

ORDINANCE NO. 1986

AN ORDINANCE AMENDING AND COMPLETELY REPLACING ARTICLE 1 OF CHAPTER II OF THE CODE OF THE CITY OF RUSSELL, KANSAS, REGULATING THE KEEPING, CARE AND CONTROL OF ANIMALS IN RUSSELL, KANSAS

BE IT ORDAINED by the Governing Body of the City of Russell, Kansas:

SECTION 1. That Article 1 of Chapter II of the Code of the City of Russell entitled "Animals and Fowls Generally" is hereby amended to read in in full as follows:

**2-101. Authorization.** This article is enacted pursuant to the general police power, the authorities granted to cities and towns by the Kansas State Constitution, and applicable statutes.

**2-102. Purpose and Intent.** The purposes of this Article are to promote the public health, safety, and general welfare of the citizens of the City of Russell and to ensure the humane treatment of animals by regulating the care and control of animals within City.

**2-103. Definitions.** When used in this Article, the following words, terms and phrases, and their derivations shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(a) "Adequate feeding" means supplying at suitable intervals, not to exceed 24 hours, a quantity of wholesome foodstuff suitable for the animal species and age, and sufficient to maintain a reasonable level of nutrition in each animal.

(b) "Adequate watering" means a supply of clean, fresh, potable water, supplied in a sanitary manner and continuously accessible to each animal.

(c) "Animal" means all vertebrate and invertebrate animals such as, but not limited to, bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captured.

(d) "Animal Control Officer" means an employee or agent of the City, designated by the City Manager to administer and enforce the licensing, inspection and enforcement requirements contained within this Article.

(e) "Animal Hospital" means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of animal diseases and injuries.

(f) "Animal Nuisance" means any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of, a public nuisance animal.

(g) "Animal Shelter or Pound" means any facility operated by the City or Humane Society for the temporary care, confinement and detention of animals and for the humane killing and other disposition of animals. The term shall also include any private facility authorized by the City Manager or his/her designee to impound, confine, detain, care for or destroy any animal.

(h) "Assistance Dog" means a dog trained and certified, or undergoing training, to aid or assist a person with a disability and includes guide dogs for the visually impaired, hearing assistance dogs for the deaf or hard of hearing, service dogs for mobility assistance, seizure alert, and professional therapy dogs trained and tested to provide specific physical or therapeutic functions under the direction and control of a qualified handler. The owner of an assistance dog must be able to provide adequate documentation, upon demand of an animal control officer or law enforcement officer, that the assistance dog is an animal trained by an accredited institution which trains dogs for assistance work.

(i) "At Large" means that the animal is not on either the premises of the owner or custodian of the animal, nor on someone else's premises with the owner or occupant's consent and the animal is not under restraint.

(j) "Disposition" means adoption, quarantine, voluntary or involuntary custodianship or placement, or euthanasia humanely administered to an animal. "Disposition" also includes placement or sale of an animal to the general public, or removal of an animal from any pet shop to any other location.

(k) "Domesticated" means bred for and adapted to living, dependently in an urban household setting.

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

(m) "Harbor" means to give shelter to or refuge to an animal or otherwise to provide such animal's home or habitat.

(n) "Household" means a residence and those persons who dwell under the same roof.

(o) "Impoundment" means the taking into custody of an animal by any Police Officer, Animal Control Officer, or any authorized representative thereof.

(p) "Kennel" means any place where five or more dogs, or five (5) or more cats are kept, maintained, boarded and/or bred for a fee and/or offered for sale in accordance with state laws and regulations.

(q) "Livestock" means cattle, horses, bison, sheep, goats, swine and donkeys.

(r) "Muzzle" means a device constructed of strong soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

(s) "Own" or "Owning" means to keep, maintain, possess, harbor, control, sell, trade or buy. An animal shall be deemed to be owned by an individual if such individual or another individual in his or her household feeds or shelters the animal for three (3) or more consecutive days.

(t) "Owner" means any person, partnership, corporation or other legal entity owning, harboring or keeping any animal, or in the case of a person under the age of eighteen (18), that person's parent or legal guardian. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) or more consecutive days. This definition shall not apply to any veterinary clinic or boarding kennel.

(u) "Parcel" is all contiguous land (including lots and parts of lots) held in one (1) ownership.

(v) "Premises" is a parcel together with all buildings and structures.

