

ORDINANCE NO. 2018-3144

AN ORDINANCE AMENDING THE ANIMAL CONTROL ORDINANCES OF THE CITY OF CONCORDIA; REPEALING CHAPTER 4 OF THE CONCORDIA CODE IN ITS ENTIRETY, AND AMENDING THE CONCORDIA CODE BY ADDING A NEW CHAPTER 4:

BE IT ORDAINED by the governing body of the City of Concordia, Kansas:

SECTION 1. Chapter 4 of the Code of Ordinances of the City of Concordia is hereby repealed as of the effective date set forth below.

SECTION 2. The Code of Ordinances of the City of Concordia is hereby amended, by adding new Chapter 4, which shall read as follows:

**Chapter 4 Animals**

ARTICLE I. ADMINISTRATION AND ENFORCEMENT.

Sec. 4-101. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal shelter* means any premises designated by the city for the purpose of sheltering and caring for animals found running at large within the city.

*At large* means off the property of the person in possession and not under restraint.

*Competent person* means a person that is capable of controlling and governing the animal in question and to whose command the animal is obedient.

*Dangerous animal* means any animal which does any act which might endanger the safety of persons or property of others in a given situation. If any animal shall chase or attack any person, that fact shall be conclusive evidence of the viciousness of such animal.

*Exposed to rabies* means an animal which has been bitten by or been exposed to any animal known to have been infected with rabies.

*Impound* means to place in an animal shelter.

*Possess* means to own, keep, harbor, have control of, or otherwise be in charge of an animal, either temporarily or permanently.

*Predatory animal* means an animal preying naturally on other animals.

*Restraint* means controlled by a leash while accompanied by a competent person and under that person's control, or within a vehicle being driven or parked on the streets.

*Spayed female* means any female animal which has been operated upon to prevent conception.

Sec. 4-102. Interference with city shelter or with officers enforcing chapter.

It shall be unlawful for any person to break open, aid or assist, counsel, or advise the breaking open of any animal shelter maintained by the city, or to take or let out, or attempt to take or let out, any animal legally placed therein, or to take or attempt to take from any officer any animal taken up by the officer in compliance with this chapter or in any manner to interfere with or hinder such officer in the discharge of duties under this chapter.

Sec. 4-103. Injury to domestic animal.

Injury to a domestic animal constituting a misdemeanor is wilfully and maliciously:

- (a) Administering any poison to any domestic animal.

- (b) Exposing any poisonous substance with the intent that the same shall be taken or swallowed by any domestic animal; except that this subsection shall not apply to the exposing of poison upon any premises by the possessor or occupant thereof for the purpose of destroying predatory animals.
- (c) Killing, maiming, or wounding any domestic animal of another without the consent of the person in possession of the animal; except that any person may take any action reasonably necessary to protect themselves or any other person from injury by any animal or to protect any property from damage by any animal.

Sec. 4-104. Cruel or inhumane treatment.

It shall be unlawful to possess any animal in a cruel or inhumane manner.

Sec. 4-105. Cockfighting.

It shall be unlawful for any person to conduct or be a spectator at any cockfight.

Sec. 4-106. Killing, injuring, or annoying squirrels or birds.

It shall be unlawful for any person to kill or in any manner maim, injure, attempt to injure, or catch, throw missiles at or annoy in any way any squirrel or bird in a public park, street or alley.

Sec. 4-107. Disposition of animal carcasses.

- (a) Whenever any animal shall die upon any of the occupied or unoccupied lots, blocks, or tracts of ground within this city, it shall be the duty of the possessor of any such animal, or the occupant of any such ground, to cause the carcass to be removed from the premises and beyond the city limits, or properly buried on private property, within 24 hours after the death of such animal, and it shall be unlawful not to do so.
- (b) Whenever any dead animal shall be found upon the streets, avenues, lanes, parks or alleys of the city, it shall be the duty of the police department to notify the possessor or former possessor of such animal, if such person known, to cause the carcass to be removed outside the city limits, or properly buried on private property, and the possessor or former possessor of such animal shall remove the same within one hour after such notice, and it shall be unlawful not to do so.

