**ORDINANCE 2025- 7**

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 1 OF THE CODE OF THE CITY OF ELLINWOOD,

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ELLINWOOD, KANSAS;

SECTION 1.

ARTICLE 1 IS HEREBY AMENDED AS FOLLOWS:

**Article 1. General Provisions**

**2-101.        Definitions.**

For the purposes of this chapter, 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.

(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 chapter or state law.

(d)   At-large means to be outside of a fence or other enclosure which 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**2-122.*

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

(i) Feral cat means any feline, born in the wild, without an owner and raised without socialization to humans.

(j)    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.

(k)    Harbor means any person who shall allow any animals 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.

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

(m)    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.

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

(o)   Kennel means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure, in one location only, with six (6) or more dogs or cats.

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

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

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

(s)    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.

(t)   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.

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

**2-102.        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 chapter. Any person employed by the city as an animal control officer and commissioned by the chief of police of the city shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal control officers shall be subject to the supervision and direction of the chief of police 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 chapter.

(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, harborer or keeper of an animal in violation of this chapter, and the person receiving the citation shall in the municipal court of the city to answer the charged violation of this chapter.

**2-103 Maximum number.**

It shall be unlawful for any person or household to have possession or control of more then a combined total of 5 cats or dogs.

**2-104.        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 property or a requesting resident’s property for the purpose of capturing any animal defined in this chapter as creating a nuisance or running at large 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 or dangerous animal as defined in section 2-122, or any animal creating a nuisance as defined in section 2-122, where such animal is impossible or impractical to catch, capture or tranquilize.

**2-105.        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 chapter.

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

**2-106.        Licensing and tags.**

(a)   Any person or person owning, keeping or harboring any dog, cat or other animal maintained as a household pet, regardless of age, within city limits shall procure annually from the city clerk a tag for each animal. The license fee for all such animals shall be $5 per year or portion thereof. The city clerk shall have the authority to set a reasonable time within which to collect the licenses from the due date. No license shall be issued until proper proof showing the animal has been vaccinated for rabies has been filed with the city clerk.

(b)   The city clerk shall keep a full and complete record of all license tags sold, showing the name of the owner of the dog, cat or other animal, the address of the owner, the breed or species of the registered animal, if known, and its sex, the registration number of the tag and the date of the purchase of such tag. All revenue collected from the sale of the tags shall be deposited to the general fund of the city and proper receipts issued to all such purchasers.

(c)   The city clerk shall be responsible for the purchase and maintenance of proper license tags each year.

(d)   The license year shall begin with the issuance of the required vaccination certificate, for each individual animal, and expire upon expiration of the vaccination certificate. The city license may run for more than one calendar year corresponding with the expiration of the vaccination certificate. In the event the vaccination certificate is more than one calendar year, the owner will be required to pay a $5 city license fee for each respective year of the vaccination certificate. The vaccination identification number may be used as the city license number or the city may issue a separate tag and identification number if no number has been previously assigned.

(e)   The license shall be affixed to a collar worn at all times by the licensed animal.

(f)   Any person within the city limits may not own an unlicensed animal or harbor an unlicensed animal in and around such person’s premises, or place of residence or permit any unlicensed animal or animals to stay around the premises without notifying the city clerk.

(g)   It shall be unlawful for any person to counterfeit a license tag for any animal or to take or to steal from any animal a duly registered tag.

(h)   Any person who is found guilty of violating this article shall be fined not less than $20.00 and nor more than $100.00 for each conviction and may be charged by separate counts for each day’s violation where so provided. In addition, any person found guilty of violating section **2-106(f)** shall be required to obtain a tag for the offending animal and pay all costs incurred by the city for the impoundment of the animal.

**2-107.        Evidence of vaccination.**

It shall be unlawful for the owner of any dog or cat, more than 4 months old, kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog or cat within two years, when requested by the animal control officer or any law enforcement officer.

**2-108.        Same; visiting dogs.**

The provisions of this article with respect to registration shall not apply to any dog owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs shall be kept under restraint by the owner thereof at all times.

**2-109 Feral cats.**

Feral cats are hereby declared a public nuisance and a threat to public health. The feeding of feral cats increases the likelihood of disease from cats and other wild animals attracted by food.

**2-110 Care of Feral Cats**

It is unlawful for any person within the City of Ellinwood to intentionally provide food, water or other form of sustenance to a feral cat or feral cat colony.

**2-111.        Municipal pound established.**

A municipal pound shall be established to carry out the provisions of this chapter. 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 chapter.