(w) "Public Nuisance Animal" means any animal that unreasonably annoys humans, endangers the life or health of a person or other animal, or substantially interferes with the rights of a citizen, other than the animal's owner, to enjoyment of life or property. The term "public nuisance animal" shall include, but not be limited to:

- (1) Any animal that is repeatedly found running at large;
- (2) Any animal in any section of a park or public recreation area unless the animal is under restraint, or is in a publicly dedicated enclosed animal park;
- (3) Any animal that repeatedly damages, soils, defiles or defecates on any property other than that of its owner, unless the owner or custodian immediately removes and disposes of all feces as provided in Section 2-108;
- (4) Any animal that makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (5) Any animal in heat that is not confined so as to prevent attraction or contact with other animals;
- (6) Any animal, whether or not on the property of its owner, that without provocation, molests, attacks, bites or otherwise interferes with the freedom of movement of persons in a public right-of-way;
- (7) Any animal that repeatedly chases motor vehicles in a public right-of-way;
- (8) Any animal that attacks another domestic animal without provocation;
- (9) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored; or

(10) Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence or the inadequacy of the facilities.

(y) "Repeatedly" means for the same or substantially similar event to occur three (3) or more times within the previous twelve (12) months.

(z) "Sanitary" means a condition of good order and cleanliness to minimize the possibility of disease transmission.

(aa) "Secure enclosure" means to be confined indoors or in a locked pen or other enclosure that is suitable to prevent the entry of children and is designed to prevent the animal from escaping.

(bb) "Under Restraint" means that an animal is secured by a leash and led under the control of a person physically capable of restraining the animal or securely enclosed within the real property limits of the animal's owner or the person who has possession of the animal.

**2-104. Public Nuisance Animal Prohibited.** It shall be unlawful for any person to keep any Public Nuisance Animal on any property within the corporate limits of the City.

**2-105. Animals Permitted in City.** It shall be unlawful for any person(s) to own or harbor, within the city limits, any animal except the following animals:

- Birds ordinarily and customarily confined to cage;
- Chickens;
- Domestic dogs, except those hybridized with wild canines;
- Domestic cats, except those hybridized with wild felines;
- Domesticated rodents;
- Domesticated ferrets;
- Ducks;
- Hedgehogs;
- Goats;
- Rabbits;
- Nonvenomous snakes less than (6) feet in length, except that such snakes shall be required to be maintained on the owner's premises or property;
- Nonvenomous lizards;
- Turtles, except for species protected by state or federal law;
- Non-venomous amphibians;
- Fish, except such fish as are venomous;
- Invertebrates, except as are known to be dangerous to humans;
- Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian;
- Any animal in the ownership of a person designated and licensed as an animal rehabilitator or falconer by the Kansas Wildlife and Parks Department;
- Any animal in the ownership (possession?) of a person temporarily transporting such animal through the city;
- Any animal in the ownership of a bona fide medical institution or accredited educational institution;
- Any animal exhibited for sale, show or other temporary purpose at the Russell County Fairgrounds;
- Any domesticated animal exhibited for show in a parade that has been approved by the governing body of the City of Russell;
- Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering, or caring for animals;

Any animal temporarily on the grounds of a stockyard or sale barn if the location of such stockyard or sale barn does not otherwise violate the zoning ordinances of the city and is in compliance with state and federal laws and regulations;

Livestock in a pasture or other enclosure having an area of five or more acres in an area zoned A-1, I-1 or I-2, during such times when the number of animals kept in such pasture or enclosure does not exceed the number of acres in such pasture or enclosure. The provisions of this Section shall not apply to veterinary facilities, educational programs, county fair facilities or the temporary use of goats in an area zone A-1, I-1 or I-2 for the purpose of grass or weed control.

