

Chapter 73 – Animals

Chapter replaced by City Ordinance 1062 on 1/21/20

73.010. 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:

- 1) *“Animal Shelter”* means any facility operated by a humane society, municipal agency, or it’s authorized agents for the purpose of impounding or caring for animals held under the authority of ordinance or state law. The City maintains and operates a licensed animal shelter exclusively used to house dogs and is herein referred to as the Pound.
- 2) *“Animal Enforcement Officer”* means City Police Officers and any persons designated to enforce this Chapter by the Police Chief and subject to approval by the Board of Aldermen. The Sarcoxie Police Chief is the Chief Animal Enforcement Officer.
- 3) *“Health Authority”* means the Mayor of the City of Sarcoxie, or in his absence, the Mayor Pro Tem.
- 4) *“Owner”* means any person, partnership, or corporation owning, keeping or harboring one or more animals or having a financial interest in said animal or animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more. The parent or guardian of a minor child is responsible for the adequate care of any animal owned by, in the control of, or harbored by that minor child.
- 5) *“Public Nuisance”*: Any animal which:
 - a) molests passersby or passing vehicles;
 - b) attacks other animals;
 - c) trespasses on school grounds;
 - d) is repeatedly at large; and/or
 - e) damages private or public property.
- 6) *“Unprovoked”* means an action by the dog or animal not in response to being tormented, abused, or assaulted by any person; or if the action was not in response to pain or injury or to protect itself, its kennel, or its offspring.

73.020. Licensing of Dogs. The licensing of dogs is not required.

73.030. Rabies Certificate Required. All dogs residing in the city are required to have a current rabies certificate.

73.040. Limit on Number of Dogs. No more than 5 dogs shall be kept at any individual commercial, industrial, or residential unit within the City.

73.050. Kennels. “*Kennel*” means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, or any operation in which more than five (5) dogs are harbored at any residential unit.

- 1) No person shall operate a kennel within the city limits of Sarcoxie without prior approval from the City Council. Such approval will be contingent on factors such as size of kennel, location within the City, and potential impact on neighboring residents and businesses. Kennels require a business license, tax identification number, proof of liability insurance, and council permission to exceed the allowed limit on the number of dogs.

73.060. Dogs or Animals Causing Noise Disturbances. It shall be unlawful to permit a dog or animal to create a noise disturbance so as to constitute a disturbance of another person’s peace. The owner will be deemed to have allowed the dog or animal to be a disturbance of another person’s peace by being noisome if the police are requested to respond to such complaint a second or subsequent time within any seventy-two (72) hour period, after first having warned the owner or person having control of the dog or animal that said dog or animal is creating a disturbance and after personally confirming that the dog or animal is causing a disturbance.

73.070. Dogs or Animals Causing Destruction of Property. It shall be unlawful for any person having control of any dog or animal to permit such dog or animal to damage the property of another.

73.080. Dog or Animal Waste. It shall be unlawful for any person having control of any dog or animal to permit the dog or animal to defecate on any public property or right of way or on any private property other than property owned or leased by the person owning or responsible for the dog.

- 1) It is a specific defense to a charge of violating this Section that the person charged immediately removed the excrement and properly disposed of it in a sanitary manner.

73.090. Dogs Running at Large Prohibited – Reasonable Control Restriction. It shall be unlawful for the owner of any dog to let such dog run at large at any time within the city limits.

- 1) For the purpose of this Section, “*at large*” is defined to mean off the premises of the owner and not under the reasonable control of its owner, his agent, or some member of his immediate family.

- 2) For the purpose of this Section, “*reasonable control*” is defined to be when such dog is on the premises of its owner or when such dog is not on the owner’s premises but under the control of its owner, his agent, or some member of the owner’s family.
- 3) “*Not under reasonable control*” – A dog shall be deemed to be not under reasonable control when such dog, not being upon the premises of its owner, is not with, or under the control of its owner, the owner’s agent, or some member of the owner’s family, or when such dog commits damage to the person or property of anyone other than the owner, except when the dog is in defense of its owner, his family or property.