Sec. 4-108. Investigation and impoundment.

The animal control officer or a law enforcement officer may enter onto public or private property to investigate any matter concerning any animal that is or may be kept in a cruel or inhumane manner; that is or may be an annoyance to the public and injurious to the health, well-being and welfare of the inhabitants of the city, or may have an adverse impact on properties in the area or constitute a blight to adjoining property, the neighborhood, or the city, such as to constitute a nuisance; or that is or may be a vicious, dangerous, or potentially dangerous animal as defined in this Chapter. The animal control officer may impound any animal that is the subject of any such investigation. In the event that proceedings pursuant to this chapter are brought concerning any such animal, the animal may be impounded until such times as the proceedings are resolved.

Sec. 4-109. Animal control officer to maintain records.

- (a) It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of the impoundment and disposition of all animals coming into custody.
- (b) It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of all animal bite cases reported and the investigation of such cases.

Sec. 4-110. Licensing.

- (a) No person shall own, keep or harbor any dog within the city limits after it has reached the age of twelve (12) weeks unless such dog is licensed as provided in

this section. Written application for such license shall be made to the city clerk and shall state the name and address of the owner and the name, breed, age, color and sex of the dog. The license fee then due, if any, shall be paid at the time of making application, a numbered receipt given to the applicant, and a numbered tag shall be issued to the owner.

- (b) No dog license shall be issued by the city until the license applicant exhibits to the city clerk a certificate or writing signed by a veterinarian clearly demonstrating that the dog for which the license is being sought has been vaccinated against rabies by such veterinarian, and the date when such dog must be revaccinated. No license shall be issued unless the certificate or writing shall clearly demonstrate that the dog is effectively vaccinated against rabies.
- (c) It shall be unlawful for any person to use or attempt to use any false information or altered certificate of spaying or vaccination to obtain a dog license under this division, or to exhibit to the city clerk for the purpose of obtaining a license a certificate of the spaying or vaccination of a dog other than the dog for which the license is sought.
- (d) All dog licenses shall be issued for one year beginning with March 1. There will be no fee for licenses issued for up to four dogs per household between March 1 and March 31 of each year, or for licenses issued within 30 days after a dog first becomes subject to licensing. For licenses issued at any other time, there shall be assessed a fee of \$5.00 for each neutered male dog and spayed female dog, and \$8.00 for each unneutered male dog and unspayed female dog. At any time of year that more than four dogs are registered to one household, there shall be assessed a fee of \$10.00 for each additional dog in excess of four dogs.
- (f) If a license tag issued for a dog shall be lost, the owner may obtain a duplicate tag upon the payment of \$3.00.
- (g) No person shall use for any dog a license receipt or license tag issued for another dog.
- (h) Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this division, except where such duties are expressly stated.
- (i) The licensing requirements of this division shall not apply to any dog belonging to a nonresident of the city and kept within the city for not longer than 30 days, provided that all such dogs shall at all times while in the city be kept within a building, enclosure or vehicle, or be under restraint by the owner.
- (j) There shall be issued to the owner of every licensed dog a numbered tag, stamped with the number and the year for which it is issued.
- (k) Every owner is required to see that the tag is securely fastened to the dog's chain, collar, or harness, which must be worn by the dog at all times when the dog is in the city limits.

#### Sec. 4-111. Removal of animal feces

It shall be unlawful for any person possessing charge of any animal to fail to promptly remove and dispose of all feces left by the animal on any public property or on any private property not owned or lawfully occupied by such person.

