

TITLE 8

ANIMALS

CHAPTERS:

- 8.01 Animal Control and Protection (Repealed 12/22/87)
- 8.02 General Provisions
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- 8.06 Licenses
- 8.08 Proper Care of Animals
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CHAPTER 8.01. Animal Control & Protection. Repealed 12/22/87. (Ord. 87-173 § 1, 1987; Ord. 83-46 § 2, 1983; Ord. 824 § 1, 1979; Ord. 409 § 2, 1976.)

CHAPTER 8.02

GENERAL PROVISIONS

Sections:

8.02.010 Purpose.
8.02.020 Definitions.

8.02.010 Purpose. The purpose of this chapter is to promote harmonious relationships in the interaction between man and animal by:

- (a) Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;
- (b) Delineating the animal owner's or harbinger's responsibility for the acts and behavior of his animal at all times;
- (c) Providing security to residents from annoyance, intimidation, injury and health hazards by animals; and
- (d) Encouraging responsible pet ownership. (Ord. 87-173 § 2, 1987.)

8.02.020 Definitions. For the purposes of this title, the following terms, phrases, words and derivations shall have the meaning given in this section:

"Abandonment" means leaving a domestic animal within Olathe City limits without attempting to reclaim it or take responsibility for costs incurred. This includes failure to reclaim an animal from a veterinarian's office or animal hospital within the City limits of Olathe, and failure to reclaim an animal from the Shelter. (See 08.08.060 for time limits).

"Animal" means any live, vertebrate creature, domestic or wild, other than humans.

"Animal control officer" is a duly authorized person employed by the City who is charged with the duties of enforcing this title and who is educated in the care, seizure, custody and confinement of animals.

"Animal Nuisance" is created when an animal:

1. Runs uncontrolled;
2. Molests or disturbs persons or vehicles by chasing, barking, or biting;
3. Attacks other animals;
4. Damages property other than that of the owner or harbinger;
5. Barks, whines, howls, brays, cries or makes other noise excessively so as to cause unreasonable annoyance, disturbance or discomfort to an individual who is a neighbor (a neighbor for this purpose is hereby defined as an individual residing in a residence structure which is within one thousand (1000) yards of the property on which the animal is kept or harbored) and who does in writing state he will so testify if called upon to testify about such matter under oath;
6. Creates noxious or offensive odors;
7. Defecates upon any public place or upon premises not owned or controlled by the owner or harbinger unless promptly removed by the animal owner or harbinger;

8. Creates an insect breeding and/or attraction site due to an accumulation of excreta;
9. Is in heat and not properly confined as provided in Section 8.10.030.
10. Is ridden on public property and obstructs or interferes with vehicular or pedestrian traffic;
11. Threatens or causes a condition which endangers public health; or
12. Impedes refuse collection by ripping any bag or tipping any container of such.

"Animal Shelter" means any premises designated by the City for the purpose of impounding and caring for animals held under the authority of this ordinance.

"At Large" means an animal running at will, acting on its own initiative and not secured by a leash or lead, unless the animal shall be on the premises of the owner and under control of a responsible person and obedient to that person's command.

"Bite" is any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, abrasion, bruise or other piercing of the skin.

"Cat" means any member of the animal species, Felis Catos.

"Control" of an animal means that the same is on a leash not more than eight (8) feet in length; is under voice control in the presence of a competent person; is on or within a vehicle being driven or parked; or is within the property limits of its owner or harbinger or upon the premises of another person with the consent of that person.

"Dangerous Animal" means and includes any wild mammal, reptile or fowl which is not naturally tame or gentle but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters.

"Dangerous Dog" means:

1. Has attacked or bitten a human being or domestic animal on public or private property;
2. Chased or approached a person, including a person on a conveyance, upon the streets, sidewalks, or any public or private property, in an apparent attitude of attack; or
3. Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

"Dog" means any member of the animal species Canis Familiaris.

"Domestic Animal" includes dogs, cats, domesticated sheep, horses, cattle, goats, swine, fowl, ducks, geese, turkeys, confined domestic hares and rabbits, pheasants and other birds and animals raised and/or maintained in confinement.

"Enclosure" means an escape-proof structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous or vicious dog in conjunction with other measures which may be taken by the owner or harbinger. Such enclosure shall have secured sides and a secured top, shall be securely enclosed and locked and designed to prevent the animal from escaping from the enclosure. If such enclosure has no bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet deep.

"Euthanasia" means the humane destruction of an animal accomplished by a method which produces instantaneous unconsciousness and immediate death without visible evidence of pain or distress.

"Harbinger" is any person who provides food and shelter or otherwise accepts any responsibility for the care or control of a domesticated animal.

"Impound" means to seize summarily, confine, or restrain in custody.

"Inoculation, vaccination, or vaccination for rabies" means the inoculation of an animal with a vaccine approved by the State of Kansas for use in the prevention of rabies.

"Kennel" means the house, store, yard, enclosure or place where five or more animals are harbored or kept for temporary boarding purposes or for showing or selling; provided, however, this definition shall not apply to animal shelters or to animal hospitals operated by veterinarians duly licensed under the laws of the State for treatment or boarding.

"Large Animal" means any swine, dairy cows, beef cattle, goats, sheep and other large domestic animal of similar size.

"Licensed Animal" is an animal licensed in compliance with this ordinance.

"License Tag" is a permanent metal tag evidencing a licensed animal. It is issued by the City with the purchase of the animal's first license and renewed in accordance with Section 8.06.080 thereafter.

"Neglect" means failing to provide an animal with: adequate care; adequate food; adequate water; adequate health care; adequate shelter, adequate shelter should be clean, dry, and compatible with the condition, age and species; and/or adequate daily exercise, adequate daily exercise requires that an owner or harborer must offer some freedom from continuous chaining, stabling and tethering.

Neglect shall also mean failing to keep the area where animals are kept free from unsanitary conditions and vermin-harboring debris.

"Non-domesticated animal" shall mean any animal not kept as a pet or livestock.

"Own" means and includes own, keep, harbor, or have charge, custody or control of an animal.

"Owner" means any person or persons, firm, association, partnership or corporation owning, keeping or harboring an animal. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by children upon their premises.

"Person" means any individual, firm, corporation, association or partnership.

"Scratch" means any contact between an animal's claws and the skin of a scratch victim which causes visible trauma, such as a puncture wound, laceration or abrasion, bruise or other piercing of the skin.

"Small Animal" means any animal except swine, dairy cows, beef cattle, goats, sheep, or other large domestic animals of similar size.

"Trap" means any mechanical device or snare which seeks to hold, capture or kill an animal.

"Trapping" means the setting or laying or otherwise using a trap.

"Veterinary Hospital" means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injury of animals.

