

Chapter 6.04

ANIMAL CONTROL AND PROTECTION

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As used in this chapter:

- (a) “Animals” means all vertebrate and invertebrate animals such as, but not limited to, dogs, cats, bovine cattle, horses and other equines, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.
- ~~(b) “Animal fighting paraphernalia” means~~
- ~~(b) “Animal fighting paraphernalia” means equipment or commodities designed or capable of use for the purpose of training ~~dogs~~ animals to attack other animals, as in dogfighting or cockfighting, including but not limited to animal treadmills, drugs for healing animals such as anti-~~

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inflammatories, antibiotics or steroids, equipment used to threaten animals for the purpose of training for aggressive behavior, and/or equipment used to strengthen animal bodies. ~~or~~

~~equipment or commodities designed for the training of roosters for cockfighting; or~~

~~equipment or commodities used in cockfighting~~

This provision shall not be deemed to include those items common to training sporting dogs for the pursuit of wild game or common to the training of guard dogs or standard obedience training.

In determining whether an object is animal fighting paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

(i) Statements by an owner or person in control of the object concerning its use,

(ii) Prior convictions, if any of an owner or person in control of the object under any state law or city ordinance relating to animal fighting, animal cruelty or gambling.

(iii) The proximity of the object, in time and space, to a direct violation of an animal fighting, animal cruelty or gambling statute or ordinance.

(iv) The proximity of the object, in time and space, to other objects also susceptible for use as animal fighting paraphernalia.

(v) The existence of bloodstains or blood spatters on the object.

(vi) The manner in which the object is displayed for sale or is described in written material on the subject of animal fighting.

(vii) The existence and scope of legitimate uses for the object in the community.

(viii) Expert testimony concerning the object's use.

~~(b)~~(c) "Attack" means violent or aggressive physical contact with a person or domestic animal or violent or aggressive behavior that confines the movement of a person, including, but not limited to, cornering or circling a person.

~~(e)~~(b) "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.

(c) "City Treasurer" means the duly appointed treasurer of the city or his/her authorized representative.

(d) "Dangerous dog" means:

(1) Any dog which has exhibited a vicious propensity toward persons or domestic animals and is capable of inflicting serious physical harm or death or damage to property, to humans and which would constitute a danger to human life or property; provided, however, a dog shall not be determined to be dangerous under this subsection if the dog is being confined in a substantial enclosure to which members of the general public do not have access; or

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- (2) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal. ~~An attack or bite shall be considered to have been provoked if it occurs on the property of the dog's owner and~~ This shall not apply if the victim was committing a willful trespass on the property where the dog was harbored at the time of the attack or bite; or
- (3) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or
- (4) Any dog which chases or menaces any person in an aggressive manner, except that a dog shall not be deemed dangerous if the complainant was committing a willful trespass at the time.
- (5) Any dog that poses a threat to public safety or constitutes a danger to human life or property based upon criteria described in Section 6.04.045, as determined by the Health Officer.
- (e) "Exotic animal" means those animals not indigenous to North America and animals of any species the majority of whose population are feral.
- (f) "Fowl" means all animals that are included in the zoological class Aves.
- (g) "Harboring" means any person who shall allowing any animal to habitually remain or lodge or to be fed within hisone's home, store, yard, enclosure or place of business or any other premises where heone works, resides or has controls.
- (h) "Health ~~e~~Officer" means the director of the City of Wichita Department of Environmental ~~Health~~Services or his or her authorized representative.
- (i) "Inhumane treatment" means any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from the weather; ~~or~~ any treatment ~~of any~~ such as overloading, overworking, tormenting; ~~;~~ beating, mutilating; ~~or~~ teasing or other abnormal treatment; ~~or causing or allowing the animal to fight with any other animal.~~
- (j) ~~"License collector" means the duly appointed license collector of the city or his/her authorized representative, or the duly appointed treasurer of the city or his/her authorized representative.~~
- (~~k~~) (j) "Owner" means any the person who harbors, has an interest in, has control over or custody of an animal, the animal and/or has a license to keep the animal.
- (~~k~~) (k) "Person" means any individual, firm, association, joint stock company, syndicate, partnership; ~~or~~ corporation, other state franchised business entity such as a professional association, limited liability company, or limited liability partnership, or other organization of any kind.
- (~~m~~) (l) "Picket" means attaching a leash, rope, chain, lead, tether or other similar apparatus or device to the body of an animal and another inanimate object for the purpose of confining the animal or limiting the movement of the animal.
- (m) "Pit bull" means any dog determined by the Health Officer to be:
 - (1) an American Pit Bull Terrier, American Staffordshire Terrier, or Staffordshire Bull Terrier; or

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- (2) any mixed breed incorporating any of the above breeds; or
- (3) any dog displaying the majority of physical traits of any one or more of the above breeds; or
- (4) any mixed breed or other dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

~~(m)~~(n) “Running at large” means any animal that is not confined within a fenced enclosure or shelter capable of preventing the animal from exiting at will ~~or, unless~~ under the control of a person, either by lead, cord, rope or chain; provided that an animal may be considered confined if it is on a leash, rope or chain which is sufficient to keep the animal on the premises where picketed in accordance with section 6.04.040(c)(143). For the purposes of this chapter, an animal shall not be considered running at large when on the owner’s property and confined by an operating electronic fencing system when the premises are clearly and prominently marked to show the existence of the electronic fencing system and the animal is equipped with the necessary and operating components of the system required to confine the animal to the owner’s property.

