

(First published in The Seneca Courier on the ____ day of _____, 2017)

ORDINANCE # _____

AN ORDINANCE AMENDING IN PART PORTIONS OF THE CURRENT CODE OF THE CITY OF SENECA, KANSAS, REGULATING THE POSSESSION OF ANIMALS WITHIN THE JURISDICTION OF THE CITY OF SENECA, KANSAS.

Be it ordained by the Governing Body of the City of Seneca, Kansas:

Section 1. That Title 6. ANIMALS, of the Code of the City of Seneca, Kansas is hereby amended by the deletion of Chapter 6.12 Prohibited Animals and the substitution of the following, including a repeal of any other provisions of said City Code which are inconsistent with the provisions herein.

Section 2. That Chapter 6.12 of the Code of the City of Seneca, Kansas shall read as follows:

Chapter 6.12

PROHIBITED ANIMALS

Sections:

- 6.12.01 Definitions
- 6.12.02 Animal Control Officer; Duty To Impound; Citation Alternative
- 6.12.03 Same; Capture/Destruction
- 6.12.04 Same; Right of Entry; Unlawful Interference
- 6.12.05 Municipal Pound Established
- 6.12.06 Breaking Pound
- 6.12.07 Keeping Animals
- 6.12.08 Animal Traps
- 6.12.09 Nuisance; Animal Activities Prohibited
- 6.12.10 Noisy Animals
- 6.12.11 Animal Confines; Shelters
- 6.12.12 Same; Stockyards; Commercial Holding Pens
- 6.12.13 Death of Animals
- 6.12.14 Vicious Animals
- 6.12.15 Running At Large
- 6.12.16 Impoundment; Fee; Notice; Record
- 6.12.17 Redemption of Impounded Animals
- 6.12.18 Impoundment of Rabies Suspects
- 6.12.19 Animals Bitten By Rabid Animals
- 6.12.20 Vehicular Accidents Involving Animals
- 6.12.21 Emergency; Proclamation
- 6.12.22 Violations; Penalties

Section 6.12.01 DEFINITIONS. For the purposes of this ordinance, the following words and phrases shall mean:

(a) Abandon - includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care over a 48-hour-period.

(b) Animals - 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 captivated.

(c) Animal Shelter - means the facility or facilities operated by the city or its authorized agents for the purpose of impounding or caring for animals under the authority of this ordinance or state law.

(d) At-large - means to be outside of a fence or other enclosure that restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be at-large.

(e) Bite - means any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

(f) Cat - means any member of the species felis catus, regardless of sex.

(g) Dangerous or Vicious Animal - means any animal deemed to be dangerous or vicious per section 16.

(h) Dog - means any member of the species canis familiaris, regardless of sex.

(i) Fowl - means all animals that are included in the zoological class aves, which shall include, but not limited to, chickens, ducks, geese, turkeys, guineas, and pigeons.

(j) Harbor - means any person who shall allow any animal to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure, or place of business or any other premises where he or she resides or controls.

(k) Humane Live Animal Trap - means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

(l) Humanely Euthanize - means the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method approved by the American Veterinary Medical Association or the American Humane Society.

(m) Immediate Control - means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(n) Kennel - means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than four dogs.

(o) Livestock - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(p) Neutered - means any male or female cat or dog that has been permanently rendered sterile.

(q) Own - means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this

ordinance, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this ordinance.

(r) Owner - means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (q) above.

(s) Vaccination - means an injection of a vaccine, approved by the State Board of Public Health and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

(t) Veterinarian - means a doctor of veterinary medicine licensed by the State of Kansas.

Section 6.12.02. ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION

ALTERNATIVE. (a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this ordinance. Any person employed by the city as an animal control officer and commissioned by the city council of the city shall have such powers and authority as allowed by law in the enforcement of this ordinance. All animal control officers shall be subject to the supervision and direction of the mayor of the city.

(b) Except as provided in subsection (c), it shall be the duty of the animal control officer to take up and impound all animals found in the city in violation of the provisions of this ordinance.