73.100. Keeping of Dogs on Owner’s Property. Dogs shall be securely restrained on the owner’s property when the owner is not in control of it.

- 1) Any means of keeping dogs under control on the owner’s property is allowed providing:
 - a) The means are humane per standards and recommendations established by the American Veterinary Medicine Association.
 - b) The means are effective as evidenced by the inability of the dog to escape restraint and become “*at large*”.
 - c) No person shall keep a dog or dogs in any pen, enclosure, chain, etc. on property owned or controlled by him, the exterior boundary of which pen or enclosure is closer than twenty-five (25') feet at the nearest point to the dwelling of another, a church, school or place of business of another; nor shall any person keep a dog or dogs within twenty-five (25') feet of the dwelling of another, a church, school, or place of business of another.

73.110. Impoundment for Dogs At Large. The City shall maintain a pound for the confinement of dogs. It shall be the duty of the Chief Animal Enforcement Officer to seize and confine all dogs found running at large.

- 1) On seizing and confining a dog, the Animal Enforcement Officer shall notify the owner, if said owner is known, by written notice of such retention and the fees to be charged for redeeming such animal.
- 2) If such animal is not redeemed within seven (7) days of the date of such notice, the animal shall be deemed to become property of the City and may be humanely destroyed, placed for adoption, or transferred to a local Humane Society Pound, at the Chief Animal Enforcement Officer’s option.
- 3) An owner reclaiming an impounded dog shall pay fees to defray expenses of

impoundment as follows:

a) Redemption Fee:

- i) \$25.00 for first redemption in a 12-month period.
- ii) \$50.00 for second redemption in a 12-month period.
- iii) \$75.00 for third and subsequent redemption in a 12-month period.

b) A \$4.00 per day shelter fee for sustenance and maintenance per dog while held in the pound beginning on the first day said dog is held there.

4) Should the owner of any animal to come within the City's control wish to redeem said animal, said owner shall present proof of current rabies vaccination, or in lieu thereof, place a twenty dollar (\$20.00) deposit, which shall be returned to the owner if proof of rabies vaccination is presented within forty-eight (48) hours of the redemption. Any fees allowed by this Chapter shall be collected by the City Collector, unless a complaint is brought through Municipal Court, in which case such fees shall be collected by the Court.

73.120. Impoundment for Neglect or Abuse.

1) An animal may be impounded if found outside of the owner's property when such animal shows evidence of neglect or abuse. Any animal impounded pursuant to this Section shall be:

- a) Returned to the owner if the owner can be ascertained and the animal is not diseased or disabled beyond recovery for any useful purpose. The owner shall be notified within three (3) business days of impoundment to advise the animal's location and recovery procedures; or
- b) Held at the pound if the owner is not known. The animal shall be held for seven (7) business days. If unclaimed after seven (7) business days, the animal may be put up for adoption or humanely killed; or
- c) Placed in the care or custody of a veterinarian or appropriate animal shelter. The animal shall not be disposed of unless diseased or disabled beyond recovery for any useful purpose until after expiration of a minimum of seven (7) business days, during which time the public shall have clear access to inspect or recover the animal through time periods ordinarily accepted as usual business hours. After seven (7) business days, the animal may be put up for adoption or humanely killed; or
- d) Humanely killed if diseased or disabled beyond recovery for any useful purpose as determined by a public health official, law enforcement official, veterinarian or animal control officer.

- 2) The owner or custodian of an animal impounded pursuant to this Section shall be liable for reasonable costs for the care and maintenance of the animal. Such costs shall be a lien against such animal until they have been paid. If such costs are not paid within ten (10) days after the owner is notified, the animal may be put up for adoption or humanely killed. Any moneys received for an animal adopted pursuant to this subsection in excess of costs shall be paid to the owner of such animal.
- 3) An animal found on its owner's property may be impounded only upon evidence of extreme abuse or neglect, and then only upon warrant issued by a Court of competent jurisdiction, as noted in this chapter.