(o) “Secure enclosure” means a locked pen or structure measuring at least 6 feet in width, 12 feet in length, and 6 feet in height, capped if there is a dog house inside or if dog can climb fence, with secure sides, which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property, which has been inspected and approved by the Health Officer.

~~(n)~~(p) “Shelter” means all pens, houses or fenced enclosures where animals are confined, such as, but not limited to, hutches, cotes, lofts, kennels, warrens, feed lots, barns, stables, or other buildings or enclosures.

~~(o)~~(q) “Veterinarian” means a doctor of veterinary medicine licensed by the state of Kansas.

~~(p)~~(r) “Vicious propensity” means a known tendency or disposition to approach any individual or domestic animal in an attitude of attack when there is no provocation. (Ord. ~~No. 45-784 adopted 09/12/2003 amended Ord. 41-138~~)

Section 6.04.020 Responsibilities of the ~~h~~Health ~~o~~fficer.

(a) The ~~h~~Health ~~o~~fficer shall be responsible for the enforcement of this chapter and is hereby authorized to make investigations and to ~~mail~~serve notices, ~~and~~ orders ~~or directions~~ as necessary for enforcement of the provisions of this chapter, to pick up animals on public or private property, and to arrange and pay for confinement of such animals at an animal shelter in accordance with K.S.A. 47-1701, et seq., and amendments thereto, and to operate an animal shelter to aid the department’s animal control functions, including charging the owner of any animal confined for the care thereof, and to seek reimbursement from the owner of any animal confined, whether the confinement is at the animal shelter operated by the department or by a third party. Such authority shall

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include, subject to budgetary control, authorization for formalization of an agreement with such animal shelter.

(b) The ~~hHealth eOfficer~~ shall have the ~~authority to power of a law enforcement officer for the purpose of~~ signing complaints and serving a notices to appear before the Municipal Court upon any person when the ~~hHealth eOfficer~~ has probable cause to believe such person has or is violating a section of this code. (Ord. No. 40-740 § 2)

Section 6.04.035 Cruelty to animals.

(a) It is unlawful for any person to subject any animal to inhumane treatment: willfully or maliciously kill, maim, disfigure, or torture; beat with a stick, chain, club or other object; strike by throwing an object; kick; mutilate; burn or scald with any substance; throw; over-drive or otherwise cruelly set upon any animal; except that reasonable force may be employed to drive off vicious or trespassing animals.

(b) It is unlawful for any person to drive or work any animal cruelly.

(c) It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, drink, shade, care or shelter, or to carry any animal in or upon any vehicle in a cruel or inhumane manner. Any animal kept outside shall be provided with a structurally sound, weatherproof enclosure, large enough to accommodate the animal.

(d) It is unlawful for any person to abandon any animal within the corporate limits of the city.

(e) It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with a harmful or poisonous substance. It is not the intent of this section to prohibit the use of poisonous substances for the control of vermin of significance to the public health.

(f) Every operator of a motor vehicle or other self-propelled vehicle upon the streets and ways of the city, except emergency vehicles, shall immediately, upon injuring, striking, maiming or running down any animal, notify the police department of the location, and the police department will notify such agency as may be providing injury services.

(g) It is unlawful for any person to have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. A ~~Mmunicipal eCourt~~ judge may order a person convicted under this section to turn the animal involved over to the ~~hHealth departmentOfficer~~. All such animals taken by the ~~hHealth departmentOfficer~~ 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.

(h) It is unlawful for any person to leave an animal in a standing or parked vehicle* under conditions constituting an imminent threat to the safety of the animal, without providing the animal with adequate air and protection from heat or cold. The Health Officer may remove and impound an animal left under what reasonably appears to be such conditions. Removal and impoundment of an

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animal shall not limit the Health Officer's ability to pursue charges of animal cruelty in Municipal Court.

~~(h)~~ This section shall not be deemed applicable to accepted veterinary practices or activities carried on for scientific research. Any person who witnesses a violation of this section may sign a complaint in the municipal court. (Ord. No. ~~41-824~~ § ~~4~~)

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Section 6.04.036 Cruelty complaint--Municipal court hearing.

(a) The ~~h~~Health ~~e~~Officer or the representative of a duly incorporated humane society may, if a complaint has been signed against an individual pursuant to any provision of Section 6.04.035 of this code, before or after the individual has been convicted of violation of such section, sign an affidavit petitioning the ~~m~~Municipal ~~e~~Court judge to immediately take custody and control of such animal if it appears to the ~~h~~Health ~~e~~Officer or the representative of the duly incorporated humane society that it would be in the best interest of such animal to have the ~~m~~Municipal ~~e~~Court seize such animal.

(b) The municipal court judge, upon receiving such affidavit and petition, shall set the matter involving the custody or control of an animal for hearing within ten days from the date that the petition and affidavit are filed. If it appears from the affidavit that ~~there is an imminent threat to the~~ life of the animal ~~is in immediate jeopardy~~, then the Municipal Court may set the hearing as soon as practical. The Municipal Court shall direct notice of the violation be served on the owner or person having control or custody of such animal ~~shall be provided notice of the hearing~~, by serving such persons with a summons to appear and a copy of the affidavit filed with the court; ~~such~~This summons and affidavit shall be served in the same manner as is required for serving "notice to appear" under K.S.A. 12-4207.

