

RESOLUTION NO. 202-2010

Date Adopted: 12-15-2010

Date Published/Effective: 12-20-2010

A RESOLUTION AMENDING CHAPTER 5 OF THE SEDGWICK COUNTY CODE, ENTITLED “ANIMAL CODE” WITH CERTAIN PROVISIONS DECLARED TO BE OMITTED, AMENDED OR MODIFIED; AND PROVIDING FOR PENALTIES AND PROSECUTION OF VIOLATIONS THEREOF; TO BE EFFECTIVE WITHIN THE UNINCORPORATED AREAS OF SEDGWICK COUNTY, KANSAS, INCLUDING THOSE SECOND AND THIRD CLASS CITIES LOCATED THEREIN WHICH BY ACTION OF THEIR GOVERNING BODIES ADOPTED SAID ANIMAL CODE AND WHICH HAVE ENTERED INTO SEPARATE AGREEMENT WITH SEDGWICK COUNTY PROVIDING FOR ENFORCEMENT WITHIN THEIR MUNICIPAL BOUNDARIES BY SEDGWICK COUNTY ANIMAL CONTROL OFFICERS AND CONFERRING JURISDICTION UPON SEDGWICK COUNTY FOR ALL PROSECUTORIAL FUNCTIONS RELATING THERETO; AND REPEALING CERTAIN PROVISIONS OF THE PREVIOUS SEDGWICK COUNTY ANIMAL CODE.

WHEREAS, on the 25th day of August, 1993, the Board of County Commissioners adopted Resolution No. 159-1993, which resolution adopted the *Sedgwick County Code*; and

WHEREAS, the Board of County Commissioners of Sedgwick County, Kansas, has authority to enact and provide procedures for the enforcement of animal control and well being in the unincorporated area of Sedgwick County as provided in K.S.A. 19-101, *et seq.*; and

WHEREAS, Chapter 5 of the *Sedgwick County Code* contains the “*Animal Code*;” and

WHEREAS, the Board of County Commissioners finds that amendments to the *Animal Code* are necessary and desirable; and

WHEREAS, the Board of County Commissioners is authorized and empowered to adopt such resolutions pursuant to K.S.A. 19-101 through 19-101f and amendments thereto.

WHEREAS, the Board of County Commissioners of Sedgwick County, Kansas, finds that it has been advised by the Sedgwick County Animal Care Advisory Board, and therefore deems it necessary to amend Chapter 5, of the Sedgwick County Code, with certain provisions declared to be omitted, amended or modified; to provide for penalties and prosecution of violations thereof; to prescribe regulations governing animals within Sedgwick County; to be effective within all unincorporated areas of Sedgwick County, Kansas, including those second and third class cities located therein which have by action of their governing bodies adopted said Animal Code and which have entered into a separate agreement with the Board of County Commissioners, providing for enforcement within their municipal boundaries by Sedgwick County Animal Control Officers and conferring jurisdiction upon Sedgwick County for all prosecutorial functions relating thereto; and repealing certain provisions of the previous Sedgwick County Animal Code.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, that:

SECTION 1: AMENDMENTS TO CHAPTER 5. Chapter 5 of the *Sedgwick County Code* is hereby amended as follows:

ARTICLE III DOG LICENSE.

SEC. 5-66: Sec. 5-66 is hereby deleted in its entirety and new Section 5-66 is hereby adopted that shall read as follows:

Sec. 5-66. Required; renewal.

(a) *Required.* An owner/harbored of any dog, five (5) months or older which is harbored within the unincorporated area of the county shall be required to obtain and possess an annual one (1) year or upon renewal, a three (3) year license for the dog. An owner/harbored shall show the license immediately upon the request of an animal control officer or a code enforcement officer. The license, except in the case of a dangerous dog, may be obtained from a veterinarian or from the director in the manner prescribed in Section 5-69. The expiration date of the initial dog license issued shall be one (1) year (12 months) from the date of issuance shown thereon or from the date of the veterinarian's confirmation attached thereto. Thereafter, the owner/harbored may renew a license for one (1) year or three (3) year period. Any dog maintained in foster care or with a rescue organization shall not be required to be licensed until adopted or placed.