#### Sec. 4-112. General requirements concerning animals.

- (a) The governing body of the City of Concordia, Kansas, hereby finds that to protect and preserve the public health, safety and welfare it is necessary to prohibit the ownership of certain animals within the city.
- (b) It shall be unlawful for any person to own, keep, or harbor, within the city limits, any animal except as allowed in subsection (c).
- (c) Animals allowed:

- (1) Domestic dogs.
- (2) Domestic cats.
- (3) Domesticated rodents.
- (4) Domesticated European ferrets.
- (5) Rabbits.
- (6) Birds that are kept indoors as pets, except for species protected by state or federal law.
- (7) Female chickens and other domesticated fowl.
- (8) Potbellied pigs, also called Vietnamese potbellied pigs, miniature potbellied pigs, or Chinese potbellied pigs.
- (9) Nonvenomous snakes less than eight feet in length, except that such snakes shall be kept on the owner's premises or property.
- (10) Nonvenomous lizards.
- (11) Turtles, except for species protected by state or federal law.
- (12) Amphibians.
- (13) Fish.
- (14) Invertebrates.
- (15) Any animal kept temporarily in the possession of a veterinary clinic operated by a licensed veterinarian.
- (16) Any animal in the possession of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department.
- (17) Any animal in the possession of a person temporarily transporting such animal through the city.
- (18) Any animal kept temporarily at a livestock sales facility.
- (19) Any animal in the possession of a publicly funded and publicly accredited post-secondary educational institution for use in connection with educational programs.
- (20) Any animal or animal operation protected by K.S.A. 2-3201 et seq.

(d) This section shall not apply to any animal kept in the city prior to November 16, 2005.

Secs. 4-113 to 4-119. Reserved.

## ARTICLE II. RABIES CONTROL.

### Sec. 4-201 Rabies control.

- (a) Every person bitten by an animal, whether wild or domesticated, within the city, shall report the bite to the police department or to the animal control officer. If the person so bitten is a minor or incapacitated person, then the report shall be made by such person's natural guardian, conservator, or person having custody. The report shall be in writing and shall be signed by the person making the report.
- (b) Any law enforcement officer or animal control officer is authorized to apprehend any animal which is alleged to have bitten a person, whether the biting shall have been observed by the law enforcement officer or animal control officer or reported pursuant to subsection (a) of this section, and to quarantine such animal for a minimum of ten days. At the discretion of the animal control officer, such quarantine may be on the premises of the possessor, at the shelter designated as a

city animal shelter, or at the possessor's expense, in a veterinary hospital of the possessor's choice; provided, however, that if a court of competent jurisdiction shall find that the animal did not in fact inflict the alleged bite, then the animal shall be released at once without payment for the cost of its care, and such cost shall be paid by the city.

- (c) Upon demand made by the animal control officer, the possessor shall forthwith surrender any animal which is alleged to have bitten a human, or which is suspected of having been exposed to rabies, for supervised quarantine, which expense shall be borne by the possessor, and may be reclaimed by the possessor if adjudged free of rabies, upon payment of all fees and costs incurred by the city.
- (d) When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian of being rabid, or dies while under such observation, the animal control officer shall immediately send the head of such animal to the appropriate health department for pathological examination, and shall notify the appropriate public health official of reports of human contacts and the diagnosis made of the suspected animal.
- (e) When a laboratory report, either preliminary or final, gives a positive diagnosis of rabies, the police chief shall declare a citywide quarantine for a period of 90 days, and upon the invoking of such quarantine, no animal shall be permitted to be at large except on a leash and accompanied by a responsible person during such period of quarantine. During such quarantine no animal may be taken or shipped from the city without written permission of the animal control officer. During this quarantine period and as long afterward as the animal control officer decides it is necessary to prevent the spread of rabies, the police chief shall require all animals with respect to which vaccination against rabies is available to be so vaccinated. All vaccinated animals shall be restricted (leashing or confinement on enclosed premises) for 30 days after vaccination. During the quarantine period, the police chief shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination clinics. No animal which has been impounded and is unclaimed by its possessor shall be transferred to a new possessor during the period of rabies emergency quarantine, except by special authorization of the police chief.
- (f) During such period of rabies quarantine as mentioned in this section, every animal bitten by an animal diagnosed as being rabid shall be forthwith destroyed, or at the possessor's expense and option, shall be treated for rabies infection by a licensed veterinarian.
- (g) If there are additional positive cases of rabies occurring during the last half of the period of the quarantine, such period of quarantine may be extended for an additional 45 days.
- (h) No person shall kill, or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as provided in this section, nor remove the same from the city limits without written permission from the animal control officer.
- (i) The carcass of any dead animal exposed to rabies shall, upon demand, be surrendered to the animal control officer.
- (j) The animal control officer shall direct the disposition of any animal found to be infected with rabies.
- (k) No person shall fail or refuse to surrender any animal for quarantine or destruction as required in this section when demand is made thereof by the animal control officer.