(c) The ~~m~~Municipal ~~e~~Court judge, after a hearing has been held, may order that an animal be seized and held in the animal shelter of the Department of Environmental Services, or placed in the custody of a duly incorporated humane society if the following findings are made:

- (1) The person summoned to appear is the owner or person having possession or custody of the animal in question;
- (2) That there is probable cause to believe that a violation of any provision of Section 6.04.035 has occurred or is occurring and based upon that violation it appears that it would be in the best interest of the animal to remove that animal from the possession and custody of the owner of the animal or the person having possession or custody of the animal.

(d) If ~~an order is issued by~~ the ~~m~~Municipal ~~e~~Court judge ~~ordering~~ that such animal shall be seized and brought into custody, then the ~~h~~Health ~~e~~Officer or a representative of a duly incorporated humane society shall take such animal into custody and shall inspect such animal, care for or treat such animal or place such animal under the care of a licensed veterinarian for treatment, boarding or other care. If ~~it appears, as determined by~~ the ~~h~~Health ~~e~~Officer determines, based on information from his or her staff, an officer of a humane society, or ~~by~~ a licensed veterinarian, that the animal is

diseased or disabled beyond recovery for any useful purpose, then such animal may be destroyed humanely as soon thereafter as is conveniently possible, subject to the right of appeal stated below in subsection (g). in accordance with K.S.A. 47-1701, et seq., and amendments thereto. The eCity of Wichita shall not be responsible for any costs that are incurred by an incorporated humane society as to the care of an animal placed in the custody of a humane society or as to treatment of an animal under the custody of a humane society received from a licensed veterinarian.

(e) If the owner or person having control or custody of such an animal is convicted of violating any provision of Section 6.04.035 of this code and if the mMunicipal eCourt judge finds that such animal would in the future be subjected to treatment which violates any provision of Section 6.04.035, such animal shall not be returned to or remain with such person. Such animal may be turned over to the hHealth eOfficer, humane society or licensed veterinarian for sale or other disposition.

(f) If the owner or persons having control or custody of such animal is adjudicated not guilty or if the mMunicipal eCourt judge, after an adjudication of guilty is made, finds that such animal should be returned, such person may redeem such animal within seventy-two hours. If such animal is not redeemed within seventy-two hours, then the entity operating the animal shelter caring for the animal shall have ownership of such animal and shall determine the disposition of such animal. Any proceeds derived from such sale or disposition shall be paid directly to the treasurer of the entity operating the animal shelter, and no part of such proceeds shall accrue to any individual. may be disposed of in accordance with K.S.A. 47-1701, et seq., and amendments thereto.

(g) An order issued by the mMunicipal eCourt judge under this section may be appealed to the district court pursuant to the provisions contained in K.S.A. 60-2101(d), and amendments thereto. (Ord. No. 40-740 § 3)

Section 6.04.040 Control and protection of animals in general.

(a) Any owner of any animal, other than cats, found running at large within the corporate limits of the city shall be deemed guilty of a misdemeanor. Knowledge or intention on the part of the owner shall not be elements of this offense. The hHealth eOfficer may seize, impound and cause to be destroyed any such animal, including those animals not within the definitions of the Kansas Pet Animal Act, pursuant to the provisions of K.S.A. 47-1701, et seq., and amendments thereto, using the procedures set out at K.S.A. 4710. The hHealth eOfficer may cause any such impounded animal to be returned to its rightful owner upon petition therefore and may require the payment of a service charge and a boarding fee for days spent in confinement at the shelter prior to return of the animal. The owner or harbinger of any unaltered dog that has been impounded for running at large two or more times within a twelve month period shall be required to have the animal surgically sterilized by a licensed veterinarian within thirty days of redemption of said animal, at his or her own expense. The Health Officer shall collect payment for and issue a spay/neuter voucher at the time of the animal's redemption, and the owner or harbinger shall provide documentation of the sterilization upon completion. Any owner or harbinger failing to provide

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documentation of the sterilization procedure as required by this section shall be deemed guilty of a misdemeanor.

- (b) Animals which are kept on the premises of any pet store shall not be allowed, by the storeowner or any employee, to run at large, inside the store or on the premises ~~external premises~~ of the pet store during business hours, and no person shall allow any animal under their care or control to run at large on the premises of any store during business hours. This provision shall not apply to animals participating in supervised training classes within an enclosed area of the store.

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- (c) Any owner of any fowl except racing pigeons as prescribed in Section 6.12.090, found running at large within the corporate limits of the city shall be deemed guilty of a misdemeanor. Knowledge or intent on the part of the owner shall not be elements of this offense.