“Vicious Dog” means:

1. Inflicted substantial bodily harm on a human being on public or private property; or
2. Killed a domestic animal without provocation while off the owner’s or harborer’s property; or
3. Has been found to be dangerous and after the owner or harborer has notice that the dog is dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

"Voice Control" means that an animal;

1. Is physically capable of hearing normal commands;
2. Is at the time under consideration, within reasonable proximity to the controller so that shouting or excessively loud commands are not necessary;
3. Has been adequately trained in obedience so as to be capable of understanding control commands; and
4. Either continually demonstrates, or is able to demonstrate on demand, response to a command that will cause the animal to immediately come into close proximity to the controller and cease any kind of aggressive behavior or action that would be offensive to other persons or animals.

"Work Dog" is any member of the animal species Canis Familiaris trained for and actively engaged in rescue, law enforcement or war work, or as a guide for the blind or deaf, or certified service dog.

Police canines actively in use for law enforcement purposes are exempt from this ordinance.

Notwithstanding the definition of a dangerous or vicious dog above, no dog may be declared dangerous or vicious if any injury or damage is sustained by a person who at the time such injury or damage was sustained, was committing, or attempting to commit, a willful trespass and other unlawful activity upon premises occupied by the owner or harborer of the dog, or was physically abusing or assaulting the dog.

No dog may be declared dangerous or vicious if any injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was attacking or assaulting the dog. No dog may be declared dangerous or vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault. (Ord. 10-31 § 1, 2010; Ord. 05-131 § 1, 2005; Ord. 97-118 § 1, 1997; Ord. 88-120 § 1, 1988; Ord. 87-173 § 1 1987.)

CHAPTER 8.04

ANIMAL CONTROL OFFICER

Sections:

- 8.04.010 Position Established.
- 8.04.020 Duties.
- 8.04.030 Powers.

8.04.010 Position Established. There is hereby established the position of animal control officer in the Public Safety Department. (Ord. 87-173 § 1, 1987.)

8.04.020 Duties. The animal control officers of the city are hereby charged with the duties of enforcing this title and no person shall interfere with, hinder, molest or abuse such officers in the exercise of their powers. (Ord. 87-173 § 2, 1987.)

8.04.030 Powers. The animal control officer of the city may:

(a) Enter without a warrant upon private property to regulate or prohibit the running at large of any animal or the creation of an animal nuisance where such animal is found in plain sight, other than in a residence structure and to seize such animal from said private property;

(b) Enter without warrant upon private property to apprehend a vicious animal, a wild creature or an animal suspected of being infected with rabies where such animal is found in plain sight other than in a residential structure and to seize such animal from said property; and

(c) Enter upon private property to investigate cruelty to animals. (Ord. 87-173 § 2, 1987.)

CHAPTER 8.06

LICENSES

Sections:

- 8.06.010 License Required.
- 8.06.020 Nonresidents.
- 8.06.030 Application.
- 8.06.040 Rabies Inoculation Required.
- 8.06.050 Certificate of Vaccination.
- 8.06.060 License Fee.
- 8.06.070 License Fee; Exception.
- 8.06.080 License Period; Authority to Issue.
- 8.06.090 License Issuance.
- 8.06.100 License Tags.
- 8.06.110 Wearing of License Tags Required.

8.06.010 License Required. It shall be unlawful for any person to own, keep or harbor any dog or cat over six (6) months old unless such dog or cat is licensed as provided herein. (Ord. 88-120 § 2, 1988; Ord. 87-173 § 2, 1987.)

8.06.020 Nonresidents. This chapter shall not apply to any nonresident owner or keeper of a dog or cat while such nonresident is passing through the city, provided such dog or cat shall remain on a leash or otherwise effectively physically restrained as in a closed vehicle. (Ord. 87-173 § 2, 1987.)

8.06.030 Application. Written application for a license shall be made by the owner online or on a form provided by the City. The owner shall be identified by name, address and telephone number and the dog or cat by sex, age, breed, color and call name and the rabies inoculation certificate number, date and administering veterinarian given. (Ord. 10-31 § 2, 2010; Ord. 87-173 § 2, 1987.)

8.06.040 Rabies Inoculation Required. It shall be unlawful for any owner to own, keep or harbor any dog or cat over four (4) months old unless such dog or cat has been inoculated for rabies. (Ord. 87-173 § 2, 1987.)

8.06.050 Certificate of Vaccination. The rabies inoculation receipt issued by a veterinarian at the time of vaccination shall remain current during the term of the City license and shall be carefully preserved by the owner or custodian of the dog or cat and exhibited promptly upon request for inspection by the animal control officer. (Ord. 10-31 § 3, 2010; Ord. 87-173 § 2, 1987)

8.06.060 License Fee.

(a) A license shall be issued after payment of a license fee. The license fee shall be adopted by the Governing Body of the City by resolution.

(b) The license fees shall be applied only upon presentation of a written certificate by a licensed veterinarian that the dog or cat has been neutered or spayed. (Ord. 02-135 § 1, 2002; Ord. 89-148, § 1, 1990; Ord. 87-173 § 2, 1987.)

8.06.070 License Fee; Exemption. Any person owning, keeping or harboring a work dog shall be exempt from the license fee payment upon submittal of adequate proof that the dog is fully trained as a work dog and is used regularly as a work dog. (Ord. 87-173 § 2, 1987.)

8.06.080 License Period; Authority to Issue.

A. Licenses shall be issued for a period of either one (1), two (2) or three (3) years from the date of issuance, and shall coincide with a current rabies vaccination.

B. Licenses may be purchased at Olathe Municipal Services, Olathe animal shelter, online, or by mail. (Ord. 11-36 § 1, 2011; Ord. 10-31 § 4, 2010; Ord. 87-173 § 2, 1987.)

8.06.090 Licenses Issuance. A license shall be issued only upon completion of the application form, the proof of current rabies inoculation and the payment of the license fee, unless exempted under Section 8.06.070 above. (Ord. 10-31 § 5, 2010; Ord. 87-173 § 2, 1987.)

8.06.100 License Tags. Licenses shall be issued in the form of a durable tag which shall be fastened to the dog's or cat's collar or harness and worn at all times when the dog or cat is not within the structure or dwelling of the owner or custodian, except as provided by Section 8.06.110. License tags shall not be transferable. If a tag is lost, a duplicate tag will be issued for a fee as adopted by the Governing Body by resolution. (Ord. 10-31 § 6, 2010; Ord. 87-173 § 2, 1987.)