**2-106. Keeping of numerous animals.**

- (a) No household shall keep or harbor on the household's premises more than eight (8) animals within the city limits; however, no household shall keep or harbor among such animals more than four (4) dogs or more than four (4) cats; except that a litter of puppies or kittens may be kept for a period of time not exceeding five (5) months from birth. This subsection shall not apply to dogs or cats kept for breeding, sale, sporting purposes, or boarding in accordance with local and state laws and regulations.
- (b) The keeping of fish shall be exempt from this restriction on number of animals.
- (c) In areas where dog kennels are permitted, no portion of a kennel, including but not limited to outdoor runs, shall be located closer to the property line of the nearest adjacent residential lot than as is provided for in the City's Zoning Regulations.
- (d) The provisions of this section shall not apply to the maintaining of a stockyard or sale barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sale barn does not otherwise violate the zoning ordinances of the city. The provisions of this section shall not apply to a pasture or other enclosure having an area of five or more acres in an area zoned A-1 (agricultural), I-1 (light industrial), or I-2 (heavy industrial), during such time or times when the number of such livestock kept in such pasture or enclosure does not exceed the number of acres in such pasture or enclosure. The provisions of this Section shall not apply to veterinary facilities, educational programs, pet stores, county fair facilities and kennels operated in accordance with the law.
- (e) Application for a kennel license shall be made to the city clerk. The application shall meet the approval of the city clerk, city building official, and the animal control officer before issuance of a license. Upon approval, the person, firm or corporation applying for the license shall pay a kennel license fee of \$75.00. The initial kennel license shall be issued with an expiration date of the following December 31, and all kennel licenses shall be renewable annually.

**2-107. Cruelty to Animals.**

(a) Cruel Acts and Conditions Enumerated:

(1) It shall be unlawful for any person:

- (a) 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; or drive over any domesticated animal, or cruelly set an animal upon another animal, except that reasonable force may be employed to drive off vicious or trespassing animals; or
- (b) 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; or

- (c) to fail, refuse or neglect to provide any animal in his or her charge or custody as owner or otherwise with proper food, drink, shade, care, or shelter. Any animal kept outside shall be provided with structurally sound weatherproof enclosure, large enough to accommodate the animal; or
- (d) to drive or work any animal cruelly; or
- (e) to abandon any animal within the City limits. For the purposes of this Section, "abandon" means for the owner or keeper to leave an animal without demonstrated or apparent intent to recover or resume custody; or without shelter for the duration of the absence; or to turn out or release an animal for the purpose of causing it to be impounded; or
- (f) to leave an animal without providing for adequate watering and adequate feeding;
- (g) to leave any animal unattended in a vehicle when such vehicle does not have adequate ventilation and temperature to prevent suffering, disability or death to such animal.
- (h) to transport an animal in the trunk of a vehicle; or
- (i) to cause, instigate, stage, or train any animal to fight or permit any fight between any animal and another animal or human; or
- (j) except a licensed veterinarian, to crop animal ears or dock animal tails; or
- (k) to 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.

(2) Any person who, as the operator of 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.

(b) Exceptions: Nothing in subsection (a) of this Section shall:

- (1) Be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine, or any action taken by the animal control officer or a law enforcement officer pursuant to the interests of public health and safety; or
- (2) Be interpreted as prohibiting any act done in self-defense or done to defend another person.

## **2-108. Sanitation.**

(a) No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area or common grounds owned jointly by the members of a homeowners or condominium association, or upon private property other than that of the owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal by the following methods:

- (1) Collection of the feces by appropriate implement and placement in a paper or plastic bag or another container; and
- (2) Removal of such bag or container and disposition thereafter in a manner permitted by law.

(b) No person owning, harboring or keeping an animal within the City shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the property of others so as to cause or create an unhealthy, unsanitary, or dangerous or offensive living condition on the owner's or custodian's property, or to abutting property of others.

(c) No person owning, harboring, keeping or in charge of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.

**2-109. Restraint and confinement - generally.**

- (a) It shall be unlawful for the owner or custodian of any animal to fail to keep such animal under restraint or to permit such animal to run at large.
- (b) Any animal, while on a street, sidewalk, public way or in any park, public square, or other public space, or upon any private property without the consent of the property owner, shall be secured by a leash or chain of sufficient tensile strength to restrain the particular animal.
- (c) Owners or custodians of any animal shall exercise proper care and control of such animal to prevent the same from becoming a public nuisance.
- (d) Every female dog or cat in heat shall be confined in such a manner that such female dog or cat cannot come into contact with another except for planned breeding.

**2-110. Property owners.** Any person finding an animal at large upon his property may take possession of the animal and the person shall, as soon as possible, notify the Animal Control Officer.