- (d) It is unlawful for any person to:

- (1) Break or train any horse or other animal ~~on or~~ on property which abuts any street, sidewalk or other public place within the corporate limits of the city;
- (2) Picket any ~~horse, cow or other~~ animal other than a dog ~~on or~~ on property which abuts any street, sidewalk or other public place within the corporate limits of the city;
- (3) Kill any squirrel or songbird within the corporate limits of the city; provided, that it shall be permissible for the ~~H~~Health ~~e~~Officer to kill squirrels, skunks or birds that have become so numerous as to cause destruction or nuisance to property or in the event of disease occurring among such squirrels, skunks or birds that may be considered contagious to human beings;
- (4) Interfere with or molest an animal used by the police department of the city in performance of its lawful functions and duties or interfere with the handler of such animal in such a way that the handler is deprived of or inhibited in his control of such animal;
- (5) Promote, stage, hold, manage, conduct, carry on, participate in or attend any game, exhibition, contest or fight in which one or more animals are engaged for the purposes of injuring, killing, maiming or destroying themselves or any other animals, including but not limited to cockfighting or dog fighting;
- (6) Own, maintain, or have in his or her possession animal fighting paraphernalia;
- ~~(6)~~(7) Keep or harbor any animal which, by loud, frequent or habitual barking, howling, yelping or other noise or action, unreasonably disturbs any person or neighborhood within the corporate limits of the city. ~~†~~To effect legal relief, persons so affected directly may sign a complaint in the ~~M~~Municipal ~~e~~Court;
- ~~(7)~~(8) Allow any unsprayed female dog in season to be in an area where there is access by an unconfined male dog;
- ~~(8)~~(9) Allow an unconfined male dog in an area where there is access to any unsprayed female dog in season;

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~~(9)~~(10) Keep or harbor a dog over five months of age within the corporate limits of the city without such dog having a current vaccination against rabies performed by a veterinarian, and the owner thereof securing an annual license for such dog issued by the ~~license collector~~City Treasurer for a twelve-month period beginning at the date of the vaccination. Rabies vaccination is considered current for twelve months following the date of vaccination; provided that, a rabies vaccination may not be required if the owner of such dog shall exhibit to the ~~license collector~~City Treasurer a statement from a veterinarian certifying that for a defined time period such vaccination would be injurious to such dog due to its health;

(11) Sell or offer for sale, barter or give away any living baby chicks, rabbits, ducklings, or other fowl except pigeons, under two months of age in any quantity less than twelve; or to sell, offer for sale, barter, give away or display animals or fowl as specified in this subsection 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 fowl as specified in this subsection in proper brooder facilities by hatchers or persons engaged in the raising and selling of such animals and fowls for recognized animal husbandry purposes;

(12) Keep hives or colonies of bees; provided, that bees may be kept on any property during the months from November through May; and provided further, that bees may be kept at any time on properties for which a current agricultural classification permit is held in accordance with section 6.12.010 when such permit has been issued for the purpose of keeping bees;

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~~(10)~~(13) Keep or maintain, sell or offer for sale, barter or give away exotic animals; provided, this section shall not apply to: tropical or other fishes; birds, except those prohibited by federal or state law; small rodents such as gerbils, rats, mice, hamsters, guinea pigs, chinchillas, mink, nutria and similar fur-bearing mammals; nonpoisonous amphibians and reptiles, not including pythons, anacondas, boa constrictors, monitor lizards, iguanas, alligators, caiman, crocodiles and turtles; provided further, that this section shall not apply to exhibitions authorized by and conducted in accordance with Chapter 6.08.

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~~(11)~~(14) Continuously picket a dog for more than one continuous hour, except that picketing of the same dog may resume after a hiatus of three continuous hours, for up to three hours total time on picket per day.

- (e) For the purpose of picketing a dog, a chain, leash, rope, or tether shall be at least 10' in length.
- (f) A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to picket a dog shall not weigh more than 1/8 of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area picketed.
- (g) Dogs shall be picketed in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles.

(h) (h) It is unlawful to attach chains or other tether restraint implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

(i+4) It is unlawful for any personindividual to own, possess, keep, exercise control over, maintain, harbor, transport, or sell any pit bull unless:

(a) the dog has been surgically sterilized to prevent it from breeding; and

(b) the dog has a microchip implanted by a veterinarian, traceable to the current owner and registered with the Health Officer.

(j+5) It is unlawful for any personindividual to own, keep, house, harbor, or maintain a total of more than two pit bulls within the City of Wichita limits.

(k+6) It is unlawful for any personindividual to maintain a pit bull at any residential address where more than one pit bull is maintained by any other personindividuals.

(l) It is unlawful for any person convicted of a felony to own, harbor, possess, have custody of, or reside with a pit bull or any dangerous dog.

(Ord. No. 45-784 adopted 09/09/2003, amended Ord. 41-138)

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Section 6.04.045 Dangerous ~~dog~~ or vicious animal--Determination--Notice and hearing--~~C~~onfinement or destruction.

~~Upon the complaint of any person, or upon his own volition, tThe hHealth eOfficer may declare a dog to be dangerous direct an investigation to determine if the complaint is valid and, after written notice of time and place is given the owner of any animal which has exhibited characteristics of a dangerous dog as defined in this chapter, hold a hearing to determine whether or not the animal is dangerous or vicious. At such hearing testimony may be offered by the owner of the dog, the health officer, representatives of animal humane organizations, kennel clubs and veterinarians concerning the vicious propensity of the dog. In making a determination, the health officer shall consider the following based on:~~

- (a) The seriousness of any attack or wound;
- (b) The past history of wounds inflicted by the animal;
- (c) The potential propensity of the animal to inflict wounds in the future;
- (d) The conditions under which the animal is kept and maintained.