73.130. Dangerous Dogs or Other Animals.

- 1) No person shall own, keep, harbor, or allow upon their premises any dangerous dog or other animal within the City of Sarcoxie. A dog or other animal shall be considered dangerous by virtue of:
 - a) Having inflicted a severe or fatal injury on a human being on public or private property. "*Severe Injury*" means any physical injury resulting directly from an animal's bite or strike which results in death, broken bones, lacerations requiring stitches, or hospitalization. The victim receiving severe injuries must provide the Animal Control Officer a signed physician's statement documenting injury and treatment qualifying such as a severe injury or sign an authorization for release of such statement;
 - b) Having killed a domestic animal, livestock, or poultry, without provocation, while off the owner's property;
 - c) Owning or harboring primarily or in part for the purpose of fighting or any animal trained for fighting;
 - d) Having bitten in an aggressive manner a human being, without provocation, on public or private property other than the property of the owner;
 - e) Having bitten in an aggressive manner while on the owner's property, without provocation, a human being other than the owner or a member of the owner's family who normally resides at the place where the animal is kept;
 - f) When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public grounds, or private property other than that property of the owner in a menacing fashion or apparent attitude of attack, regardless of whether or not a person is injured by the animal;
 - g) Possessing a known propensity, tendency, or disposition to attack

- unprovoked, in the opinion of the Animal Enforcement Officer, to cause injury or to otherwise threaten the safety of human beings or domestic animals; or
- h) Any animal that has attempted to attack any person. An animal shall be deemed to be attempting to attack if it is restrained by a leash, fence or other means, and it is clear from the animal's excited actions that only the presence of the leash, fence or other means of restraint is preventing the animal from making an immediate attack.
- 2) Any animal having a dangerous complaint initiated against such animal shall be securely impounded at any approved location until a determination of guilt occurs in Municipal Court. The owner of such animal shall be responsible for all costs incurred while said animal is impounded. Any animal not reclaimed (if allowed) by its owner within three (3) days after judicial action is completed shall be disposed of as allowed in this Chapter.
 - 3) Any person charged with a violation of this Section who, after being duly notified, fails to appear in Municipal Court, shall upon order of the court, waive their right to redeem their animal. The animal shall be disposed of as allowed in this Chapter.
 - 4) Upon final determination by the Court that said animal is a dangerous animal, it shall no longer be kept in the City.
 - 5) Any animal that inflicts a severe or fatal injury on a human being on any public or private property may be deemed an imminent threat to the public and ordered humanely euthanized by the Court.
 - 6) Upon conviction of any person of a violation of this Section, the Judge may, in addition to the usual judgment, order the City to forthwith take up and humanely euthanize such animal.
 - 7) Dangerous animal owned by minor. In the event that the owner of a dangerous animal is a minor, the parent or guardian of such minor shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by such dangerous animal.
 - 8) Excused behavior. No animal shall be declared dangerous pursuant to any Section of this Ordinance if the threat, injury, or damage caused by such animal was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the animal or was tormenting, abusing, or assaulting the animal or has in the past been observed or reported to have tormented, abused or assaulted an animal, or was committing or attempting to commit a crime. Nor shall any animal be declared dangerous if it was responding to pain or injury, or was protecting itself, its

kennel or its offspring. Dogs utilized as part of a K-9 Police dog program by a Police Official are exempted while performing duty.

- 9) In addition to any other relief provided by this Section, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Section. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.

73.140. Interference with Officers. It is unlawful for any unauthorized person to break open the pound or to attempt to do so, or to take or let out any dogs therefrom, or to take or attempt to take from any officer any dog taken up by him/her in compliance with this Chapter, or in any matter whatever to interfere with or hinder such officer in the discharge of his/her duties under the provisions of this Chapter.

73.150. Dog training equipment prohibited. It shall be unlawful for any person to own, maintain, or have in their possession equipment designed for the purpose of training dogs to attack other animals as in dog fighting. 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.