**2-111. Return of animal to owner.** If the name of the owner or custodian of an animal found at large is known or can be obtained with reasonable diligence, the Animal Control Officer shall return the animal to the owner. If the owner cannot be located, the officer shall leave written notice of whom the owner must contact to reclaim the animal. The officer shall then remove the animal to the animal shelter.

**2-112. Disposition of large animals.** Any Animal Control Officer or other designated person on call who removes a large animal such as a horse, cow, mule or any other animal not acceptable by any animal hospital or shelter shall be authorized to call a trucking firm or company which shall convey the animal to a farm or other appropriate facility that has an agreement with the City to accept such animals. The disposition of any animal removed to a facility other than an animal hospital or shelter shall be handled in the same manner as though the animal were confined in an animal hospital or shelter. The owner of the animal shall reimburse the City for the actual costs of the animal's removal and impoundment.

**2-113. Licensing of dogs and cats.**

- (a) License Required. No person shall own, keep or harbor any dog or cat over the age of five (5) months within the City unless such dog or cat is licensed as provided in this article.
- (b) Application. Application for such license shall be made by the owner on a form to be provided by the City Clerk within ten (10) days after acquiring any dog or cat over five (5) months of age or within ten (10) days after a dog or cat becomes five (5) months of age; provided that any owner moving to the City for the purpose of establishing residence or becoming a resident as a result of any annexation, and otherwise required to obtain a license, shall have until ten (10) days after moving or annexation to obtain such a license.
- (c) Proof of Rabies Vaccination Required. All owners applying for a license must show to the satisfaction of the licensing authority that the animal for which the license is obtained has been currently inoculated against rabies.
- (d) Proof of Sterilization. Any owner claiming that his/her dog or cat has been spayed or neutered must show to the satisfaction of the licensing authority that such operation has been performed.
- (e) Payment of License Fee. A license fee shall be paid at the time of making application. The license fee for dogs and cats shall be ten (\$10.00) dollars for each altered dog and cat and twenty-five (\$25.00) dollars for each unaltered dog and/or cat. At the time of obtaining a license for a dog or cat the person applying shall give proof to the City that said animal has had implanted by a licensed veterinarian, an identifying microchip. All costs of the I.D. chip and the implanting, if any, shall be borne by the license applicant.

(f) Licensing and identification. Upon payment and acceptance of the license fee, the licensing authority shall issue a receipt to the owner for the fee paid. Any license issued for the keeping of a dog or cat shall be valid for the period of one year. Every dog or cat for which the owner is required to obtain a license must be implanted with an I.D. chip as provided herein.

(g) Exemption from License Fee. License fees shall not be required for Assistance dogs, government police dogs or dogs or cats belonging to a nonresident of the City and kept within the boundaries of the City for not longer than thirty (30) days; provided that all dogs or cats of nonresidents shall at the time of entry into the City be properly vaccinated against rabies, and while kept within the City, meet all other requirements of this Article. Any owner claiming any of these exemptions has the burden of proving to the satisfaction of the licensing authority that the animal in question is entitled to such exemption.

**2-114. Cost of microchips.**

(a) The charge made for said microchips by any veterinarian receiving the microchips from the City of Russell, Kansas, shall be the same amount as the City charges for said microchips when distributed to the veterinarians doing the implanting.

(b) The cost for the services of implanting said microchips shall be in the sole discretion of the veterinarians doing the implanting, the fee for such services shall be determined and established by such veterinarians.

**2-115. Impoundment.**

(a) In addition to any other remedies provided in this Article, an animal control officer or a police officer may seize, impound and humanely confine to an animal shelter or hospital any of the following animals:

(1) Any dog or cat without a valid license;

(2) Any animal at large;

(3) Any animal constituting a public nuisance or considered a danger to the public;

(4) Any animal that is in violation of any quarantine or confinement order of the City's animal control officer;

(5) Any unattended animal that is reasonably believed by the officer to be ill, injured or otherwise in need of emergency care;

(6) Any animal that is reasonably believed to have been abused or neglected;

(7) Any animal that is reasonably suspected of having rabies;

(8) Any animal that is charged with being potentially dangerous, or dangerous where an animal control officer determines that there is a threat to public health and safety;

(9) Any animal that a court of competent jurisdiction has ordered impounded or destroyed;

(10) Any animal that is considered unattended or abandoned, as in a situation where the owner is deceased or has been arrested or evicted from his/her regular place of residence; and

(11) Any animal not permitted in the City of Russell under the provisions of Section 2-105.