~~If the hHealth eOfficer determines that the animal is dangerous or vicious, he or she may impound the dog and shall notify the owner of such determination by personal service, residential service at the person's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing therein, or by certified mail addressed to the owner's last known address, or addressed to the location where the dog is maintained. Service by certified mail, shall request return receipt, with instructions to the delivering postal employee to show to whom delivered, the date of delivery, and address where delivered. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the Health Officer shall send a copy of the notice to he defendant by ordinary, first class mail. This first class mailing~~

shall be evidenced by a certificate of mailing, Service shall be considered obtained upon the mailing of this additional notice by first class mail. ~~addressed to the location where the dog is maintained.~~ The owner of a dog declared dangerous may request an administrative review of the determination by filing a written request with the Health Officer within ten business days of such notification. The Health Officer will conduct a hearing within ten business days of the owner's request. At such hearing testimony may be offered by the owner of the dog, the Health Officer, neighbors or other affected persons~~individuals~~, and veterinarians concerning the vicious propensity of the dog. In making a determination, the Health Officer shall consider the factors listed in subsections (a) through (d) above. It shall be an affirmative defense that at the time of a bite, attack, or threatening behavior:

(a) the dog was actively being used by a law enforcement official for legitimate law enforcement purposes; or

(b) the threat, injury, or damage was sustained by a person:

(1) who was committing, at the time, a willful trespass or other tort upon the premises lawfully occupied by the owner of the dog;

(2) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or

(3) Who was committing or attempting to commit a crime; or

(c) The dog was responding to pain or injury

The Health Officer will notify the owner of the hearing outcome within five business days. The owner may appeal the hearing outcome as provided for in Section 6.04.210. Absent such appeal, the Health Officer may pick up and cause the animal to be destroyed, or in lieu of such destructions he or she may permit the confinement of the animal in a manner and location that he or she deems appropriate or as provided in Section 6.04.046. The dog's owner shall be responsible for standard boarding charges at the Wichita Animal Shelter and veterinary expenses incurred during impoundment of the animal.(Ord. No. 41-138 § 3)

Section 6.04.046 Dangerous dog--Failure to confine--Destruction and defenses.

(a) It is unlawful for an owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash and under physical restraint by a responsible person who is eighteen years of age or older and possesses sufficient strength for physical control of the animal for the purpose of transportation to and from a veterinarian for medical treatment. In such event, the dangerous dog shall be securely muzzled and restrained with a chain or leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner or keeper of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal. A proper enclosure for purposes of this section means a secure enclosure as defined in Section 6.04.010, or ~~the dog is securely confinementd indoors, or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the~~

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sides, the sides must be embedded into the ground no less than one foot. All such pens or structures

(b) Secure enclosures required under this section must be approved by the Health Officer and be adequately lighted and kept in a clean and sanitary condition.

~~(a)~~ (c) The owner shall allow the Health Officer access to the property where the dangerous animal is being harbored to facilitate inspections and insure compliance for the duration of the life of the animal.

~~(b)~~ (d) Should a dangerous dog running at large in violation of this section attack or inflict injury upon any person, the judge of the Municipal Court may, in addition to any other penalty provided by this chapter, order the dog destroyed. Provided, however, the judge of the Municipal Court may, at his or her discretion, consider whether the attack or injury was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises of the owner of the dog, or was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, aroused, or assaulted the dog or was committing or attempting to commit a crime. (Ord. 45-784 adopted 09/09/2003 amended Ord. No. 41-138.)

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Section 6.04.047 Signs required.

The owner of a dangerous dog shall display in a prominent place at the entrance to his or her premises as clearly visible warning sign indicating there is a dangerous dog on the premises. A similar sign is required to be posted on the pen or kennel of secure enclosure in which the animal is harbored. (Ord. No. 41-138 § 5)

Section 6.04.048 Registration and Insurance.

(a) The owner or person harboring keeper of a dangerous dog shall annually register the dangerous dog with the Health Officer on such forms designated by the ~~Environmental Health Department Animal Control Section~~ Health Officer, and shall have a microchip, traceable to the dangerous dog and the current owner of the dog, inserted into the dog by a licensed veterinarian. The owner or harboring person keeper shall pay a \$100.00 annual registration fee to the City of Wichita and shall pay all costs associated with the microchip procedure. The owner or keeper person harboring a dangerous dog shall notify the ~~Environmental Health Department~~ Health Officer in writing a minimum of within seven (7) days prior to any change in the address of the owner or person harboring the dog keeper or the location of the dangerous dog.

(b) The owner or person harboring keeper of a dangerous dog required to be registered under this Section shall maintain liability insurance in the amount of one hundred thousand dollars for each such dog against the potential injury or damage liabilities and hazards associated with the ownership or possession of such dog. The owner or person harboring a dangerous dog keeper shall file with the Health Officer ~~Environmental Health Department~~ a certificate of insurance reflecting the required minimum insurance and naming the City of Wichita as an additional insured. (~~Created by~~ Ord. 45-784 adopted 09/09/2003.)

Section 6.04.050 Interference with the duty of hHealth officer.

