

ORDINANCE NO. 87-13

AN ORDINANCE RELATING TO DOGS AND CATS, PROVIDING FOR THEIR REGISTRATION AND FEES, INNOCULATIONS, RUNNING AT LARGE, IMPOUNDMENT AND RELEASE, AND THE CHARGES THEREFOR, ATTACKS BY AND NUISANCE CREATED BY DOGS AND CATS AND CHARGES THEREFOR, AND REPEALING ORDINANCE NO. 84-2 OF THE ORDINANCES OF THE CITY OF GALENA, KANSAS, IN ITS ENTIRETY AND ANY OTHER ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GALENA:

SECTION 1: DEFINITIONS: For the purpose of this ordinance, 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" mean all vertebrate and invertibrate animals such as but not limited to 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 for the purpose of impounding or caring for animals under the authority of 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) "Dangerous or Vicious Animal" means any animal deemed to be dangerous or vicious per section 14.

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

(i) "Fowl" means all animals that are included in the zoological class aves.

(j) "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.

(k) "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.

(l) "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.

- (m) "Immediate Control" means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.
- (n) "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.
- (o) "Livestock" includes, but is not limited to cattle, horses, goats, sheep or other animals, commonly regarded as farm or ranch animals.
- (p) "Neutered" means any male or female cat or dog that has been permanently rendered sterile.
- (q) "Own" means and includes own, keep, 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 ordinance, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this ordinance.
- (r) "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 (q) above.
- (s) "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.
- (t) "Veterinarian" means a doctor of veterinary medicine licensed by the State of Kansas.

SECTION 2: ANIMAL CONTROL OFFICER. There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this ordinance. Any person employed by the city as an animal control officer and commissioned by the chief of police shall have such powers and authority as allowed by law in the enforcement of this ordinance. All animal control officers shall be subject to the supervision and direction of the chief of police of the city.

SECTION 3: TRAPPING OF ANIMALS.

- (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 ordinance creating a nuisance in the city.
- (b) Animal control officers are authorized to use any tranquilizer guns, firearms, humane traps, or other suitable devices to subdue or destroy any animal that is deemed by the animal control officer, in his or her discretion, to be of danger to itself or the public health or safety.
- (c) It shall be unlawful for any person to set or cause to be set within the city, any steel-jaw leg-hold strap, snare, or any trap other than a humane trap, as defined, for the purpose of capturing any animal, whether wild or domestic.

SECTION 4: RIGHT OF ENTRY. The animal control officer or his or her designee 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 ordinance. It shall be unlawful for any person to interfere with such officer in the exercise of this right.

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SECTION 5: MUNICIPAL POUND ESTABLISHED. A municipal pound shall be established to carry out the provisions of this ordinance. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor. 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 ordinance.

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

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

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

SECTION 6: 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 officer of this city any animal taken up by him or her under the provisions of this ordinance, 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.

SECTION 7: ANIMALS AND FOWL RUNNING AT LARGE PROHIBITED. It shall be unlawful for the owner or any person having the care, custody or control of any livestock or fowl to permit the same to run at large upon any public or private grounds in the city other than property in the possession or under the control of the owner or person having the care, custody or control of such animals or fowl or to abandon such animals or fowl.

SECTION 8: CRUELTY TO ANIMALS. It shall be unlawful for any person to:

(a) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, 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;

(b) 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;

(c) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. The municipal court judge may order a person convicted of violation under this subsection to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be destroyed humanely as soon thereafter as is conveniently possible. This section shall not be construed to include veterinary hospitals or animals under active veterinary care;

(d) 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, except pigeons, 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;

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

SECTION 9: NUISANCE: ANIMAL ACTIVITIES PROHIBITED. The owner of any animal shall 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:

- (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 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.

SECTION 10: 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 and declared to be a public nuisance and unlawful under this ordinance. 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.

SECTION 11: 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 daily from any pen or yard area where animals are kept, and if stored on the premises by any animal owner, 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 chief of police. If the chief of police 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.

SECTION 12: DEATH OF ANIMALS. All animals which die shall be disposed of by the owner or keepers 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.

SECTION 13: 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) Vicious Dogs to be Muzzled: It shall be the duty of every owner, keeper or harbinger 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 ordinance.

(c) Immediate Destruction: 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 animal without notice to the owner.

(d) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge in 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 ordinance. When any animal remains unclaimed for 72 hours after its release has been authorized by the municipal judge, the judge may, upon making a finding that such 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.

SECTION 14: 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.

SECTION 15: 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.