#### Sec. 4-202. Reports of bite cases.

It shall be the duty of every licensed medical provider to report to the police department or the animal control officer the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

#### Sec. 4-203. Responsibilities of veterinarians.

It shall be the duty of every licensed veterinarian to report to the police department or the animal control officer the diagnosis of any animal observed by such veterinarian as a rabies suspect.

Sec. 4-204. Responsibilities of possessors.

It shall be the duty of every possessor of an animal which may be vaccinated for rabies to obtain that vaccination and to maintain possession of a copy of the vaccination record.

Secs. 4-205 to 4-209. Reserved.

ARTICLE III. IMPOUNDMENT.

Sec. 4-301. Apprehension of animals.

- (a) Any animal apprehended by the animal control officer pursuant to any article of this chapter may be impounded in a facility designated as a city animal shelter and there confined in a humane manner for a period of five days if not claimed by its possessor.
- (b) Immediately upon impounding of any such animal, the animal control officer shall make a reasonable effort to notify the possessor of such animal so impounded and inform such possessors of the conditions whereby they may regain possession of such animals.

Sec. 4-302. Redemption or disposition of impounded animal; possessor responsible for all fees.

- (a) The possessor shall be entitled to resume possession of any impounded animal, except as provided in this chapter in the case of certain animals, upon payment of the impoundment fees.
- (b) The possessor of an animal impounded and not redeemed shall be responsible for all fees incurred, whether or not the animal is claimed.
- (c) When, in the judgment of a licensed veterinarian and the animal control officer, an animal should be destroyed, such animal shall not be redeemed.
- (d) An animal taken into custody for which rabies vaccination is available shall be impounded until proof of current rabies vaccination is provided, or until the animal has received a rabies vaccination and all costs incurred by the city with respect thereto have been paid.

Sec. 4-303. Impoundment fees.

An impounded animal may be reclaimed, as provided in this division, by payment by the possessor to the city clerk of the a fee of \$50.00 for each animal for the first day of impoundment and the additional sum of \$25.00 for each animal for each additional day or fraction thereof such animal is kept, together with any fines or court costs that may have been assessed. Additional fees may be assessed if the actual cost of impounding the animal exceeds the daily fees established in this section. All fees shall be collected by the city clerk.

Sec. 4-304. Disposition of unclaimed animals.

Any animal impounded under the provisions of this article and not reclaimed by its possessor within five days may in the discretion of the animal control officer be transferred to some person deemed by the animal control officer to be a responsible and suitable possessor, or if not so transferred, shall be humanely destroyed by the animal control officer.

Secs. 4-305 to 4-309. Reserved.

ARTICLE IV. ANIMAL CONTROL

Sec. 4-401. Destruction for public safety.

If necessary to avoid loss of life, serious injury, or substantial damage to property, an animal control officer or any other law enforcement officer may destroy any animal forthwith.

Sec. 4-402. Animal at large.

It shall be unlawful for any possessor of any animal to permit such animal to be at large as defined by section 4-101.