It is unlawful for any person to:

(a) Refuse to identify himself or herself and provide verification of his or her correct name, address, date of birth and any other information reasonably necessary to correctly identify such person when asked to do so by the ~~h~~Health ~~e~~Officer, when the ~~h~~Health ~~e~~Officer has probable cause to believe that this person has violated a section of this chapter;

(b) Interfere with, molest, injure or prevent the ~~h~~Health ~~e~~Officer in the lawful discharge of his ~~or her~~ duties as herein prescribed, including interference when removing animals from private property and/or when investigating animal concerns.

~~(c) —(e)— Provide false or misleading information to the Health Officer when retrieving or claiming an animal from the shelter.~~

▲ (Ord. No. 41-653 § 1)

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Section 6.04.055 Dogs prohibited--Exceptions.

It is unlawful for any person to have a dog or any exotic animal as defined by Section 6.04.010 of this code at any festival event authorized under a permit issued pursuant to the city code and occurring within the city, unless such animal is specially trained as a seeing eye or hearing ear dog or otherwise specially trained to assist ~~the physically handicapped disabled persons~~ and actually in the control of the disabled person. handicapped person by whom the dog is required. For purposes of this section "festival event" means all events and activities included within the Wichita River Festival permit issued pursuant to Chapter 3.14 of this code, and any other events held on city property wherein the ~~e~~City of Wichita issues a permit or license for the activity; provided, however, that such prohibition shall not apply to events where dogs are required to be present as part of the event, such as a dog show. (Ord. No. 41-119 § 1)

Section 6.04.060 Dog bite violations.

(a) No person who owns, possesses, harbors or exercises control over any dog shall do the following:

(1) Permit the dog to attack or bite any person or domestic animal not on the premises of such owner, possessor or keeper;

(2) Permit the dog to attack or bite any person or domestic animal upon the premises of the residence of such owner, possessor or keeper or upon the premises of any business establishment not then open to the public. It is an affirmative defense to this paragraph if such premises are previously posted at each entrance with a prominent and conspicuous sign warning all persons of the dog, and the dog is confined in a proper enclosure. It is also an affirmative defense to this paragraph that the attack or bite by the dog was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery or theft upon the property;

(3) Permit the dog to attack or bite any person or domestic animal upon the premises of any business establishment that is open to the public. It is an affirmative defense to this paragraph that the attack or bite by the dog was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery or theft upon the property.

(b) For purposes of this section, the word "permit" shall mean allow or let happen. Knowledge or intention on the part of the person who owns, possesses, harbors or exercises control over the dog shall not be elements of this offense.

(c) A proper enclosure for purposes of this section means the dog is securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot.

(d) The provisions of this section shall not apply to any law enforcement officer who uses a dog while engaged in law enforcement activities, nor to any owner, possessor or keeper of any dog which attacks or bites a person engaged in physically attacking or striking such owner, possessor or keeper. (Ord. No. 40-750 § 1)

Section 6.04.070 Procedures on retention, observation and disposition of animals which have bitten persons or other animals.

The owner of any animal which has been determined by the Health Officer to have bitten a person or another animal shall confine the animal as directed by the Health Officer or surrender such animal to the Health Officer for rabies observation. The owner shall be responsible for the payment of any cost of such confinement. (Ord. No. 40-740 § 6)

Section 6.04.080 Known rabid animal.

In a case of rabies exposure to domestic animals, such as, but not limited to dogs or cats, when such animal is known to be rabid or has been bitten by a rabid skunk or other rabid animal, the Health Officer may order such animal to be destroyed or confined for a period of ninety days in a veterinary hospital or an animal-care facility specified by the Health Officer; ~~provided further, that~~ in the case of domestic animals unvaccinated against rabies, the Health Officer may require post-exposure prophylaxis and one hundred eighty-day confinement of such animals that have been exposed to a known rabid animal at a veterinary hospital or an animal-care facility. (Ord. No. 34-974 (part))

Section 6.04.090 Failure to confine biting animals.

It is unlawful for any person to fail to confine, fail to keep confined, or permit to run at large, any animal which has been ordered confined by the Health Officer for rabies observation. (Ord. No. 40-740 § 7)

Section 6.04.100 Injured animal.

The owner of an injured animal taken to a veterinarian by the Health Officer or his designated agent is responsible for the payment of charges for veterinarian services related thereto. The owner shall reimburse the Health Officer for all expenditures the

~~h~~Health ~~o~~fficer may pay for veterinary services rendered to the owner's animal under this section. (Ord. No. 34-974 (part))

Section 6.04.110 Procedure on registration, vaccination certificate and issuance of a license to keep a dog.

(a) The owner of a dog over five months old is required to register such dog with the ~~license collector~~City Treasurer, and to make application for and obtain a license to keep such dog as herein provided; ~~provided, that~~ In no case shall no more than four dogs over five months old ~~shall~~ be harbored at any one premises, except at a kennel as provided in Chapter 6.12 of this Code.