73.160. Promulgation of regulations. The Health Authority may, when necessary, promulgate such regulations as are necessary to carry out the provisions of this Section and to promote the health, safety, and well-being of the public. Such regulation shall be approved by the City Council and placed on file with the City Clerk.

73.170. Enforcement; search and seizure.

- 1) Authorized officers of the City shall be empowered to enforce the provisions of this ordinance or any rule or regulation promulgated herein.
- 2) Persons authorized to enforce the provisions of this ordinance or any rule or regulation promulgated hereunder shall have the authority to seek and execute search and seizure warrants.
- 3) Warrant involving potential neglected or abused animals.
 - a) Any duly authorized law enforcement official may seek a warrant from the appropriate court to enable him to enter private property in order to inspect, care for, or impound neglected or abused animals. All requests for such warrants shall be accompanied by an affidavit stating the probable cause. A person acting under the authority of a warrant shall:

- i) Be given a disposition hearing before the court through which the warrant was issued, within thirty (30) days of the filing of the request for the purpose of granting immediate disposition of the animals impounded;
 - ii) Place impounded animals in the care or custody of a veterinarian, the appropriate animal control authority, or an animal shelter. If no appropriate veterinarian, animal control authority, or animal shelter is available, the animal shall not be impounded unless it is diseased or disabled beyond recovery for any useful purpose;
 - iii) Humanely kill any animal impounded if it is determined by a licensed veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose;
 - iv) Not be liable for any necessary damage to property while acting under such warrant.
- b) The owner or custodian or any person claiming an interest in any animal that has been impounded because of neglect or abuse may prevent disposition of the animal by posting bond or security in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, inclusive of the date on which the animal was taken into custody. Notwithstanding the fact that bond may be posted pursuant to this subsection, the authority having custody of the animal may humanely dispose of the animal at the end of the time for which expenses are covered by the bond or security, unless there is a court order prohibiting such disposition. Such order shall provide for a bond or other security in the amount necessary to protect the authority having custody of the animal from any cost of the care, keeping or disposal of the animal. The authority taking custody of an animal shall give notice of the provisions of this Section by posting a copy of this Section at the place where the animal was taken into custody or by delivering it to a person residing on the property.
- c) The owner or custodian of any animal humanely killed pursuant to this Section shall not be entitled to recover any damages related to nor the actual value of the animal if the animal was found by a licensed veterinarian to be diseased or disabled, or if the owner or custodian failed to post bond or security for the care, keeping and disposition of the animal after being notified of impoundment.
- d) If a person is adjudicated guilty of the crime of animal neglect or animal abuse and the court is satisfied that an animal owned or controlled by such person would in the future be subject to such neglect or abuse, such animal shall not be returned to or allowed to remain with such person, but its disposition shall be determined by the court.

73.180. Construction of ordinance provisions. The provisions of this

Ordinance shall not be construed to prohibit the City, or any authorized law enforcement officer from enforcing any other law, rule, or regulation regarding the humane treatment of animals.

73.190. Exemption. The provisions of this Ordinance shall not apply to any federal, state, or City law enforcement agency or dog specifically exempted by order of the Health Authority pursuant to regulations promulgated pursuant to this ordinance.

73.200. Severability. If any provision of this Ordinance is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect or impair the validity of the remainder of this Ordinance.

73.210. Muzzling proclamation. The Mayor may, at any time, by proclamation, order all dogs muzzled, whenever it shall appear to him that such a step is necessary for the public safety.