CHAPTER 8.08

PROPER CARE OF ANIMALS

Sections:

8.08.010	Responsible Animal Care.
8.08.015	Proper Animal Restraint
8.08.020	Cruelty to Animals.
8.08.025	Police Dog. (Repealed 4/6/2004)
8.08.030	Exceptions.
8.08.040	Custody of Animal; Disposition; Damages for Killing; When; Expense of Care Assessed Owner; When.
8.08.050	Animal Care While The Owner Disabled; Procedure.
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8.08.070	Trapping Prohibited.
8.08.080	Exceptions.
8.08.090	Pens, Cages, Yards, Runs, Kennels.
8.08.095	Chaining, Tethering or Picketing of Dogs.
8.08.100	Fences.
8.08.110	Performing Animal Exhibitions.
8.08.120	Compliance With Federal Regulations.
8.08.130	Dead Animals Removal or Disposition.
8.08.140	Injured or Ill Animals.

8.08.010 Responsible Animal Care. It shall be unlawful for any owner or harbinger of a domestic animal not to provide for his animal:

- (a) Sufficient quantity of good and wholesome food and water;
- (b) Proper protection and shelter from the weather;
- (c) Veterinary care when needed to prevent suffering;
- (d) Humane treatment; and
- (e) Prompt removal and sanitary disposal of all excreta deposited by his animal in the city.

8.08.015 Proper Animal Restraint. It shall be unlawful for any person to place a restraint on any animal that permits the animal to be tangled or injured by the restraint. (Ord. 00-119 § 1, 2000.)

8.08.020 Cruelty to Animals.

A. It is unlawful for any person to willfully or maliciously kill, maim, disfigure or torture, strike, hit or beat with a stick, board, chain, club or other object; mutilate, burn or scald with any substance; drive over or otherwise set an animal upon another 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 carry or leave any animal in or upon any vehicle in a cruel or inhumane manner. Any animal kept outside shall be provided with structurally sound weatherproof enclosure, large enough to accommodate the animal.

D. It is unlawful for any person to abandon any animal within the City limits.

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 harmful or poisonous substances. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health.

F. It is unlawful for any person to permit any dog fight as defined in Olathe Municipal Code Section 9.14.020, cockfight, bullfight, or other combat between animals or between animals and humans.

G. It shall be unlawful for any person except a licensed veterinarian to crop animal ears or dock animal tails.

H. No person shall give away any live animal, fish, reptile, or bird as a prize for or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

I. Any person who, as the operator or a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.

J. A violation of this section is a class A public offense. (Ord. 11-36 § 2, 2011; Ord. 10-31 § 7, 2010; Ord. 97-118 § 2, 1997; Ord. 87-173 § 2, 1987.)

8.08.025 Police Dog. Repealed 4/6/2004. (Ord. 04-39 § 1, 2004; Ord. 97-118 § 3, 1997.)

8.08.030 Exceptions. Nothing in Section 8.08.020 shall be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine. Nothing in Section 8.08.020 shall be deemed to prohibit experiments on animals for bonafide scientific purposes by a recognized research facilities under the Animal Welfare Act, but no experiment on animals shall inflict intense and prolonged pain or suffering or intense and frequently repeated pain and suffering on any animal. Nothing in Section 8.08.020 shall be interpreted as prohibiting any act done in self-defense or done to defend another person. (Ord. 87-173 § 2, 1987.)

8.08.040 Custody of Animal; Disposition; Damages for Killing, When; Expense of Care Assessed Owner; When.

(1) Any public health officer, animal control officer, law enforcement officer or licensed veterinarian may take into custody any animal upon either private or public property which clearly shows evidence of cruelty to animals, as defined in Section 8.08.020 of the Olathe Municipal Code, during the pendency of the matter before a court of competent jurisdiction. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding or other care or, if appears, as determined by a veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, for euthanasia.

(2) The owner or custodian of an animal euthanized pursuant to subsection (1) of this section shall not be entitled to recover damages for the euthanization of such animal unless the owner proves that such euthanization was unreasonable and unwarranted.

(3) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (1) of this section pending prosecution of the owner or custodian of such animal for the crime of cruelty to animals as defined in Section 8.08.020 of the Olathe Municipal Code, shall be assessed to the owner or custodian as a cost of the case if the owner or custodian is adjudicated guilty of such crime.

(4) If a person is adjudicated guilty of the crime of cruelty to animals as defined in Section 8.08.020 of the Olathe Municipal Code and the court is satisfied that an animal owned or possessed by such person would be in the future subject to any cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale, adoption or other disposition. (Ord. 87-173 § 2, 1987.)

8.08.050 Animal Care While Owner Disabled; Procedure. It shall be the policy of the city that whenever it is deemed necessary for any persons to be removed from their living accommodation for any purpose, and they shall have any animals that will not be properly cared for as a result of their absence from their home, then the following procedure shall be followed:

(a) The person so removed shall be contacted to determine his or her desires concerning the care of said animal or animals;

(b) Any known friends or relatives of the owner shall be contacted to determine if they will care for said animals; and

(c) If the individuals mentioned above are unable or unwilling to provide for said animals, the city shall remove said animals to the animal shelter. The owner of said animal or animals shall be required to pay any fees for the keep of the animals before he or she may remove them from the animal shelter. (Ord. 87-173 § 2, 1987.)

8.08.060 Disposal or Adoption. If the owner of any such animal impounded by the City shall fail to make arrangements to care for such animal within five (5) days of the time the City takes possession of the animal, the City shall notify the owner in writing that, if the owner does not make arrangements to care for the animal within three (3) days, the animal will be placed for adoption or destroyed as an abandoned animal.

The three (3) days shall be counted beginning at the conclusion of the initial five (5) day period. If the owner fails to make such arrangements within such time, the animal shall be placed for adoption or destroyed in accordance with applicable City ordinances and the owner will be responsible for all costs incurred during the eight (8) day period outlined herein. (Ord. 10-31 § 8, 2010; Ord. 87-173 § 2, 1987.)

8.08.070 Trapping Prohibited. No person, firm, corporation or association shall do any trapping anywhere in the city. (Ord. 87-173 § 2, 1987.)

8.08.080 Exceptions.

(a) The provisions of Section 8.08.070 do not apply to the use of any trap specifically designed to kill rats, mice, gophers or moles with the consent of the owner or occupant of the property where the trap is set.

(b) The provisions of Section 8.08.070 do not apply to the use of cage-type live traps employed for the control of nuisance animals as long as such traps are tended each 12 hours.

(c) The provisions of Section 8.08.070 do not apply to actions authorized under state wildlife guidelines for the control of nuisance animals. (Ord. 97-118 § 4, 1997; Ord. 87-173 § 2, 1987.)

8.08.090 Pens, Yards or Runs.

(a) No dog house, pen or kennel shall be maintained closer than forty (40) feet to any apartment house, residential condominium, hotel, restaurant, boarding house, retail food store, building used for school, religious or hospital purposes, or residence other than that occupied by the owner or occupant of the premises upon which said dogs are kept.