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger, or keeper of an animal in violation of this ordinance, and the person receiving the citation shall appear at the next regularly scheduled court date in the municipal court of the city to answer the charged violation of this ordinance.

Section 6.12.03 SAME; CAPTURE/DESTRUCTION. When deemed necessary by law enforcement officers or the animal control officer for the health, safety, and welfare of the residents of the city, such officers and/or their agents may:

(a) Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this ordinance as creating a nuisance in the city;

(b) Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the animal control officer, in his or her discretion, to be of a danger to itself or to the public health and safety.

(c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in Section 16, or any animal creating a nuisance as defined in Section 11, where such animal is impossible or impractical to catch, capture or tranquilize.

Section 6.12.04 SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE. (a) The animal control officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this ordinance, to the extent allowed by law.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

Section 6.12.05 MUNICIPAL POUND ESTABLISHED. A municipal pound shall be established to carry out the provisions of this ordinance. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor. When so contracted, the pound shall have the following services and facilities as a minimum:

- (a) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this ordinance.
- (b) Group holding facilities for stray, ownerless, and unvaccinated animals impounded for violation of the provisions of this ordinance.
- (c) Individual isolation facilities for sick, biting, rabid, and suspected rabid animals.
- (d) Facilities for the humane destruction of animals.

Section 6.12.06 BREAKING POUND. (a) It shall be unlawful for any unauthorized person to open, unlock, break open, or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this ordinance, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.

Section 6.12.07 KEEPING ANIMALS. It shall be unlawful for the owner, lessee, occupant, or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen, or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:

- (a) The maintaining of a stockyard or sales barn for the loading, unloading, temporary detention, and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;
- (b) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with Section 6.12.11 of this ordinance, with no more than four total animals, being any combination of cats, dogs or other household pets;
- (c) The transporting of animals through the city by ordinary and customary means.

Section 6.12.08 ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism, or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals.

Section 6.12.09 NUISANCE; ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined as any animal which:

- (a) Molests or interferes with persons in the public right-of-way;
- (b) Attacks or injures persons, or other domestic animals;

- (c) Damages public or private property other than that of its owner or harborer by its activities or with its excrement;
- (d) Scatters refuse that is bagged or otherwise contained;
- (e) Causes any condition that threatens or endangers the health or well-being of persons or other animals.

If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.

Section 6.12.10 NOISY ANIMALS. The keeping or harboring of any animal which by loud, frequent, and habitual barking, howling, yelping, mewing, roaring, or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.

Section 6.12.11 ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure, or area that is not clean, dry, and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

(b) Excrement shall be removed at least once each week from any animal shelter, pen, or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(c) All animal shelters, pens, and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.

(e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on properties in which an agricultural classification permit is held or where the barbed wire fence or electrically charged fence is protected by an exterior fence.

(f) All premises in which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition that could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

Section 6.12.12 SAME; STOCKYARDS; COMMERCIAL HOLDING PENS. Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

(a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.

(b) Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins.

(c) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.

(d) Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(e) Enclosures including fences where animals such as horses, cows, sheep, and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property.

(f) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(g) Holding lots, pens, and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial, or agricultural classification permit according to the terms of this ordinance shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into watercourses and such drainage system shall be subject to the approval of the health officer. The health officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses, or sheep.

(h) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this ordinance shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer.

Section 6.12.13 DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property.

Section 6.12.14 VICIOUS ANIMALS. (a) Prohibited: It shall be unlawful for any person to keep, possess, or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

(b) Defined: For purposes of this ordinance a vicious animal shall include:

(1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(2) Any animal that attacks a human being or domestic animal without provocation;

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;

(4) Any animal that is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

(c) Complaint: Whenever a sworn complaint is filed in the municipal court against the owner of an animal alleging that such animal is vicious and in violation of this section, the municipal judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and thereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one week before the hearing. In making a determination, the municipal judge shall consider the following:

(1) The seriousness of the attack or bite;

(2) Past history of attacks or bites;

(3) Likelihood of attacks or bites in the future;

(4) The condition and circumstances in which the animal is kept or confined;

(5) Other factors that may reasonably relate to the determination of whether or not the animal is vicious.