(b) The ~~license collector~~City Treasurer, in consultation with the ~~h~~Health ~~o~~fficer, shall provide suitable forms ~~in triplicate~~ to veterinarians practicing in metropolitan Wichita. Such forms are to be designed to receive information on the dog's description, date of rabies vaccination, veterinary tag number and signature, information whether the dog is spayed or neutered, type of dwelling, ~~and~~ whether a fenced yard or fenced run is available for confinement of the animal, and owner's name, ~~and~~ address and telephone number. Such forms will serve as the vaccination certificate, ~~the~~and application to keep a dog, and the actual license when validated. The forms are to be completed by the veterinarian at the time of vaccination and distributed as follows: ~~Blueone~~ copy -- city treasurer, ~~yellowone~~ copy -- veterinarian; and ~~whiteone~~ copy -- dog owner. The dog owner has the opportunity to make payment for the license fee at the veterinarian's office. However, the dog owner may elect to remit the license fee at the city treasurer's office, in which case the form shall be validated by an appropriate ~~e~~City ~~€~~Treasurer stamp. If the license fee payment is submitted to the veterinarian, all form copies shall be validated with a numbered ~~e~~City of Wichita stamp which shall be supplied by the ~~e~~City ~~€~~Treasurer. The veterinarian shall retain his or her yellow copy for ~~a period of time as prescribed in this chapter~~two years for his or her own use and for possible reference use by the ~~license collector~~City Treasurer. The ~~license collector~~City Treasurer shall provide postage-guarantee addressed envelopes to ~~the~~ veterinarians for their use in facilitating payment of license fees to the city. All such license fees collected by veterinarians shall be submitted to the ~~license collector~~City Treasurer not later than five days following the last day of the month in which the license fee was collected.

(c) The premises of the dog owners shall be available for inspection by the ~~h~~Health ~~o~~fficer to insure a fenced yard or fenced run is available that can adequately confine the dog, if so stated in the license application.

(d) The owner of a dog will provide, upon request of the Health Officer, proof of licensure and vaccination.

(Ord. No. ~~39-360-§ 4~~)

Section 6.04.120 False statements.

(a) Any false statement in a rabies certification or application for a license to keep a dog or a dog breeder license shall render null and void the license issued to the owner for keeping such dog or breeding dogs.

(b) Any person who makes a false statement in any application, affidavit or other document required by this chapter, or any regulation prescribed thereby, is guilty of a misdemeanor. (Ord. No. 34-974 (part))

Section 6.04.130 Rabies vaccination required.

The owner of any dog over five months of age maintained or harbored at any time in the city shall have such dog vaccinated against rabies each twelve months with an approved vaccine administered by a veterinarian, who shall maintain a record of vaccination for a period of at least two years, and who shall issue the owner of the dog a vaccination certificate. The owner who shall retain such certificate until the vaccination is renewed. (Ord. No. 34-974 (part))

Section 6.04.140 Vaccination and identification tags.

(a) The veterinarian administering the rabies vaccination shall issue a metallic tag for the particular dog vaccinated, on which tag shall be distinctly marked the veterinarian's name or veterinary clinic's name, address, and tag identification number. The year of issuance also shall be distinctly marked, which shall be the same as the year of vaccination. The owner of any dog which is determined by the ~~h~~Health ~~o~~fficer to be running at large ~~which is while~~ not wearing a collar with identification consisting of the owner's name and current address ~~and or~~, if such dog is over five months old, a current rabies vaccination tag, is guilty of a misdemeanor.

(b) Provided, this section will not apply if the owner has identification markings tattooed on the dog by a licensed veterinarian and such identification markings are registered with the ~~h~~Health ~~o~~fficer. (Ord. No. ~~34-974 (part)~~)

Section 6.04.150 License for keeping a dog.

License for Keeping a Dog. The license fee for keeping a dog is established at ~~twelve~~ eighteen dollars for each ~~male or female~~ dog, provided an additional ~~five~~ eighteen dollar fee will be assessed for each dog if such dog is not spayed or neutered, and provided further an additional ten dollars will be assessed for each dog if the owner's dwelling or place where the dog resides does not have a fenced yard or fenced run that will adequately confine the dog. Any owner of a dog that is in or has been retired from the U.S. Armed Forces, a Service dog which is documented to have been individually trained to provide assistance to an individual with a disability, ~~a~~ licensed Search and Rescue dog or a ~~police department or a sheriff's~~ dog owned and used by a governmental entity for law enforcement or public safety purposes shall not be required to pay the license fee upon obtaining the license to keep the dog, but shall be subject to all other requirements contained in this chapter. The ~~license collector-City Treasurer~~ shall impose a ~~one-dollar~~ five dollar annual penalty ~~of ten percent per month~~ on all license renewals beginning thirty days following the expiration of the previous license, Owners delinquent on purchase of a license shall be required to pay all previously unpaid licenses and penalties to become current. The same penalty and license fee calculation of delinquency shall be assessed to owners of ~~and on~~ all dogs not previously or currently covered by licenses

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thirty days after the owner ~~of which having~~has been notified to obtain such license. (Ord. No. ~~45-539~~)
(45-523, Amended, 01/14/2003, 45-539 published 1/18/2003; 41-478, Amended, 12/17/2002, 45-523 published 12/21/2002)

Section 6.04.155 Dog breeder license

~~Any person breeding, offering for sale, or giving away more than one litter of puppies in any calendar year is required to make application for and obtain a dog breeder license. Approval of dog breeder licenses shall be contingent upon the applicant's compliance with all applicable local zoning and animal maintenance standards and state animal breeder statutes and regulations. The fee for a dog breeder license is established at one hundred and fifty dollars annually. Such licenses shall expire one year from the date of issue. The City Treasurer shall impose a penalty of fifty dollars annually~~~~ten percent per month~~ on all ~~delinquent~~ license renewals beginning thirty days following the expiration of the previous license. Failure by a person to obtain a dog breeder license as required by this section and convicted of that person of more than one violation of this code within a 24 month period will result in prohibition of all dog breeding by that person, whether or not animals are for sale, for the next two years. ~~If convicted of illegally breeding dogs, after convicted of two or more violations, the violation of this code will be imposed of \$1,000 fine and at least 6 months in jail.~~

Section 6.04.160 Authorization for quarantine.