(b) All pens, yards or run or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and kept in good repair.

(c) Every pen, run, cage or other yard establishment wherein any dog is kept shall be maintained so that no offensive, disagreeable or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any neighbor.

(d) All manure accumulations in any pen, run, cage or yard establishment wherein a dog is kept shall be removed or disposed of in such manner as to prevent the breeding of flies. (Ord. 87-173 § 2, 1987.)

8.08.095 Chaining, Tethering or Picketing of Dogs.

(a) It shall be unlawful for any person to attach chains, tethers, restraints or 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.

(b) For the purpose of tethering a dog, a chain, leash, rope or tether shall be at least ten (10) feet in length.

(c) Any dog chained, tethered or picketed on private property shall be restricted from movement closer than ten (10) feet to the property line of the premises or any public sidewalk or right-of-way.

(d) No person shall:

(1) Continuously tether a dog for more than one (1) continuous hour, except that tethering of the same dog may resume after a hiatus of three (3) continuous hours, for up to three (3) hours total time on tether per day; or

(2) Use a tether or any assembly or attachments thereto or any combination thereof to tether a dog that shall weigh more than one eighth (1/8) of the animal's total body weight, or due to weight, inhibit the free movement of the animal within the area tethered; or

(3) Tether a dog on a choke chain or any other choke collar or in such a manner as to cause injury, strangulation, or entanglement of the dog on trees, fences, or other natural or man-made obstacles; or

- (4) Tether a dog without securing its water supply so that it cannot be tipped over; or
- (5) Tether a dog without access to shade when sunlight is likely to cause overheating, or access to appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below forty (40) degrees Fahrenheit, or
- (6) Tether a dog in an open area where it can be teased by persons or an open area that does not provide the dog protection from attack by other animals; or
- (7) Tether an animal in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation unless access to dry area or dry shelter is provided. (Ord. 06-115 § 3, 2006.)

8.08.100 Fences. Fences which are intended as enclosures for any animal shall be securely constructed, shall be adequate for the purpose, kept in good repair and shall not be allowed to become unsightly. (Ord. 87-173 § 2, 1987.)

8.08.110 Performing Animal Exhibitions.

(a) No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering.

(b) All equipment used on performing animal shall fit properly and be in good working condition. (Ord. 87-173 § 2, 1987.)

8.08.120 Compliance With Federal Regulations. It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or sub-species of mammal, bird amphibian, or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969. (Ord. 87-173 § 2, 1987.)

8.08.130 Dead Animals Removal or Disposition.

A. Olathe residents requesting disposal of small dead domestic animals may do so by delivering the animal to an animal control officer and paying a fee, as adopted in the Governing Body by resolution.

B. All large dead domestic animals shall be removed by the owner or proprietor of the premises within twelve (12) hours after the death of such animal. If not so removed, such animal may be removed by the animal control officer and the owner or proprietor of the premises may be cited for failure to properly dispose of the animal. Costs arising therefrom shall be charged to the animal's owner or custodian or property owner or proprietor.

C. For the removal of small dead animals from animal hospitals, commercial establishments and other similar places where animals are kept for commercial purposes, and from private premises, the fee for each animal shall be as established in accordance with Section 8.14.010.

D. Charges for removal of dead animals, as required in subsections B and C of this section, are due and payable upon billing by the City. Unpaid bills shall become a lien against the property when certified and processed as provided by law. The animal control officer may refuse to collect dead animals from commercial establishments as provided in subsection C of this section for failure to pay for previous billings.

E. On occupied property, the owner and/or tenant thereof shall provide easy access to the subject animal for purposes of its removal. (Ord. 10-31 § 9, 2010; Ord. 87-173 § 2, 1987.)

8.08.140 Injured or Ill Animals. Whenever the animal control officer or any other law enforcement officer encounters a stray or abandoned animal suffering pain, he or she may take the animal to a veterinarian approved by the City of Olathe where the cost of any care or treatment shall be borne by the owner. If the ownership of the animal cannot be determined, the animal control officer shall act in accordance with state law and have a licensed veterinarian assess the animal's condition. If the veterinarian determines the animal is diseased or disabled beyond recovery for any useful purpose, the veterinarian may humanely euthanize the animal or may authorize the animal to be humanely euthanized by an animal control officer trained to perform euthanasia. (Ord. 10-31 § 10, 2010; Ord. 87-173 § 2, 1987.)

CHAPTER 8.10

ANIMAL NUISANCES

Sections:

8.10.010	Nuisance Prohibited.
8.10.020	Excrement.
8.10.030	Female in Heat.
8.10.040	Diseased Animals.
8.10.050	Injury to Property.
8.10.060	Limitations on Ownership.
8.10.070	Keeping of Dangerous Animals.
8.10.080	Strays.
8.10.090	Guard Dogs and Attack Dogs.
8.10.100	Animals Biting or Scratching Persons Report--Impoundment and Examination.
8.10.110	Dangerous or Vicious Dogs.

8.10.010 Nuisance Prohibited. It shall be unlawful for the owner or harborer of any animal to cause or permit such animal to perform, create or engage in an animal nuisance. Any animal found acting in any way forbidden by this title, in the determination of the animal control officer, shall hereby be declared a nuisance and its owner or harborer shall be subject to citation. (Ord. 87-173 § 2, 1987.)

8.10.020 Excrement.

(a) It shall be unlawful for any person to appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for removal of excrement.

(b) It shall be unlawful for any person to fail to remove any excrement deposited by his animal upon any public or private property, other than the property of the owner of the animal. This section shall not apply to a blind person while walking his or her work dog. (Ord. 87-173 § 2, 1987.)

8.10.030 Female In Heat. All female animals in heat shall be confined in a building in such a manner that the animal cannot come into contact with a male animal except for planned breeding. (Ord. 87-173 § 2, 1987.)

8.10.040 Diseased Animals. It shall be unlawful for the owner of any domestic animal to knowingly cause or allow the same to run at large or be exposed in any public place anywhere in the city; or to ship or remove such animal from the owner's premises when same is afflicted with a contagious or infectious disease except under the supervision of the health officer. It shall be the duty of the health officer to order the deposition of such diseased animal and treatment of the affected premises to prevent the communication and spread of contagious or infection except in cases where the state veterinarian is empowered to act and does act. (Ord. 87-173 § 2, 1987.)

8.10.050 Injury to Property. It shall be unlawful for any person owning or possessing a dog or cat to permit such dog or cat to go upon any sidewalk, parkway, or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon. (Ord. 87-173 § 2, 1987.)

8.10.060 Limitations Upon Ownership. No person, residential premises or household shall have, hold, maintain or contain more than a combined total of four (4) dogs and cats over (4) months of age within the City of Olathe, except as authorized by Special Use Permit. (Ord. 87-173 § 2, 1987.)