(b) *Renewal.* An owner/harbored of any dog which has been previously licensed in the county and which remains harbored within the unincorporated area of the county shall be required to obtain and possess a new license for the dog on or before the expiration date of the previous license. An owner/harbored shall show the license immediately upon the request of an animal control officer or a code enforcement officer. The license, except in the case of a dangerous dog, may be obtained from the director in the manner prescribed in Section 5-69. The expiration date of the initial dog license shall be one (1) year (12 months) from the date of issuance shown thereon or from the date of the veterinarian's confirmation attached thereto. In the case of a renewal license, the owner/harbored may obtain a one (1) year (12 month) license or with a valid three (3) year vaccination, the owner/harbored may purchase a three (3) year dog license.

ARTICLE IV, DIVISION 2, "VACCINATION OF DOGS AND CATS," is hereby deleted and re-titled, "VACCINATION OF DOGS, CATS AND FERRETS."

SEC. 5-131: Sec. 5-131 is hereby deleted in its entirety and new Section 5-131 is hereby adopted that shall read as follows:

Sec. 5-131. Vaccinations required.

The owner/harbored of any dog, cat or ferret aged five (5) months or older harbored in the unincorporated area of the county (or by municipal agreement) shall have such dog, cat or ferret vaccinated against rabies subject to the exemption contained in Section 5-133.

(1) *Time period.* Vaccinations shall be obtained as set forth below:

(a) Dogs. The first inoculation of a dog over five months old shall be for a period of one (1) year (12 months). Prior to the expiration of the first inoculation, the harborer/owner shall have the option of renewing the vaccination for a period of one (1) year (12 months) or three (3) years (36 months). The harborer/owner shall obtain a veterinarian's written certification annually or for the three (3) year period, that the dog has been properly vaccinated and a new vaccination tag shall be assigned to each dog.

(b) Cats. The first inoculation of a cat over five (5) months old shall be for a period of one (1) year (12 months). Each subsequent inoculation shall be obtained annually. The harborer/owner shall obtain a veterinarian's written certification annually that the cat has been properly vaccinated.

(c) Ferrets. The first inoculation of a ferret over five (5) months old shall be for a period of one (1) year (12 months). Each subsequent inoculation shall be obtained annually. The harborer/owner shall obtain a veterinarian's written certification annually that the ferret has been properly vaccinated.

(2) *Mandatory Requirements of owner/harborer.* Each owner/harborer shall:

(a) Have such dog's metallic vaccination tag secured to its collar, which shall be worn at all times by such animal, except when a veterinarian's confirmation has been issued for such animal;

(b) Have in the harborer/owner's possession the vaccination certificate or veterinarian's confirmation at all times;

(c) Show the vaccination certificate or veterinarian's confirmation immediately upon the request of an animal control officer, code enforcement officer, or other authorized person.

SEC. 5-132: Sec. 5-132 is hereby deleted in its entirety and new Section 5-132 is hereby adopted that shall read as follows:

Sec. 5-132. Vaccinations Procedure. The following procedure shall apply to all vaccinations:

(a) Inoculation must be performed by a person licensed to practice veterinary medicine in the State of Kansas.

(b) Inoculation must be with a prophylactic vaccine approved by the United States Department of Agriculture and listed in the current National Association of State and Public Health Veterinarian's Compendium of Rabies Control.

(c) Unless a licensed veterinarian certifies to the Director of Animal Control that such vaccination would be injurious to such dog, cat or ferret due to its age or health, all dogs, cats or ferrets must be vaccinated on the schedule set forth above.

