b) 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 of impoundment.
(c) No dog impounded under this section shall be disposed of until after expiration of a minimum of three full business days of custody during which the public has clear access to inspect and recover the dog through time periods ordinarily accepted as usual business hours. During such time of custody, the city shall attempt to notify the owner or custodian of any dog impounded by such facility if the owner or custodian is known or reasonably ascertainable. Such dog may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such dog was a gift to the animal shelter, or euthanized by a licensed veterinarian if it appears to the veterinarian that the dog is diseased or disabled beyond recovery. If within three full business days the owner does not appear to claim the dog, then the dog may be sold, euthanized or otherwise disposed of.
(d) If at any time before the sale or destruction of any dog impounded under the provisions of this article, 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 any impoundment fees or penalties plus the actual costs of impoundment, and shall

not apply to any dog alleged as being vicious under section 2-115 or suspected of rabies under section 2-119A of this code.

(e) The minimum impoundment fee shall be \$20.

(f) Any dog impounded may not be released without a current rabies vaccination.

(g) 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.

(h) The redemption of any dog impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog.

(Ord. 534, Sec. 1; Code 2001)

2-208. 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 2-207 thereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound 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 2-207.

(Code 2001)

2-209. 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.

(Code 1993)

2-210. MUZZLING. Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary.
(Code 1993)

ARTICLE 3. OTHER ANIMALS

2-301.

EXOTIC ANIMALS. (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) Game cocks and other fighting birds.
- (15) Hippopotami.
- (16) Hyenas.
- (17) Jaguars.
- (18) Leopards.
- (19) Lions.
- (20) Lynxes.
- (21) Monkeys.
- (22) Ostriches.
- (23) Pumas; also known as cougars, mountain lions and panthers.
- (24) Raccoons.
- (25) Rhinoceroses.
- (26) Skunks.
- (27) Tigers.
- (28) 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.

(Code 1993)

ARTICLE 4. PIT BULL DOGS

2-401. 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.

(c) Any pit bull dog; provided, that pit bull dogs registered with the city on July 6, 1987, may be kept within the city subject to the standards and requirements set forth in section 2-402.

(d) Pit Bull Dog shall mean:

(1) The bull terrier breed of dog;

(2) Staffordshire bull terrier breed of dog;

(3) The American pit bull terrier breed of dog;

(4) The American Staffordshire terrier breed of dog;

(5) Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers;

(6) Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier or American pit bull terrier, American Staffordshire terrier; any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of those breeds.

(Ord. 472, Sec. 1; Code 2001)

2-402. KEEPING OF REGISTERED PIT BULLS. The provisions of this article are not applicable to owners, keepers or harborers of pit bull dogs registered with the city on the July 6, 1987. The keeping of such dogs, however, shall be subject to the following standards:

(a) Leash and Muzzle. No person shall permit a registered pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog 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 dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dogs from biting persons or other animals.

(b) Confinement. All registered pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs must be locked with a key or combination lock which 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 pit bull dogs 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.

(c) Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building of 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 dog from exiting the structure.

(d) Signs. All owners, keepers or harborers of registered pit bull dogs within the city shall within 10 days of July 6, 1987, display in a prominent place on the premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similarly sign is required to be posted on the kennel or pen of such animal.

(e) Insurance. All owners, keepers or harborers of registered pit bull dogs must within 10 days of July 6, 1987, provide to the city clerk of this city proof of public liability insurance in a single incident of an amount of \$50,000 for bodily injury to or death of any person or persons or for damage to property owned by any person which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless 10 days written notice is first given to the city clerk of this city.

(f) Identification Photographs. All owners, keepers or harborers of registered pit bull dogs must within 10 days of July 6, 1987, provide to the city clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

(g) Reporting Requirements. All owners, keepers, or harborers of registered pit bull dogs must within 10 days of the incident, report the following information in writing to the city clerk of this city as required hereinafter:

- (1) The removal from the city or death of a registered pit bull dog.
- (2) The birth of offspring of a registered pit bull dog;
- (3) The new address of a registered pit bull dog owner should the owner move within the corporate city limits.

(h) Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a pit bull dog registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the city.

(i) Animals Born of Registered Dogs. All offspring born of pit bull dogs registered with the city must be removed from the city within six weeks of the birth of such animal(s).

(j) Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog registered with the city as a pit bull dog or any of those breeds prohibited by section 2-401 is in fact a dog subject to the requirements of this section.

(k) Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog registered with the city to fail to comply with the requirements and conditions set forth in this article. Any dog found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the city.

(Ord. 472, Sec. 2; Code 2001)