8.10.070 Keeping of Dangerous Animals.

A. No person shall keep or permit to be kept on his premises any dangerous animal for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibitions or circuses, bonafide licensed veterinary hospital for treatment, bonafide educational or medical institutions, museums, or any other place where they are kept as live exhibits or for study.

B. No person shall keep or permit to be kept any dangerous animal as a pet.

C. Upon the written complaint of any person that a person owns or is keeping or harboring a dangerous animal on premises in the City, the Chief of Police or designee shall forthwith cause the matter to be investigated and if after investigation, the facts indicate that such person, named in the complaint is in fact the owner or is keeping or harboring any such dangerous animal in the City, the Chief of Police or designee shall forthwith send written notice to such person requiring such person to safely remove said animal from the city within three (3) days of the date of said notice. Notice as herein provided shall not be required where such dangerous animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the Chief of Police or designee shall cause said animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

D. The Chief of Police or designee shall forthwith cause to be seized and impounded any dangerous animal where the person owning, keeping or harboring such animal has failed to comply with the notice sent. Upon a seizure and impoundment said animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals.

If, during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the Chief of Police or designee may render said animal immobile by means of tranquilizers or other safe drugs or if that is not safely possible, then said animal may be killed.

E. Any reasonable costs incurred by the Chief of Police or designee in seizing, impounding and for confining any dangerous or wild animal shall be charged against the owner, keeper, or harbinger of such animal. Such charges shall be in addition to any fine or penalty provided for violating this ordinance. (Ord. 10-31 § 11, 2010; Ord. 97-118 § 5, 1997; Ord. 87-173 § 2, 1987.)

8.10.080 Strays. It shall be unlawful to permit any cattle, horse, swine, sheep, goats, or poultry to run at large in the city; any such animal running at large in any public place in the city shall be impounded in the manner provided in this ordinance. It shall further be unlawful to picket or tie any such animal in any of the streets of the city for the purpose of grazing or feeding. (Ord. 87-173 § 2, 1987.)

8.10.090 Guard Dogs and Attack Dogs. No person shall leave any guard dog or attack dog unattended in any place in or out of any building unless a warning sign has been placed in a clearly visible location at the premises, located so that it can be seen by any person before entering the place to which the dog has access, warning that a guard dog or attack dog is present. As used in this section, the term guard dog or attack dog means any dog intended to attack intruders, whether the dog has been trained to do so or the dog does so without training. No guard dog or attack dog shall be left unattended in any place except inside a building or out of doors in a fenced yard, with a fence adequate to prevent the dog from leaving the yard. (Ord. 87-173 § 2, 1987.)

8.10.100 Animals Biting or Scratching Persons Report--Impoundment and Examination.

A. When any animal subject to rabies has bitten, scratched or attacked any person, or when an animal is suspected of having rabies, it shall be the duty of any person having knowledge of such facts to report the same immediately to the animal control officer. Such report shall be made to the Olathe Police Department.

Such animal shall not be killed but shall be confined for a period of ten (10) days at the Olathe animal shelter or upon the premises of a duly licensed veterinarian located within the corporate limits of the City of Olathe, Kansas.

No person shall release from confinement any such animal or remove such animal from its place of confinement to another place without the consent of the animal control officer. The confinement of the animal shall be at the expense of the owner or custodian of such animal. Following consultation with a licensed veterinarian, if the animal control officer has reasonable cause to believe the animal is diseased, or upon exigent circumstances, the animal control officer shall be empowered to order examination of such animal to determine whether it may have rabies. No person shall refuse to surrender any animal for quarantine when demand is made by the order of the animal control officer. If the animal dies or is killed, a laboratory examination of the head shall be made at the expense of the animal's owner or custodian.

B. As an alternative to subsection A, the animal control officer may authorize the confinement of the animal on the owner's premises if at the time of the bite, scratch or attack the animal was not running at large as defined by Section 8.02.020 and if the owner produces a current rabies vaccination certificate showing that the animal has been vaccinated. The expiration date of the rabies vaccination shall be recorded on the vaccination certificate along with positive identification of the animal for which such certificate is issued. The owner of the animal must sign a written agreement to keep the animal confined as directed by the animal control officer and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. The animal must be confined as directed by the animal control officer.

C. The provisions of Section 8.10.100 do not apply to police dogs.

D. Any person refusing or failing to comply with the provisions of this section or with the order or directives of the animal control officer relating thereto shall be guilty of the commission of a Class B public offense. (Ord. 10-31 § 12, 2010; Ord. 97-45 § 1, 1997; Ord. 95-47 § 1, 1995; Ord. 88-120 § 3, 1988; Ord. 87-173 § 2, 1987.)

8.10.110 Dangerous or Vicious Dogs.

A. Determination of a Dangerous or Vicious Dog. In the event that the animal control officer has probable cause to believe that a dog is dangerous or vicious, as defined in Section 8.02.020 and upon submission of a probable cause affidavit by the City Prosecutor's Office, the Municipal Judge shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared dangerous or vicious.

The City Prosecutor shall notify the owner or harbinger of the dog that a hearing will be held, at which time he or she may have the opportunity to present evidence why the dog should not be declared dangerous or vicious. The hearing shall be held promptly within no less than five (5) nor more than fourteen (14) days after service of notice upon the owner or harbinger of the dog. The failure of the owner or harbinger to attend or participate in the hearing shall not prevent the Municipal Judge from hearing evidence in the matter and entering a determination whether the dog is dangerous or vicious as alleged or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.

If the owner or harbinger fails to appear for the hearing, the animal control officer or law enforcement officer may seize and impound the dog. The dog may be impounded by the animal control officer for a period not to exceed thirty (30) days. At the end of the thirty (30) day period pursuant to a Municipal Court order, the dog may be euthanized. The owner or harbinger shall pay all costs of said confinement and euthanization. Such costs shall be assessed as Court costs.

If, prior to such hearing, the owner or harbinger of the dog voluntarily causes the animal to be euthanized, such action shall be deemed a stipulation that the dog was, in fact, a dangerous or vicious dog as alleged. The Municipal Court may enter such finding without further evidentiary hearing.

If, prior to such hearing, the owner or harbinger of the dog voluntarily removes the animal from the City limits, such action shall be deemed a stipulation that the dog is, in fact, a dangerous or vicious dog as alleged. The Municipal Court may enter such finding without further evidentiary hearing. The owner or harbinger shall provide the Municipal Court with the exact location, address, and contact information for the new owner or harbinger of the dog. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a dangerous or vicious dog. If such dog is found by the Municipal Judge to be dangerous, such animal shall not be returned to the City until a compliance hearing is requested and held in the Municipal Court and it is established that the owner or harbinger is in full compliance with the requirements of Section 8.10.110 C 1-8. If such dog is found by the Municipal Judge to be vicious, the dog shall not be returned within the City limits at any time thereafter. It shall be unlawful for the owner or harbinger of a dangerous or vicious dog to maintain such animal in violation of the Court's order.