(d) The veterinarian administering the rabies vaccination shall issue a metallic tag for the

particular animal vaccinated, on which tag shall be distinctly marked the veterinarian's name or veterinary clinic name, address and tag identification number. The date of vaccination shall also be marked thereon. The veterinarian shall also issue a vaccination certificate or confirmation to the harborer/owner.

SEC. 5-133: Sec. 5-133 is hereby deleted in its entirety and new Section 5-133 is hereby adopted that shall read as follows:

Sec. 5-133. Exemptions. Exemptions from vaccination requirements shall be as follows:

(a) All animals used in medical research or to develop disease-free animals.

(b) All animals for which there is a written statement that the rabies vaccination would be injurious to the animal because of its age or health. A veterinarian's confirmation shall not excuse or invalidate the requirement that all dogs be licensed as prescribed in Section 5-66.

SEC. 5-134: Sec. 5-134 is hereby deleted in its entirety and new Section 5-134 is hereby adopted that shall read as follows:

Sec. 5-134. Violations.

(a) *Failure to obtain dog, cat or ferret vaccination; failure to possess vaccination certificate or veterinarian's confirmation.* It shall be a violation of this chapter for any harborer/owner of any dog, cat or ferret aged five (5) months or older to fail to obtain vaccination of such animal each year or for the optional three years (for dogs only), as determined by the vaccination administered and type of animal, or to fail to possess a current vaccination certificate or veterinarian's confirmation for such dog, cat or ferret. Failure to obtain a vaccination or to possess a vaccination certificate or veterinarian's certificate is a class F violation.

(b) *Failure to show dog, cat or ferret vaccination certificate or veterinarian's confirmation.* It shall be a violation of this chapter for any harborer/owner of any dog, cat or ferret aged five (5) months or more to fail to show a current vaccination certificate, or veterinarian's confirmation as described in subsection 5-133(b), to any animal control officer, code enforcement officer, sheriff officer or other authorized person upon request. Failure to show the vaccination certificate or veterinarian's confirmation is a class F violation.

(c) *Failure to have metallic vaccination tag on dog collar.* It shall be a violation of this chapter for any harborer/owner of any dog aged five (5) months or older to fail to have a current metallic vaccination tag secured to the animal's collar, except when a veterinarian's confirmation has been issued. Failure to have a metallic vaccination tag on the animal's collar is a class F violation.

(d) *Misappropriate dog's metallic vaccination tag.* It shall be a violation of this chapter for any harborer/owner of any dog aged five (5) months or older to display or allow to be displayed a metallic vaccination tag on the collar of any dog other than the dog for whom it was issued. Misappropriate dog's metallic vaccination tag is a class F violation.

(e) *Failure to have collar on dog.* All dogs five (5) months of age or older are required to wear a collar at all times. It shall be a violation of this chapter for a harborer/owner of any dog aged

five (5) months or older to fail to maintain a collar on the dog at all times. Failure to have a collar on a dog is a class F violation.

ARTICLE VI, “ANIMAL CRUELTY”

SEC. 5-191: Sec. 5-191 is hereby amended to add new subsections that shall read as follows:

Sec. 5-191. Cruelty to animals prohibited.

(a) *Defined.* For purposes of this article, cruelty to animals means:

(4) intentionally using a wire, pole, stick, rope, or other object to cause an equine to lose its balance or fall, for the purpose of sport, contest, practice or entertainment; or

(5) intentionally grasping, seizing, roping, or tying any equine or bovine by its tail and/or by any other means which causes it to trip, fall or to be dragged for the purpose of sport, contest, practice or entertainment (commonly known as “steer tailing”);

(6) intentionally or recklessly causing any physical injury other than the acts described in Sec. 5-191.

SEC. 5-196: Sec. 5-196 is hereby created and adopted, and shall read as follows:

Sec. 5-196. Surrendered Animal - by harbinger/owner.