**2-116. Notice to owner and redemption.**

(a) Upon impoundment of an animal, the Animal Control Officer shall immediately attempt to notify the owner. If the owner is unknown, the department shall post written notice for at least three (3) business days at a conspicuous place in the City describing the animal and the time and place of taking. Any notice to the owner shall also include the location of the shelter or hospital where the animal is confined, hours during which the animal can be reclaimed, and that a fee will be charged for the impoundment and boarding. The owner shall also be advised that the failure to claim the animal within a specified period of time may result in the disposition of the animal.

(b) An owner reclaiming an impounded animal shall pay a thirty-dollar (\$30.00) impoundment fee and a fee of fifteen dollars (\$15.00) for each day the animal has been impounded.



(c) Any animal not reclaimed by its owner within three (3) business days shall become the property of the City and shall be placed for adoption in a suitable home or euthanized in a manner prescribed by state statute.

**2-117. Animal Bites; Quarantine.**

(a) Whenever any animal has bitten a person, it shall be the duty of the owner, keeper or harbinger of such animal, any police officer and any other person having knowledge of such incident to report the same to the animal control officer who may order that the animal be quarantined on the owner's premises or impounded at the owner's expense for a period of not less than ten (10) days, and until such time as the animal control officer finds that such animal shows no evidence of having rabies. If the animal control officer or any law enforcement officer of the city or any other person reasonably believes that an animal within the city has the symptoms of rabies, such person shall immediately notify the animal control officer who in turn may order that the animal be impounded at the owner's expense for a period of not less than ten (10) days or until such time as the animal control officer finds that such animal shows no evidence of having rabies.

(b) Failure to Comply. Any owner who shall fail to comply with the provisions of this Section, within twelve (12) hours of notification, shall be deemed in violation of this Article and the animal control officer or any other law enforcement officer shall take such animal into custody and commit it for the above-described confinement period.

(c) Confinement. Should such animal become ill, die or is euthanized within the confinement period, the bite victim or victim's representative shall be notified and the City shall direct further management of the animal or animal remains. If the animal is alive and well at the end of the confinement period, the bite victim or victim's representative shall be notified, and the animal shall be released from quarantine.

(d) State Law. Kansas Administrative Regulations (K.A.R.) 28-1-13, and amendments thereto, shall be followed concerning the isolation of biting animals for observation, examination and quarantine, unless the provisions of this Chapter require more stringent procedures.

**2-118. Enforcement.** Animal Control Officer or other designees of the Chief of Police shall be the enforcement officials for this Article. These officials, along with Police Officers, shall have the authority to act on behalf of the City in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful actions as required to enforce the provisions of this Article. It shall be a violation of this Article to interfere with any Animal Control Officer or other enforcement official in the performance of his/her duties. The City Manager shall have the authority to establish reasonable administrative regulations, policies and procedures as needed to carry out the spirit and intent of this Chapter and provide for the safety of the enforcement officers.

**2-119. Violations and penalties.**

(a) It shall be a violation of this Article to:

(1) Fail to comply with any provision of this Article; or

(2) Fail to comply with any lawful order of the animal control officer, or police officer unless such order is lawfully stayed or reversed.

(b) Any person who violates any provision of this Article shall be deemed guilty of a municipal infraction and shall be punished by a fine of not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars. If a violation continues, each day's violation shall be deemed a separate offense.

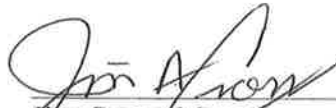


SECTION 2. Section 2-101 through Section 2-122, inclusive, of the Code of the City of Russell are hereby repealed and replaced by the Sections set out in Section 1 above.

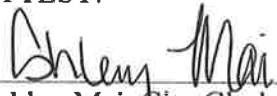
SECTION 3. Publication and Effective Date. This ordinance shall take effect and be in full force and effect from and after its passage, signature and publication of a summary of this ordinance in the official city newspaper and posting of the full text of the ordinance on the city's website in compliance with K.S.A. 12-3007(b).

PASSED by the Governing Body of the City of Russell, Kansas, this 21st day of March, 2023.

APPROVED by the Mayor of the City of Russell, Kansas, this 21st day of March, 2023.

  
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Jim Cross, Mayor

ATTEST:

  
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Ashley Mai, City Clerk