The ~~h~~H~~e~~alth ~~o~~fficer shall advise the City Manager, who shall report to the ~~m~~M~~a~~yor in the event a potential outbreak of rabies is suspected in the dog or cat population ~~in the city. and if~~ the ~~m~~M~~a~~yor concurs with the ~~h~~H~~e~~alth ~~o~~fficer that the danger of the public safety from rabid animals is reasonably imminent, the ~~m~~M~~a~~yor is hereby authorized and it shall be his or her duty to issue a quarantine proclamation ordering persons owning, keeping or harboring any dog or cat to muzzle the same and/or confine it as provided in this chapter for such time as may be specified in such quarantine proclamation. Upon the ~~publication~~issuance of such proclamation by the ~~m~~M~~a~~yor, ~~the person keeping or harboring any dog or cat shall follow the procedure as prescribed in the definition "running at large" in Section 6.04.010, except that any such animal may be under the control of an adult person on a lead if the animal is effectively muzzled. Any~~H dogs, cats or other animals capable of transmitting rabies found running at large during the time specified by the ~~m~~M~~a~~yor in his quarantine proclamation may be killed by any officer of the city under procedures established by the ~~h~~H~~e~~alth ~~o~~fficer. (Ord. No. ~~34-974~~ (part))

~~Section 6.04.170 Dog census and follow-up.~~

~~The health officer shall provide an effective annual dog census and do whatever follow up is necessary to insure that all dogs over five months old harbored in the city are vaccinated and licensed. (Ord. No. 40-740 § 9)~~

Section 6.04.170 Dog census.

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Whenever deemed necessary, the Health Officer may conduct a dog census of any or all areas of the City as needed to insure that all dogs over five months old harbored in the city are vaccinated and licensed.

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Section 6.04.190 Violation--Penalty.

(a) A person violating any provision of this chapter is guilty of a misdemeanor and shall be punished by a fine of not more than ~~five hundred one thousand~~ dollars or by imprisonment of not more than ~~six months one year~~, or both such fine and imprisonment, provided the minimum fine for the following enumerated sections of this chapter shall be assessed as follows:

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Section	Violation	Fine
6.04.040	Violation of Leash Law. 1st offense within a 12-month period	\$ 25.00 <u>\$50.00</u>
	2nd offense within a 12-month period	55.00 <u>\$100.00</u>
	3 or more offenses within a 12-month period	105.00 <u>\$200.00</u>
6.04.060	Dog Bite Violations. 1st offense within a 12-month period	<u>\$50.00</u>
	2nd offense within a 12-month period	100.00 <u>\$250.00</u>
	3 or more offenses within a 12-month period	150.00 <u>\$500.00</u>
6.04.080	Failure to confine rabies suspect animal	50.00 <u>\$250.00</u>
6.04.100	Failure to obtain a license to keep a dog	30.00 <u>\$50.00</u>
6.04.130	No identification tags	<u>\$30.00</u>
6.04.140	No required breeding license	
	1st offense within a 24-month period	\$500.00
	2nd offense within a 24-month period	\$1000.00

(b) Each day that any violation of this chapter occurs shall constitute a separate offense and shall be punishable under this chapter as a separate violation.

(c) In addition to the penalties enumerated in subsections (a) and (b) of this section, the judge of the Municipal Court may, upon a person's third conviction of

Section 6.04.040 (a), involving the same animal within any twelve-month period, order such person's license to keep said animal revoked.

(d) Any person who continues to own or harbor an animal after the license for said animal has been revoked is guilty of a misdemeanor. (Ord. No. ~~40-740 § 10~~)

~~Section 6.04.200~~ ~~Written notice requirement.~~

~~The written notice requirements of this chapter that must be complied with prior to a hearing before the hHealth oOfficer shall be deemed sufficient if the notice is served by the hHealth oOfficer upon the person personally or if it is sent by registered or certified mail to the person's last known address; provided further, if the notice cannot be conveniently served by the aforesaid, service of notice may be made upon such person by at least one publication in the official newspaper of the city, such publication to contain the reason of notice and the date, time and place of hearing. (Ord. No. 34-974 (part))~~

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Section 6.04.210 Appeal from hHealth oOfficer rulings.

Any person dissatisfied with any order or determination of the hHealth oOfficer made under his or her authority pursuant to ~~Section 6.04.045~~ this chapter may appeal such order or determination to the mMunicipal eCourt. An appeal to the mMunicipal eCourt shall be a de novo administrative hearing from which further appeal may be taken to the district court. (Ord. No. ~~40-740 § 11~~)

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Section 6.04.220 Severability.

Should any section or provision of this chapter for any reason be held void, unconstitutional or invalid, it shall not affect the validity of any other section or provision hereof which is in itself not void, unconstitutional or invalid. (Ord. No. 34-974 (part))