(a) *Defined.* For purposes of the Animal Code, Surrendered Animal means:

(1) Where the name and address of the animal’s owner/harbinger is reasonably known to the animal control officer or code enforcement officer, and reasonable notice is provided of the animal being taken into the custody of animal control, any animal subsequently not redeemed by the harbinger/owner from the animal shelter or appropriate facility within six (6) calendar days of the notice, shall be deemed surrendered.

(2) Where the name and address of the animal’s harbinger/owner is not reasonably known to the animal control officer or code enforcement officer, and reasonable notice cannot be provided of the animal being taken into the custody of animal control, any animal subsequently not redeemed by the harbinger/owner from the animal shelter or appropriate facility within three (3) calendar days of the date the animal comes into the custody of animal control, shall be deemed surrendered.

(3) Where the animal is defined as *Livestock* (cow, ox or other bovine, goat, sheep, horse, raticities, donkey, swine, mule or other animal of similar or larger size) and the name and address of the animal’s owner/harbinger is reasonably known to the animal control officer or code enforcement officer, and reasonable notice is provided of the animal being taken into the custody of animal control, any animal subsequently not redeemed by the harbinger/owner from the appropriate facility within ten (10) calendar days of the notice, shall be deemed surrendered. Where the name and address of the livestock’s owner/harbinger is not reasonably known to the animal control officer or code enforcement officer, and reasonable notice cannot be provided of the animal being taken into the custody of animal control, any livestock animal subsequently not redeemed by the

owner/harbinger from the appropriate facility within ten (10) calendar days of the date the livestock animal comes into the custody of animal control, shall be deemed surrendered.

(b) Disposition of Surrendered Animal.

(1) *Inhumane treatment/Cruelty.* If the animal control or code enforcement officer takes into custody any animal suspected to be inhumanely treated or subjected to animal cruelty, the said officer may request the County Court Judge to be allowed to place the animal for adoption or euthanize the animal after three (3) calendar days following notification to the owner/harbinger of such surrendered animal, or in the case where notice cannot be provided, after six (6) calendar days after the animal comes into the custody of animal control or in the case of livestock within ten (10) calendar days after the animal comes into the custody of animal control; unless the harbinger/owner files a cash bond with the clerk of the County Court, in an amount not less than the cost of care and treatment which is to include daily fees or pickup fees, wholesome food, potable water, veterinarian care, any procedures deemed necessary for the wellbeing and maintenance of said animal, medical supplies, medications and/or vaccinations deemed necessary for said animal for thirty (30) days, as determined by the director or designee. If the animal remains in the legal custody of the animal control or code enforcement officer for a period exceeding thirty (30) days, after written notice to the owner/harbinger, the officer may request the County Court Judge to increase the amount of the cash bond to cover the costs for the animal. The increased amount, if any, must be paid in to the county court clerk within three (3) calendar days. If not so paid, the said officer may make proper disposition of the animal or authorize the shelter or authorized facility to make disposition of the animal. The owner/harbinger shall then be deemed to have abandoned the cash bond which shall be paid over to the shelter or authorized facility.

(2) *Adjudication.* If the harbinger/owner of such animal is adjudicated not guilty or the county Court Judge after an adjudication of guilty is made, finds that such animal should be returned, such person may redeem the animal within three (3) calendar days. If such animal is not redeemed within three (3) calendar days, then the shelter or authorized facility shall make disposition of the animal. Any proceeds derived from such sale or disposition shall be paid to the shelter or authorized facility. If the harbinger/owner is adjudicated guilty and the County Court Judge finds the animal should not be returned, the animal control officer or code officer shall make disposition or direct the shelter or authorized facility to make disposition of the animal.

(3) *Nuisance.* The harbinger/owner of a nuisance animal shall redeem the animal within the time limits set forth in Sec. 5-196(a) regardless of the adjudication of the nuisance case. If the animal is not so redeemed and found surrendered, the animal control officer or code officer shall make disposition or direct the shelter or authorized facility to make disposition of the animal.

SEC. 5-5: Sec. 5-5 is hereby amended to add new subsections that shall read as follows:

Sec. 5-5. Animal pickup fees; violations; penalty.