73.220. Cruelty to animals prohibited. No person shall perform any of the following acts pertaining to animals and fowl:

- 1) Overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhumane manner any animal, or cause any of these acts to be done.
- 2) *Food and Shelter*. Shall fail to provide any animal in his charge or custody with necessary sustenance, drink and protection from the elements, or cause any of these acts to be done.
- 3) *Abandonment*. Abandon any animal, or cause such act to be done.
- 4) *Fight upon exhibition*. Maintain any place where fowl or any animals are suffered to fight upon exhibition, or sport upon any wager.
- 5) *Poisoning dogs*. Poison any dog or distribute poison in any manner whatsoever with the intent of poisoning any dog.
- 6) *Killing birds*. Frighten, shoot at, wound, kill, take, capture, ensnare, net, trap or in any other manner molest or injure any robin, lark, whippoorwill, finch, thrush, wren, martin, swallow, snowbird, bobolink, red-winged blackbird, oriole, kingbird, mockingbird or other songbird or insectivorous bird; or in any manner molest or injure the nest eggs, young or body of such bird.
- 7) Intentionally or purposely killing an animal in any manner not allowed by V.A.M.S §578.005 to §578.023 and §273.030.

- 8) Purposely or intentionally causing injury or suffering to an animal.
- 9) Having ownership or custody of an animal, knowingly failing to provide adequate care or control.

74.230. Penalties. Any violation of the provisions of this Chapter shall also be a misdemeanor, punishable under Chapter 13 of this Code unless found to be in violation of a Section of this Chapter containing a specific penalty. If any violation is continuing, each day's violation shall be deemed a separate violation.

- 1) In addition to other penalties prescribed by this Ordinance, upon violation and conviction of the provisions of this Section relating to dangerous dogs, it shall appear to the Judge of the Municipal Court that it is necessary for the public safety and welfare that the dog concerned be euthanatized, the Judge shall so order and the Chief of Police shall see that the order of the court is carried out.

Subchapter B -- Keeping Animals or Fowl

73.240. An animal means any goose, duck, turkey, chicken, mule, horse, sheep, hog, goat, or other domestic animal or domestic fowl. "*Animal*" does not include dogs which are treated separately in this chapter. While dogs will not be addressed in Subchapter B, animals may be included in other sections of this Chapter.

73.250. Swine. No person shall keep or permit the keeping of hogs, swine or pigs on premises owned or controlled by him within the City without first making written application to the City Council.

- 1) In making its determination, the council will consider such factors as the location of where the swine will be kept in the city, its proximity to neighbors and the type and number of swine to be kept.
- 2) If approved, all other applicable requirements of City Code are applicable.

73.260. Keeping Animals Generally.

- 1) No person shall keep or harbor animals in such number or in such close proximity to the dwelling place of another that the same shall become offensive, noisome, or disagreeable to the community in which located.
- 2) No person shall keep chickens, ducks, geese, turkeys, pigeons, or other fowl in an enclosure which is less than twenty-five (25) feet from any dwelling, church, or school, as measured from the exterior boundary of such enclosure, nor shall any person permit the accumulation of manure in any such enclosure.
- 3) No person shall erect, operate or maintain any barn, stable, hen house, hutch,

or pen or keep any livestock with the City of Sarcoxie and permit the same to become offensive, noisome, disagreeable, or obnoxious. In addition, all property upon which said animals are being kept shall be kept well drained, dry, and at all times free from standing water and filth.

73.270. Offensive or noxious smell from the keeping of animals or fowl. No person shall keep, allow or permit to be kept on any premises occupied by him or under his charge and control, any animal or animals or fowl in a pen or other enclosure of any kind, under such conditions that an offensive or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any inhabitant of the neighborhood.

73.280. Animals prohibited from running at large. It shall be unlawful to permit any horse, mule, mare, jack, jennet, colt, swine, sheep, bull, goat, steer, cow, heifer, calf or other animals or domestic geese to run at large upon the streets, alleys, public places or public commons within the city limits.

73.290. Keeper of dangerous wild animals must register animals. No person may keep any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, Canada lynx, bobcat, jaguarondi, hyena, wolf, bear, nonhuman primate, coyote, any deadly, dangerous, or poisonous reptile, or any deadly or dangerous reptile over eight feet long, in any place other than a properly maintained zoological park, circus, scientific, or educational institution, research laboratory, veterinary hospital, or animal refuge, unless such person has registered such animals with the City of Sarcoxie Police Department.