The municipal judge shall order the impoundment, the muzzling in accordance with subsection (d), and/or the confinement of the animal accused of being in violation of this section in a manner and location that will ensure that it is no threat to persons or other animals pending the outcome of the hearing. If such impoundment, muzzling, or otherwise safe confinement is not possible or if prior court orders to restrain such animal have gone unheeded, the municipal judge may order the animal immediately destroyed.

(d) Vicious Dogs to be Muzzled: It shall be the duty of every owner, keeper, or harborer of any dog in the city, which dog is vicious or has been known to bite, chase, or run after any person or animal in the streets, alleys, or any public place in the city, to keep the same muzzled with a good and sufficient wire or leather muzzle, securely fastened so as to wholly prevent such dog from biting any animal or person until such time as a determination has been made by the court as to whether the dog is vicious or not. Any person owning, keeping, or harboring any dog within the city limits contrary to this section shall be guilty of a violation of this code.

(e) Immediate Destruction: Nothing in this ordinance shall be construed to prevent the animal control officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any vicious animal without notice to the owner.

(f) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this ordinance. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner

immune from the decision of the court, nor to the fees and fines which may result from a violation of this section.

Section 6.12.15 RUNNING AT LARGE. It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city. Any animal or fowl found at large shall be impounded as provided in Section 6.12.16.

Section 6.12.16 IMPOUNDMENT; FEE; NOTICE; RECORD. (a) The animal control officer or law enforcement officer shall impound any animal or fowl found at large in the city or constituting a nuisance or otherwise in violation of this ordinance in a suitable pound or enclosure provided or contracted for by the city. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

(b) The city shall be entitled to receive from such owner an impoundment fee of \$50.00 plus the actual cost of feeding and maintaining the animal while impounded.

(c) In case the identity of the owner of the impounded animal or fowl cannot be ascertained, the animal control officer or police officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding, and shall thereupon immediately post a public notice stating that the animal, describing the same with the date and place of taking, has been taken up, and that unless the charges of impounding the same, together with any license fees due and unpaid, are paid within three business days from the date of the notice, that the animal will be disposed of as provided in this code.

(d) The animal control officer shall each month submit a report to the City Administrator showing the number of animals impounded and disposed of, and the fees collected pursuant to this ordinance and shall pay those fees to the city clerk for credit to the general operating fund.

Section 6.12.17 REDEMPTION OF IMPOUNDED ANIMALS. At any time before the sale or destruction of any animal impounded under the provisions of this ordinance, except for animals impounded under Sections 16 (vicious) and 20 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment.

Section 6.12.18 IMPOUNDMENT OF RABIES SUSPECTS. (a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal that has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed and examination made by the state board of health.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden, or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.

Section 6.12.19 ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat, or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

- (a) The animal that was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and
- (b) If the bitten animal has a current vaccination, it shall be confined for 90 days; and
- (c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and
- (d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

Section 6.12.20 VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer.

Section 6.12.21 EMERGENCY; PROCLAMATION. The chief of police is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof.

Section 6.12.22 VIOLATIONS; PENALTIES. Any person violating or permitting the violation of any provision of this Chapter shall upon conviction in municipal court be fined a sum not less than

\$200.00 and not more than \$1,000.00. In addition to the fine imposed, the Court may sentence the Defendant to imprisonment for a period not to exceed 30 days. In addition, the Court shall order the removal of any vicious animal from the city limits. Should the Defendant refuse to remove the vicious animal from the city limits, the municipal court judge shall find the Defendant in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this Chapter continues shall be deemed a separate offense. In addition, any person who is found guilty of a violation of this Chapter shall pay all expenses, including shelter, food, handling, veterinarian care, and testimony necessary for the enforcement of this Chapter.

Section 3. That this ordinance shall take effect and be in force from and after its publication once in the official city newspaper.

PASSED BY THE CITY COUNCIL OF THE CITY OF SENECA, KANSAS, AND
SIGNED BY THE MAYOR, this ___ day of _____, 2017.

CITY OF SENECA, KANSAS

Joe Mitchell, Mayor

Attest:

Jane Strathman, City Clerk