(b)   Group holding facilities for stray, ownerless and unvaccinated animals impounded for violation of the provisions of this chapter.

(c)   Individual isolation facilities for sick, biting, rabid and suspected rabid animals.

(d)   Facilities for the humane destruction of animals.

**2-112.        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 chapter, 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.

**2-113.        Cruelty to animals.**

It shall be unlawful for any person to:

(a)   Willfully or maliciously kill, maim, disfigure, torture; shoot at, beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

(b)   Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;

(c)   Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as provided in section **2-114**;

(d)   Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl under two months of age in any quantity less than 12; or to sell, offer for sale, barter, give away, or display animals or fowls as specified in this section which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color. This section shall not be construed to prohibit the sale of animals or fowls as specified in this subsection, in proper facilities, by hatcheries or persons engaged in raising and selling such animals and fowls for recognized animal husbandry purposes;

(e)   Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal;

(f) Neglect or refuse to supply such animal with necessary and adequate care, food, drink, air, light, space, shelter or protection from the elements as necessary for health and well-being of such kind of animal.

(g)   Abandon or leave any animal in any place without making provisions for its proper care;

(h)   These provisions shall not apply to the exceptions sanctioned under section 2-**104**. In addition to the penalties provided in section **2-130** of this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.

**2-114.        Same; exceptions.**

The provisions of section 2-113 shall not apply to:

(a)   Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;

(b)   Bona fide experiments carried on by commonly recognized research facilities;

(c)   Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;

(d)   Rodeo practices accepted by the rodeo cowboys’ association;

(e)   The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;

(f)   The humane killing of an animal by the animal control officer, a public health officer or a law enforcement officer in the performance of his or her official duty;

(g)   The humane killing of an unclaimed animal after three full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments.

**2-115.        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 arid 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 2-120 of this chapter;

(c)   The transporting of animals through the city by ordinary and customary means.

**2-116.        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.

**2-117.        Nuisance; animal activités 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)   Damages public or private property other than that of its owner or harborer by its activities or with its excrement;

(c)   Scatters refuse that is bagged or otherwise contained;

(d)   Causes any condition which 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.

**2-118.        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. The owner or keeper of any animal violating the provisions of this article shall be subject to prosecution as set forth herein.

**2-119.        Confinement of dogs in heat.**

Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisances, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement.

**2-120.        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)   All dogs and cats kept in an outside area or yard shall be kept within a fence of sufficient height, strength, and design so as to prevent the dog or cat from escaping from the premises. Electronic animal containment barriers shall be allowed so long as it is of sufficient strength to contain the animal. No dogs or cats shall be allowed to run at large unless such animal remains on the owner’s premises; or be kept on a chain or leash unless the chain or leash is under the immediate and direct control of the owner or keeper of the dog or cat; or unless the dog or cat is within a fenced area as set forth herein, provided however no pit bull, as defined in 2-120(c) shall not be allowed to remain at large on the owners premises.

(c)   Excrement shall be removed at least once every three days 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 waste shall be disposed of at least once each week;

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

(e)   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.

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

(g)   All premises on 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 which 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.

**2-120A.     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)   Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601-608 of this code.

(d)   Wherever reasonable, use shall be made of anti-coagulant rodenticides for the c6ntrol of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.

(e)   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.

(f)   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.

(g)   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.

(h)   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 chapter 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.

(i)    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 chapter 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.

**2-121.        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.

**2-122.        Vicious and/or dangerous animals.**

(a)   Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious and/ordangerousanimal 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 chapter a vicious and/or dangerous 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 which 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 which 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)* Pitbulls shall be defined as follows and shall include the following:

(1)   The bull terrier breed of dogs;

(2)   The Staffordshire bull terrier breed of dog;

(3)   The American pit bull terrier breed of dog;

(4)   The American Staffordshire terrier breed of dog;

(5)   Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers;

(6)   Any dog which has the appearance and characteristics of being predominately of the breeds of bull terrier, Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

*i.* Pitbulls are not per se considered vicious or dangerous under this ordinance; however no person or household shall be allowed to own, possess or keep more than one (1) Pitbull, during any time period and no exception is made for visiting dogs under 2-107.

ii. Such animal shall be registered with the City and the owner shall provide proof that the animal has been sterilized and is microchipped.

iii. At Large: No Pitbull, as defined above, shall be allowed to be at large, even on the owners premises, nor shall any Pitbull be on a leash or cable on the owners premises, unless underimmediate and direct control of its owner or keeper.