(a) (6) Any animal that comes into the custody or control of Sedgwick County Animal Control that is not acceptable to be placed with the Wichita Animal Shelter may be delivered by the director or designee to a proper facility, as determined in the sole discretion of the director or designee. The charges of the facility, including daily fees or pickup fees, wholesome food, potable water, veterinarian care, any procedures deemed necessary for the wellbeing and maintenance of said

animal, medical supplies, medications and/or vaccinations shall be the responsibility of the owner/harbinger of the animal. The owner/harbinger shall pay in full the facility and in compliance with the requirements or policies of the facility prior to the animal's release. The facility and/or the director may request the judge of the county court to order the payment of such fees and expenses as part of any proceeding against the owner/harbinger, and the owner/harbinger shall pay the fees, expenses and costs as the court shall direct.

SEC. 5-6: Sec. 5-6 is hereby deleted in its entirety and new Section 5-6 is hereby adopted that shall read as follows:

Sec. 5-6. Reimbursement for cost of animal care; violation.

(a) *Owner/harbinger responsible.* The owner/harbinger of any animal that comes into the custody or control of the director or designee shall be responsible for the fees, expenses and costs for the care of said animal. The animal care costs shall include, but not be limited to: wholesome food, potable water, veterinarian care, any procedures deemed necessary for the wellbeing and maintenance of said animal, medical supplies, medications, vaccinations, and/or daily fees or pickup fees of any facility caring for the animal. The owner/harbinger shall pay in full the facility and in compliance with the requirements or policies of the facility prior to the animal's release. The facility and/or the director may request the judge of the county court to order the payment of such fees and expenses as part of any proceeding against the owner/harbinger, and the owner/harbinger shall pay the fees, expenses and costs as the court shall direct.

(b) *Failure to pay animal care costs.* It shall be a violation of this chapter for any owner/harbinger of any animal that receives care to fail to pay the animal care fees, expenses and costs. Failure to pay the animal care fees, expenses and costs is a class H violation.

All other portions of Chapter 5 of the Sedgwick County Code shall remain in full force and effect as written therein.

SECTION 2: PUBLICATION AND EFFECTIVE DATE.

The Sedgwick County Clerk is directed to publish this resolution once in the official county newspaper. This resolution shall take effect upon its publication once in the official county newspaper.

SECTION 3: SAVING CLAUSE.

All rights and remedies of Sedgwick County and the citizens and residents thereof are expressly saved as to any and all violations of Chapter 5 of the Sedgwick County Code, Resolution Nos. 17-1987, 270-1992, 22-1996, 277-1996, 35-2000, 142-2002, 63-2003, and 190-2003, or any other animal code resolutions, that have accrued at the time of the effective date of this resolution. The court shall have all the powers that existed prior to the effective date of this resolution as to all such accrued violations.

SECTION 4: SEVERABILITY CLAUSE.

Should any section, clause or provision of this resolution be declared by any court of competent jurisdiction to be invalid, the same shall not affect the validity of this resolution as a whole, or any part thereof, other than the part so declared to be invalid.

Commissioners present and voting were:

| | |
|----------------|-------|
| DAVID M. UNRUH | _____ |
| TIM R. NORTON | _____ |
| KARL PETERJOHN | _____ |
| KELLY PARKS | _____ |
| GWEN WELSHIMER | _____ |

Dated this _____ day of _____, 2010.

**BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS**

ATTEST:

KELLY B. ARNOLD, County Clerk

KARL PETERJOHN, Chairman
Commissioner, Third District

GWEN WELSHIMER, Chair Pro Tem
Commissioner, Fifth District

APPROVED AS TO FORM:

DAVID M. UNRUH
Commissioner, First District

BILL H. RAYMOND
Assistant County Counselor

TIM R. NORTON
Commissioner, Second District

KELLY PARKS
Commissioner, Fourth District