After the hearing, the owner or harbinger of the dog and the City Prosecutor shall be notified by the Court in writing within ten (10) business days of the determination. If a determination is made that the dog is dangerous or vicious, the owner or harbinger shall comply with the provisions of this title as directed by the Municipal Judge in accordance with a time table established by the Municipal Judge, but in no case more than thirty (30) days subsequent to the date of the determination. If the owner or harbinger of the dog contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination appeal to the district court.

In the event that the animal control officer or law enforcement officer has probable cause to believe that the dog in question is dangerous or vicious, and may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the dog pending the aforesaid Municipal Court determination and/or the findings of any appeals taken. Upon the Court's determination that the impounded dog is dangerous or vicious, the owner or harbinger of the dog shall be liable to the City where the dog is impounded for the costs and expenses of keeping such dog.

In the event of impoundment by the City, the aforesaid Municipal Court hearing must be scheduled within sixty (60) days of such impoundment.

B. A dog which has been adjudicated by another jurisdiction based on its behavior to be dangerous, vicious or a comparable designation shall not be relocated to Olathe; residence shall not be prohibited solely by breed.

C. Control of Dangerous Dog. If the Municipal Court Judge determines that a dog is dangerous, the owner or harbinger of such dog shall comply with the following:

1. Confinement. A dangerous dog shall be confined to the interior of its residence or confined within an enclosure as defined in Section 8.02.020 at all times except as set out below:

a. The dangerous dog may be in a fenced yard when securely muzzled and under the direct supervision and in the immediate presence of a responsible adult capable of controlling the dog.

b. The dangerous dog may be walked when securely leashed and securely muzzled. The leash must be under the control of an adult capable of exercising control over the dog. The animal shall not be leashed to an inanimate object.

c. If it is necessary for the owner or harbinger to obtain veterinary care for the dangerous dog or to take the animal for professional training or to sell or give away the dangerous dog or to comply with commands or directions of an animal control officer, the dangerous dog must be securely muzzled and securely leashed or securely muzzled and crated.

To be securely leashed the dangerous dog must be on a leash no longer than four (4) feet in length. Any muzzle used to securely muzzle a dangerous dog must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent the dog from biting any human or animal.

2. Confinement Indoors. No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

3. Signs. The owner or harbinger of a dangerous dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a dangerous dog on the premises. A similar sign is required to be posted on the enclosure. Such sign shall conform to the size requirements established by administrative regulations under Section 8.14.010.

4. Microchip Identification. The owner or harbinger of a dangerous dog must have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the animal control officer. If the microchip is not implanted by the owner or harbinger, it may be implanted by the animal control officer. In either case, all costs related to the purchase and implantation of the microchip must be borne by the dog's owner or harbinger.

5. Dangerous Dog License Fees. All dangerous dog owners or harborers shall pay a license fee which shall be renewed annually on or before August 1st of each year. The license fee shall be adopted by the Governing Body of the City by resolution.

6. Mandatory Spay and Neuter. All dangerous dogs shall be required to be spayed or neutered.

7. Training. All dangerous dogs shall be required to be enrolled in a behavior modification program administered by a licensed animal behaviorist prior to the compliance hearing. Verification of successful completion of said program must be provided to the animal control officer at the annual license review.

8. Insurance. The owner or harbinger of a dangerous dog is required to present to the Municipal Court proof that the owner or harbinger has procured liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000), covering any damage or injury which may be caused by such dangerous dog during the twelve (12) month period for which licensing is sought.

The policy shall contain a provision requiring the City to be named as additional insured for the sole purpose of notification to the City by the insurance company of any cancellation, termination or expiration of the liability insurance policy. The owner or harbinger shall maintain and not voluntarily cancel the liability insurance required by the Court during each annual license period for which licensing is sought, unless the owner or harbinger shall cease to own or keep the dangerous dog prior to expiration of such license.

9. Compliance Hearing. In the event that a dog has been determined to be dangerous, the Municipal Court Judge shall set a compliance hearing within forty (40) days of said determination. The owner or harbored of said dog shall provide verification of full compliance with Section 8.10.110 C 1–12 at said hearing. In the event the Court finds the owner or harbored is not in full compliance, the dangerous dog shall be impounded by the animal control officer for a period not to exceed thirty (30) days. The owner or harbored shall pay all costs of said confinement. Such costs shall be assessed as Court costs. If full compliance is not verified to the Court within that thirty (30) day period, the dangerous dog shall be euthanized or the owner or harbored of the dog shall remove the dog from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new owner or harbored where the dog has been moved. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a dangerous animal.

10. At least thirty (30) days prior to the relocation of a dog previously determined to be dangerous, the owner or harbored of the dog shall notify the Olathe Municipal Court and Animal Control of the proposed location. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a dangerous dog.

11. Prior to the annual renewal of any dangerous dog license issued hereunder and at least once annually after the issuance of any such license or after its renewal, the animal control officer or designated representative is authorized to inspect the premises subject to such license to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this Chapter. In addition, the animal control officer may investigate the past history of the license holder to determine whether during the past license period the license holder was in compliance with all of the conditions specified in this Chapter. The investigation may include a review of department records and interviews with the license holder and neighbors. If the animal control officer determines during any such inspection and investigation that any of the conditions therein specified are being violated or have been noted as having been violated during the past licensed period, he/she shall deny renewal of any such license and/or revoke such license in the event that such violation is not corrected within such period of time as she/he shall direct. Upon completion of the investigation and review process provided herein, the animal control officer shall report to the City Prosecutor that the dangerous animal license has been renewed or that the renewal application has been denied. If the application was denied, a copy of the report shall be given to the owner or harbored of the dangerous dog. The report shall include the basis for the denial. The owner or harbored shall have the right to appeal the denial to the Olathe Municipal Court. The decision of the Olathe Municipal Court shall be final and binding.

12. Dangerous Dog Designation Review. Beginning one (1) year after a dog is declared a dangerous dog, an owner or harbored may request annually that the Municipal Court review the designation. The owner or harbored must provide evidence that the dog is no longer dangerous due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control officer finds sufficient evidence that the dog's behavior has changed, the Municipal Judge may rescind that dangerous dog designation.