iv. Signs. All owners, keepers or harborers of registered pit bull dogs within the city shall within 10 days of the effective date of this article display in a prominent place on their premises a sign easily readable by the public using the words Beware of Dog. In addition, a similar sign is required to be posted on the kennel or pen of such animal.

v.   Insurance. All owners, keepers or harborers of registered pit bull dogs must within 10 days of the effective date of this article provide proof to the city clerk of public liability insurance in a single incident amount of $100,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless 10 days written notice is first given to the city clerk.

vi.   Identification Photographs. All owners, keepers or harborers of registered pit bull dogs must within 10 days of the effective date of this article provide to the city clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

vii   Reporting Requirements. All owners, keepers or harborers of registered pit bull dogs must within 10 days of the incident, report the following information in writing to the city clerk as required hereafter:

(1)   The removal from the city or death of a registered pit bull dog;

(2)   The birth of offspring of a registered pit bull dog;

(3)   The new address of a pit bull dog owner should the owner move within the corporate city limits.

viii   Sale or Transfer of Ownership Prohibited. Sale - No person shall sell, barter or in any other way dispose of a pit bull dog registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such dog; provided that the registered owner of a pit bull dog may sell or otherwise dispose of a registered dog or the offspring of such dog to persons who do not reside within the city.

ix.    Animals Born of Registered Dogs. All offspring born of pit bull dogs registered with the city must be removed from the city within six weeks of the birth of such animal.

x.  Irrebuttable Presumptions. There shall be an irrebuttable presumption that any dog registered with the city as a pit bull dog or any of those breeds **set forth in (c) above** is in fact a dog subject to the requirements of this section.

xi.   Failure to Comply. It shall be unlawful for the owner, keeper or harborer of a pit bull dog registered with the city to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediately removal of the animal from the city.

xii    Violations and Penalties. Any person violating or permitting the violation of any provisions of this section shall upon conviction in municipal court be fined a sum not less than $200 and not more than $1,000. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 30 days. In addition, the court shall order the registration of the subject pit bull revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this article.

(d)   Vicious and/or dangerousDogs 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 chapter 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 chapter. 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.

(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 prior to 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 under which the animal is kept or confined;

(5)   Other factors which 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 insure 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.

**2-123.        Running at large.**

It shall be unlawful for any dog, cat, or other animal or fowl to run at large within the city. Any dog, cat, or other animal or fowl found at large shall be impounded as provided in section 2-122 and the owner thereof shall be subject to prosecution as set forth herein.

(Ord. 2007-4; Code 2022)

**2-124.        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 chapter 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:

(1)   For a licensed animal impounded the first time; $15 plus any boarding expenses incurred with impoundment authority.

(2)   For a licensed animal impounded a second time within 12 months of the first impoundment; $30 plus any boarding expenses incurred with the impoundment authority.

(3)   For a licensed animal impounded a third time within 12 months of the first impoundment; $50 plus any boarding expenses incurred with the impoundment authority.

(4)   For an unlicensed animal; $50 plus any boarding expenses incurred with the impoundment authority.

(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 clerk showing the number of animals impounded and disposed of, and the fees collected pursuant to this article and shall pay those fees to the city clerk for credit to the general operating funds.

**2-125.        Redemption of impounded animals.**

At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-***122*** (vicious **and/or dangerous**) and 2-***126*** (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.

**2-126.        Impoundment of rabies suspects.**

(a)   Any law enforcement officer or local health officer may take up, upon private or public property, any animal which 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.

**2-127.        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 which 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.

**2-128.        Vehicular accidents involving animals.**

Any person who as the operator of a motor vehicle strikes any domestic 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.

**2-129.        Emergency; proclamation.**

The mayor 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.

**2-130.        Fines and punishment.**

Unless otherwise provided herein, the violation of any of the provisions of this article shall be considered a misdemeanor and shall be punishable by a fine and all court costs and expenses incurred in the enforcement thereof as follows:

(a)   For a first offense, a warning citation shall be issued;

(b)   For a second offense, a fine of not less than $25.00;

(c)   For a third offense within 12 months, a fine of not less than $50.00;

(d)   For all subsequent offenses within 12 months, a fine of not less than $150.00.

SECTION 2:

This ordinance will be in effect after its publication one time in the Ellinwood Leader the official city newspaper.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Ellinwood, Kansas, this \_\_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2025.

Irlan Fullbright, Mayor

ATTEST

Stephanie Dunnaway, City Clerk