Sec. 4-403. Apprehension of animal at large.

Any animal running at large within the city shall be apprehended by an animal control officer and impounded, unless the animal control officer is unable, with reasonable effort, to apprehend the animal, or the taking of the animal will likely result in a breach of the peace

Sec. 4-404. Impoundment of animals.

When an animal control officer or law enforcement officer has reason to believe that any animal poses an immediate danger to the public or to itself, or is not receiving humane treatment, or may be a vicious, dangerous, or potentially dangerous animal as defined by this chapter, or may be an annoyance to the public or injurious to the health, well-being and welfare of the inhabitants of the city, or may have an adverse impact on properties in the area or constitute a blight to adjoining property, the neighborhood, or the city, such as to constitute a nuisance, the animal control officer or a law enforcement officer may, in her or his discretion, take custody of the animal and impound it.

Sec. 4-405. Nuisance proceedings.

In addition to any other remedies provided by city ordinance, nuisance abatement proceedings may be undertaken with respect to any animal that is determined by the animal control officer to be an annoyance to the public and injurious to the health, well-being and welfare of the inhabitants of the city, or which may have an adverse impact on properties in the area or constitute a blight to adjoining property, the neighborhood, or the city. Any such proceeding shall be conducted in accordance with the procedural requirements for other nuisances as set forth in Concordia Code Section 13-101.

Sec. 4-406. Confinement of certain animals.

Every female animal in heat shall be kept confined to the possessor's property or in a veterinary hospital or boarding kennel, in such manner that such female animal cannot come in contact with another animal, except for intentional breeding purposes.

Sec. 4-407. Noisy animals.

- (a) It shall be unlawful for any person to possess within the city limits any animal which is in the habit of making noises, by day or night, and disturbing the peace and quiet of any person within the city.
- (b) Upon a final determination or finding by the municipal court, or on any appeal therefrom, that any animal has disturbed the peace and quiet of any person, the court, in addition to any fine or assessment of costs permitted by this chapter, may order that such animal shall be muzzled or that the possessor shall take other appropriate remedial action specified by the court to control the noise caused by such animal; or that such animal shall be permanently removed from the city.

Sec. 4-408. Dangerous animals.

Dangerous animal means any animal that:

- (a) Without provocation, has inflicted substantial bodily harm on a human being on public or private property; or
- (b) Has killed a domestic animal without provocation while off the possessor's property; or
- (c) Has been found to be potentially dangerous as defined by section 4-410, and after the possessor has been given reasonable cause to know that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals, or chases or approaches a person upon the streets, sidewalks, or any public property in

an apparent attitude of attack.

- (d) Is a dog that not received a current rabies vaccination, as shown by documentation of such vaccination.

It shall be unlawful for any person to possess any dangerous animal within the city, and it shall be lawful for any person, or any person on behalf of such person, to kill such animal when in apparent danger of being bitten or otherwise attacked.

Upon a final determination or finding by the municipal court, or on any appeal therefrom, upon complaint duly made, that any animal is dangerous, the court, in addition to any fine or assessment of costs permitted by this chapter, may order that the animal be restrained upon such conditions as may be determined the court, or be permanently removed from the city, or be humanely destroyed. The court may order that any such animal be implanted with an identification microchip. The court shall order the possessor of any such dog to become registered with the city clerk within ten (10) business days. The court may order the possessor of any such animal to purchase liability insurance coverage for the animal, and proof shall be provided to the city clerk within ten (10) business days of the order.

Sec. 4-409. Potentially dangerous animals.

Potentially dangerous animal means any animal that has:

- (a) Without provocation, bitten a human or a domestic animal on public or private property; or
- (b) Without provocation, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- (c) Has a known propensity, tendency, or disposition to attack, unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Upon a final determination or finding by the municipal court, or on any appeal therefrom, upon complaint duly made, that any animal is potentially dangerous, the court, in addition to any fine or assessment of costs permitted by this chapter, may order that the animal be restrained upon such conditions as may be determined the court. The court shall order the possessor of any such dog to become registered with the city clerk within ten (10) business days. The court may order the possessor of any such animal to purchase liability insurance coverage for the animal, and proof shall be provided to the city clerk within ten (10) business days of the order.