D. Disposition of Vicious Dogs. If the Municipal Court Judge determines that a dog is vicious, the dog shall be euthanized or the owner or harbored of such dog shall remove the dog from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new owner or harbored where the dog has been moved. The Olathe Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious dog. The dog shall not be returned to the City limits after removal. It shall be unlawful for the owner or harbored of a vicious dog to maintain such animal in violation of the Court's order. (Ord. 10-31 § 13, 2010; Ord. 06-115 § 1, 2006; Ord. 05-131 § 2, 2005; Ord. 97-118 § 6, 1997; Ord. 87-173 § 2, 1987.)

CHAPTER 8.12

IMPOUNDMENT, REDEMPTION AND ADOPTION

Sections:

- 8.12.010 Impoundment, Redemption and Disposition of Animals Running at Large or Involved In Biting Persons or Other Animals.
- 8.12.020 General Policy Regarding Adoption.
- 8.12.030 Dog and Cat Adoption.
- 8.12.040 Cat Adoption. (Repealed 9/2/97)
- 8.12.050 Shelter Hours for Adoption.
- 8.12.060 Holding Animals in Shelter.

8.12.010 Impounding, Redemption and Disposition of Animals Running at Large or Involved in Biting Persons or Other Animals. The animal control officer is authorized to receive and dispose of (pursuant to the adoption guidelines of this Chapter), dogs, cats or other small animals, and to impound, offer for adoption or destroy any animal running at large in violation of the terms of this Chapter, or any animal that has bitten a person or another animal, or any animal suspected of having a disease transmissible to human beings. Such animals may be taken or impounded even though no citizen makes a complaint and even though the animal control officer issues no notice to appear. Impoundment shall be subject to the following:

A. The animal control officer shall notify the owner of an animal, identifiable by a tag or other approved method, which is impounded under this Chapter, by telephone or personal service.

B. Such animal shall be confined in the approved shelter for a period of three (3) days, such period of time beginning at nine a.m. on the morning following the day of impoundment as provided in subsection A of this section. If the owner does not reclaim his or her animal during the three (3) day period, or if the animal control officer or animal shelter is unable to locate and notify the owner after making a good faith effort to do so within the three (3) day period, then the animal shelter may offer for adoption or destroy such animal.

If the animal is not identifiable by a tag or other approved method, no notice is required and such animal shall be confined for a period of three (3) days beginning at nine a.m. of the morning following its capture; after such time the animal shelter may dispose of the animal.

Notwithstanding the above and as provided in Section 8.10.100, any animal impounded pursuant to a report that any person or other animal has been bitten by that animal, shall be held for a period of at least ten (10) days for the purpose of observing such animal for symptoms of rabies disease; after such time the animal shelter may dispose of the animal.

C. Any animal licensed or unlicensed, as required in this Chapter may be claimed by its owner upon the payment of an impoundment fee which shall be adopted by the Governing Body of the City by resolution.

Each animal impoundment is a separate and subsequent impoundment regardless of animal ownership in prior impoundments.

D. Fees.

1. Boarding fee: a fee for maintaining and caring for the animal shall be adopted by the Governing Body of the City by resolution.

2. Vaccination Deposit: A vaccination deposit shall be adopted by the Governing Body of City by resolution. Such amount shall be as deposit for vaccination for rabies vaccination, redeemable when proof of vaccination is received from any veterinarian approved by the City of Olathe; said deposit to be forfeited to the City of Olathe if proof of vaccination is not received by the City within five (5) consecutive business days commencing the day following the making of said deposit. An absence of proof of vaccination shall be deemed evidence that no rabies vaccination has been obtained.

3. License fee for dogs and cats: fee equal to an amount due in accordance with the schedule in Section 8.06.060.

4. Any and all fees or costs incurred by the City for impounding animals shall be paid for by the owner of such animal before the animal is released to the owner.

E. All animals not claimed within the period provided in this section may be adopted or destroyed.

F. All animals impounded for reasons of suspected disease may be reclaimed by their owners upon evaluation and treatment by a veterinarian approved by the City of Olathe who shall certify, in writing, the disease-free release of such animal. (Ord. 10-31 § 14, 2010; Ord. 02-136 § 1, 2002; Ord. 00-119 § 2, 2000; Ord. 97-118 § 7, 1997; Ord. 92-19 § 1, 1992; Ord. 88-120 § 4, 1988; Ord. 87-173 § 2, 1987.)

8.12.020 General Policy Regarding Adoption. The city's main concerns with respect to adoption of a cat or dog from the shelter are:

(a) That the dog or cat be in good health, that all dogs be immunized against rabies, licensed, not vicious by nature; and

(b) That the dog or cat will be assured of a good home under the control of a responsible person. (Ord. 87-173 § 2, 1987.)

8.12.030 Dogs and Cats.

(a) Qualifications for adoption:

(1) Good Health.

(2) Not vicious.

(3) Vaccinated.

(4) Licensed (when place of residence is within the city).

(5) In the case of a licensed dog or cat turned in at the shelter by the owner of record or his authorized representative, said owner or representative must give a release in writing for the animal's disposal or adoption.

(6) Any dog or cat picked up by the animal control officer as a stray or while running at large, or in response to a complaint, the dog will not be available for adoption (other qualifications being met) until the prescribed waiting period of three (3) days has expired and the owner has failed to claim it; or the owner has given written consent to the adopter for its adoption; or the adopter (after the waiting period) certifies that efforts to locate the owner were unsuccessful.

(7) The adopting party must sign an agreement to have the dog or cat spayed or neutered and vaccinated for rabies prior to the adopting party taking possession of the adopted animal.

(8) An animal control officer will transport the adopted animal to the contract veterinarian(s) for sterilization and vaccination prior to being released to the adopter. It shall be the responsibility of the adopter to redeem the animal from the veterinary clinic following the surgery and vaccination of the animal. Failure to redeem the animal will result in forfeiture of all rights to said animal and any monies paid. The adopted animal remains the property of the City of Olathe until the spay/neuter surgery is completed and the new adopter takes possession of the adopted animal from the veterinary clinic.

(b) Fees associated with adoption: The adopter will be required to pay an adoption fee, spay/neuter fee, rabies vaccination fee and license fee. Such fees shall be adopted by the Governing Body of the City by resolution. (Ord. 04-05 § 1, 2004; Ord. 02-136 § 2, 2002; Ord. 97-118 § 8, 1997; Ord. 92-19 § 2, 1992; Ord. 88-120 § 5, 1988; Ord. 87-173 § 2, 1987.)

8.12.040 Cat Adoption. Repealed 9/2/97. (Ord. 97-118 § 9, 1997; Ord. 88-120 § 6, 1988; Ord. 87-173 § 2, 1987.)

8.12.050 Holding Animals in Shelter. An animal considered by the animal control officer to be suitable for adoption shall be held in the shelter for at least four (4) calendar days following the mandatory retention period if not claimed by the owner during the retention period. The animal control officer may hold the animal in the shelter beyond four (4) days if there is sufficient capacity and ability to do so. (Ord. 10-31 § 15, 2010; Ord. 97-118 § 10, 1997; Ord. 92-19 § 3, 1992; Ord. 88-120 § 6, 1988; Ord. 87-173 § 2, 1987.)