- SECTION 16: 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.
- SECTION 17: KEEPING OF DOGS OR CATS. It shall be unlawful for any person to own, keep or harbor in the city, any dog(s) or cat(s), male or female, over three months old unless the same shall have been inoculated for rabies and registered with the city clerk of the city as hereinafter provided as being fully inoculated for rabies.
- SECTION 18: INOCULATION. The owner, keeper or harbinger of any dog(s) or cat(s) shall cause the same to be inoculated against rabies by a licensed veterinarian at the cost and expense of the person or persons having the same done, and shall be furnished with a certificate showing that the dog(s) or cat(s) have been fully inoculated against rabies and containing a fully and accurate description of the dog(s) or cat(s) with the date of inoculation and the name and street number of the residence of the owner thereof and have a metal tag or plate bearing a number corresponding to the certificate of inoculation.
- SECTION 19: REGISTRATION; FEE; TAG. Upon presentation of the aforementioned inoculation certificate, the city clerk shall charge and collect from the person causing each dog or cat to be registered at the time of such registration, the sum of \$1.00 for each dog or cat so registered as herein required, which fee shall include the charge made for the tag to be worn by the dog or cat and furnished to the owner by the clerk at the time of such registration. All sums so collected shall be credited to the general revenue fund of the city to meet the expense of furnishing necessary supplies and the cost and expense of administering this ordinance.
- SECTION 20: ANNUAL INOCULATIONS AND REGISTRATIONS. All inoculations and registrations required herein shall be performed annually and a new certificate and tag shall be obtained for each. The city clerk shall enter in a book provided therefor the number of each certificate and tag number and the description of each dog so registered, with the date thereof, and the name and residence of the person so registering the same, upon being paid the registration fee aforementioned.
- SECTION 21: COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog or cat a tag issued for any other dog or cat, or to make or use any false, forged or counterfeited tag or imitation thereof.
- SECTION 22: RUNNING AT LARGE. It shall be unlawful for any person, firm or corporation to own, harbor or keep any dog(s) or cat(s) on the public streets or alleys of the city or to permit any such animal to, at any time, run at large on or upon any premises other than the premises of the owner, harbinger or keeper of such dog(s) or cat(s). The use of traps or tranquilizers are hereby authorized to be used if stock marshal or police officer is unable to catch and restrain dog(s) or cat(s).
- SECTION 23: IMPOUNDMENT.
- (a) It is hereby made the duty of the stock marshal and each police officer of the city, to take into custody any and all dog(s) and cat(s), found running at large within the corporate limits of the city, and place the dog(s) or cat(s) in the city pound.
- (b) Any dog or cat taken up and impounded under the provisions of this ordinance, may at any time after the taking up on the same, be redeemed by the owner or keeper thereof by the payment of a \$10.00 pickup service charge and by the payment of \$5.00 per day for each day or fraction thereof that the dog or cat has been impounded; provided, that before such redemption of any such dog or cat, the owner or keeper shall produce satisfactory evidence of compliance with the provisions relating to the inoculation of dogs and cats for rabies and the payment of dog or cat registration fee; and, provided further, that in the alternative, the redeemer of any such impounded dog or cat shall, upon the payment of the pickup service

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charge and daily maintenance fee as hereinbefore provided, and upon the posting of a cash bond of \$25.00 have the right to recover the possession of such dog or cat; and upon submitting satisfactory evidence that the owner or keeper redeeming the dog or cat has complied with the provisions relating to the inoculation of dogs and cats for rabies and the payment of dog or cat registration fee, the cash bond shall be returned to the person posting the same; however, in the event the redeemer of any such impounded dog or cat shall fail to submit satisfactory evidence of inoculation and payment of dog or cat registration fee within five days, exclusive of Saturdays, Sundays and legal holidays, of the date such bond was posted, then such bond shall be forfeited and shall become the property of the city, and shall be deposited to the general fund of the city, and the dog or cat disposed of as set forth in subsection (d) below.

(c) All payments of service charges, maintenance fees and bonds shall be made to the city clerk at the city hall in the city.

(d) Impounded dogs or cats not redeemed within three days, exclusive of Saturdays, Sundays and legal holidays, from the date of impoundment, shall be put to sleep by a veterinarian.

SECTION 24: ANIMAL BITE: ATTACK. If any dog or cat shall bite, attack or chase any person in the city, other than upon the premises of the owner or keeper of such dog or cat, it shall be the duty of the person bitten, attacked or chased to make a complaint thereof to the police department, who shall cause the owner of such dog or cat, if such owner can be ascertained, to appear in municipal court. And if, upon the trial of such matter, the court finds such dog or cat to be vicious, the court shall declare the dog or cat a nuisance, and it shall be removed from within the city limits forthwith.

SECTION 25: NUISANCE. Any person who shall be the owner or harbinger of any dog(s) or cat(s) which shall be found to be or create a nuisance or disturb the peace or destroy property of another shall be deemed guilty of a violation of this ordinance and shall be fined in a sum not exceeding \$50.00.

SECTION 26: PENALTY. Any person violating the provisions of this ordinance shall be deemed guilty of a violation of this ordinance and shall, upon conviction, be fined in any sum of not less than \$25.00 or more than \$100.00.

SECTION 27: This ordinance shall take effect and be in full force from and after its passage, approval, and publication in the official city newspaper, the Galena Sentinel-Times.

Passed by the Governing Body this 6th day of October, 1987.

APPROVED BY THE MAYOR:

Thomas Y. Allen
Thomas Y. Allen, Mayor

ATTEST:

Jeanie Holstrom
Jeanie Holstrom, City Clerk

(SEAL)