Sec. 4-410. Dangerous or potentially dangerous animal administrative proceedings.

Upon the complaint of any person, after written notice to the person or persons, if any, identified as the possessor of the animal, the judge of the municipal court shall hold an administrative hearing to determine whether the animal is dangerous as defined in section 4-409 or potentially dangerous as defined in section 4-410. Conviction of a possessor of an animal pursuant to sections 4-409 or 4-414 shall not be a prerequisite to a proceeding under this section.

Sec. 4-411. Dangerous animal authorized dispositions.

Upon a determination that the animal is dangerous as so defined, the judge may enter an administrative order authorizing and directing that the animal be subject to one or more of the following:

- (a) Immediate confiscation and impoundment pending further proceedings.
- (b) Confinement or restriction in such manner as the court determines to be appropriate.
- (c) Permanent removal from the city.
- (d) Implantation with an identification microchip.
- (e) Rabies vaccination.

(f) Destruction.

Sec. 4-412. Potentially dangerous animal authorized dispositions.

Upon a determination that the animal is potentially dangerous as so defined, the judge may enter an administrative order authorizing and directing that the animal be subject to one or more of the following:

- (1) Confinement or restriction in such manner as the court determines to be appropriate.
- (2) Implantation with an identification microchip.

Sec. 4-413. Failure to comply.

It shall be unlawful for the possessors of an animal defined as dangerous or potentially dangerous to fail to comply with restrictions and conditions ordered pursuant to sections 4-412 or 4-413.

Sec. 4-414. Penalty for violation of chapter.

Except as stated otherwise in this chapter, any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and punished by a fine not exceeding \$1,000.00 plus court costs.

Any possessor of an animal found to be at large, or a nuisance, or vicious, dangerous, or potentially dangerous, or otherwise impounded for any reason, shall pay to the city all reasonable costs incurred by the city in seizing, impounding, confining, or destroying any such animal. Such costs shall be imposed in addition to any other penalty or restriction imposed.

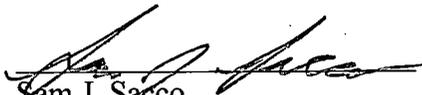
SECTION 3. This ordinance shall be summarized for publication as follows:

On November 21, 2018, the City of Concordia adopted Ordinance No. 2018-3144, amending the animal control ordinances Concordia Code to remove breed-specific language and to increase penalties for violation of the ordinance. A reproduction of this ordinance will be available for not less than one week following the publication of this summary of the ordinance at the website address of the City of Concordia, <http://www.concordiak.org>. This summary is certified by the city attorney to be legally accurate and sufficient.

SECTION 4. This ordinance shall be in full force and effect from and after its passage and publication of the above ordinance summary in the official city newspaper. The provisions hereof are severable, and in the event of invalidity, for any reason, of any portion of this ordinance, the remaining provisions of the ordinance shall remain in full force and effect, with the invalid provisions deemed excised.

PASSED by the governing body and signed by the mayor this 21st day of November, 2018.

(Seal)

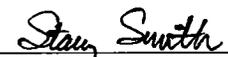
  
Sam J. Sacco  
Mayor

ATTEST:

  
\_\_\_\_\_  
Stacey Smith  
City Clerk

**ORDINANCE CERTIFICATE**

I hereby certify that the foregoing is an original ordinance; that said ordinance was passed on the 21st day of November, 2018; that the record of the final vote on its passage is found on page \_\_\_\_ of the minutes journal; that the ordinance summary was published in the Concordia Blade-Empire on the 23rd day of November, 2018.

 \_\_\_\_\_, City Clerk