CHAPTER 8.14

ENFORCEMENT AND PENALTIES

Sections:

- 8.14.010 Chapter Administration.
- 8.14.020 Nuisance Injunction.
- 8.14.025 Collection of Fees.
- 8.14.030 Penalties.

8.14.010 Chapter Administration. The city manager is authorized to develop administrative regulations necessary to implement the provisions of this chapter, including procedures for animal enumerations, animal shelter operation, and such other fees required by this title but not specified herein. (Ord. 97-118 § 11, 1997; Ord. 87-173 § 2, 1987.)

8.14.020 Nuisance, Injunction. Any violation of this ordinance is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this ordinance. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction. (Ord. 97-118 § 11, 1997; Ord. 87-173 § 2, 1987.)

8.14.025 Collection of Fees. The city of Olathe may recover all costs incurred in caring for any animal impounded, held pursuant to or associated with the provisions of this title including but not limited to the cost for necessary veterinarian care, euthanasia of any animal, surrender of any animal to the animal shelter, impoundment administration, and the renting of any animal trap. Said fees shall be in addition to any fine imposed for violation of the provisions of this chapter. Fees shall be established by resolution of the Governing Body. (Ord. 05-127 § 1, 2005; Ord. 00-119 § 3, 2000; Ord. 97-118 § 11, 1997)

8.14.030 Penalties.

A. Nuisance Violations. Any person found guilty of permitting an animal nuisance to exist shall be fined:

1. Not less than \$35.00 nor more than \$100.00 for the first offense;
2. Not less than \$100.00 nor more than \$200.00 for the second offense within a consecutive twenty-four (24) month period, otherwise the first offense fine;
3. Not less than \$200.00 nor more than \$350.00 for the third offense within a consecutive twenty-four (24) month period, otherwise the first offense fine;
4. Not less than \$350.00 nor more than \$500.00 for the fourth offense within a consecutive twenty-four (24) month period, otherwise the first offense fine; and/or
5. Ordered to remove such animal permanently from the City within twenty-four (24) hours of such order.

B. Penalties for Non Compliance with Section 8.10.110 Dangerous or Vicious Dogs.

1. Any animal which is not contained or controlled as ordered pursuant to Section 8.10.110 shall be confiscated by an animal control officer and may be destroyed in an expeditious and humane manner after the expiration of a five (5) day waiting period, exclusive of weekends and holidays. In addition, the owner or harbinger shall be fined not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00).

2. If any dangerous or vicious dog shall, when unprovoked, attack, wound or kill or assist in killing or wounding any animal, the owner or harbinger of said dog shall pay a fine not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00) and the animal control officer is empowered to confiscate and after the expiration of a five (5) day waiting period, exclusive of weekends and holidays, shall destroy said dangerous or vicious dog.

3. If any dangerous or vicious dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner or harbinger shall pay a fine not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00) and the animal control officer is empowered to confiscate the dangerous or vicious dog and after the expiration of a five (5) day waiting period, exclusive of weekends and holidays, shall destroy said dangerous or vicious dog.

4. If the owner or harbinger of a dog impounded for an alleged violation shall believe that there has not have been a violation of Section 8.10.110, such owner or harbinger may petition the Municipal Court, praying that the impounded dog not be destroyed. The impounded dog shall not be destroyed pending resolution of such owner's or harbinger's petition if the petition shall have been filed within five (5) days exclusive of weekends and holidays of impoundment of such dog and notice shall have been served within five (5) days exclusive of weekends and holidays of the impoundment of such dog upon the City Prosecutor and animal control officer of the animal shelter. The hearing shall be conducted within seven (7) business days from serving of the notice. The dog shall remain impounded pending the Municipal Court proceedings. The decision of the Municipal Court shall be final and conclusive upon all the parties thereto.

C. Other Violations. Any person found guilty of violating any other provision of this Chapter that does not specify a penalty shall be fined not less than \$50.00 nor more than \$200.00 for each offense. A separate offense shall be held to have been committed each day that such violation shall occur or continue.

D. Mediation, Diversion or Other Alternative Dispute Remedies. The City Prosecutor may offer mediation, diversion or other alternative dispute remedies for violations of this title.

E. Penalties for Non Compliance with Section 8.10.110 Dangerous or Vicious Dogs.

1. Any animal which is not contained or controlled as ordered pursuant to Section 8.10.110 shall be confiscated by an animal control officer and destroyed in an expeditious and humane manner after the expiration of a five (5) day waiting period, exclusive of weekends and holidays. In addition, the owner or harbinger shall be fined not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00).

2. If any dangerous or vicious dog shall, when unprovoked, kill, wound or worry or assist in killing or wounding any animal, the owner or harbinger of said dog shall pay a fine not less than Two Hundred Fifty Dollars (\$250.00) and not more than One Thousand Dollars (\$1,000.00) and the animal control officer is empowered to confiscate and after the expiration of a five (5) day waiting period, exclusive of weekends and holidays, shall destroy said dangerous or vicious dog.

3. If any dangerous or vicious dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner or harbinger shall pay a fine not less than Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00) and the animal control officer is empowered to confiscate the dangerous or vicious dog and after the expiration of a five (5) day waiting period, exclusive of weekends and holidays, shall destroy said dangerous or vicious dog.

4. If the owner or harbinger of a dog impounded for an alleged violation shall believe that there has not have been a violation of Section 8.10.110, such owner or harbinger may petition the Municipal Court, praying that the impounded dog not be destroyed. The impounded dog shall not be destroyed pending resolution of such owner's or harbinger's petition if the petition shall have been filed within five (5) days exclusive of weekends and holidays of impoundment of such dog and notice shall have been served within five (5) days exclusive of weekends and holidays of the impoundment of such dog upon the City Prosecutor and animal control officer of the animal shelter. The hearing shall be conducted within seven (7) business days from serving of the notice. The dog shall remain impounded pending the Municipal Court proceedings. The decision of the Municipal Court shall be final and conclusive upon all the parties thereto.

F. Other Violations. Any person found guilty of violating any other provision of this Chapter that does not specify a penalty shall be fined not less than \$50.00 nor more than \$200.00 for each offense. A separate offense shall be held to have been committed each day that such violation shall occur or continue.

G. Mediation, Diversion or Other Alternative Dispute Remedies. The City Prosecutor may offer mediation, diversion or other alternative dispute remedies for violations of this title. (Ord. 10-31 § 16, 2010; Ord. 05-131 § 3, 2005; Ord. 97-118 § 11, 1997; Ord. 87-173 § 2, 1987.)