CHAPTER 6

ANIMALS AND FOWL[1]

Art. I. In General, §§ 6-1 - 6-27
Art. II. Dogs Generally, §§ 6-28 - 6-48
Art. III. Dog Kennels, Pet Shops and Grooming Establishments, §§ 6-49 - 6-51

ARTICLE I. IN GENERAL

Sec. 6-1. **Definitions**.

Unless the context requires otherwise, the following definitions shall apply in the interpretation and the enforcement of this chapter:

Animal shall mean any living beast other than a human being whether such beast is mammalian or of some other species and includes reptiles and fowl.

At large shall mean that the animal is off the premises occupied by the owner (or its appointed keeper) and not under the immediate control and supervision of the owner, his agent, its keeper or some member of any such persons's family.

Confiscate shall mean to seize animal and take permanent custody.

Dog shall include male, female and neutered dogs and such members of the canine, vulpine, lupine and jackal families and the young of all such species.

Domestic animal shall mean any animal customarily kept as a pet or any animal maintained within or as an adjunct to any domestic household.

Exotic pets shall mean any pets introduced from another country or area, not indigenous to the place where found, or strikingly or exceedingly different or unusual.

Impound shall mean to seize and hold animal for a temporary period of time.

Livestock shall mean any animal owned, kept or maintained for purposes of supplying food, directly or indirectly, or a beast of burden and specifically includes cattle, horses, sheep, goats,
asses, mules, rabbits and fowl or any kind or breed of animals utilized for sport or food.

Muzzle shall mean a mouth guard made to prevent an animal from biting and shall be made of leather, nylon or steel.

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[1] **Cross references** - Permitting dangerous animals to be at large deemed a class three offense, § 17-33; injuring domestic animals, §17-96; zoning, Appendix B.

State law reference - Livestock and domestic animals generally, K.S.A. 47-101, *et seq.*

Owner shall mean any person or persons, firm, association or corporation owning, keeping or harboring animals.

Vicious animal shall mean any animal which, by virtue of its breeding, training, characteristics behavior, or any other facts of which the owner is aware, has a propensity, tendency, or disposition to attack without provocation, to cause injury, or to otherwise endanger the safety of human beings. (Ord. No. G-86-03, §l, 7-28-86)

Sec. 6-2. City manager authorized to appoint animal control officer.

The city manager shall have the authority to appoint an animal control for the city under the terms that he deems reasonable and necessary.

Sec. 6-3. Chief of police to operate and control function of animal control officer.

The animal control officer shall report and be responsible to the chief of police of the city. The chief may impose such regulations as he deems necessary to adequately operate and control the functions of the animal control officer.

Sec. 6-4. Authority to impound animal running at large; penalty for allowing animal to run at large.[2]

(a) Any police officer (including the city animal control officer or his duly appointed assistant) or designee of the police chief shall have the right, and it shall be his duty, to seize and impound as necessary any animal found running at large in the city in violation of this chapter.

(b) Allowing an animal to run at large shall carry a penalty of a fifty dollar ($50.00) fine. A second violation shall carry a penalty of a one hundred fifty dollar ($150.00) fine. A third violation shall carry a penalty of a three hundred ($300.00) fine and the animal may be confiscated. A fourth violation shall result in automatic confiscation of the animal in addition to the fine. For purposes of this section, only violations occurring within a one (1) year period shall be considered for enhancement purposes. (Ord. No. G-04-06, § 2, 07-27-04)

Sec. 6-5. Impoundment of animals required; notice; assessment of costs for impoundment.

(a) A police officer or the animal control officer or his assistant who seizes animal found at large within the city or who seizes any animal found unlawfully kept, harbored or maintained
within the city or upon the order of the municipal judge shall forthwith impound said animal in the city pound. If said animal is registered or tagged so as to be identified, the owner

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[2] **State law reference** - Permitting dangerous animal to be at large, K.S.A. 21-3418; stock running at large, K.S.A. 47-101 et seq.

thereof shall be notified of the impoundment as soon as possible.

(b) The municipal judge shall have the authority, upon the sworn complaint of any person charging that an animal is maintained in violation of this chapter or is being cruelly or inhumanely treated, to issue an order to the police chief requiring the described animal to be seized and impounded pending final determination of the matter. In the event of the person so charged being found guilty of such charge, the costs of maintaining such animal may be assessed against him as a reasonable administrative expense of the action, and in the event of the person so charged being found innocent of such charge, the costs of maintaining the animal shall, before the return of such animals, be assessed against and paid by the city.

Sec. 6-6. Obstructing, hindering or preventing impoundment.

No person shall:

(a) Willfully obstruct, hinder or prevent the impounding of any animal;

(b) Break open, destroy or damage the city pound; or

(c) Without proper authority, take or drive or attempt to take or drive any impounded animals from the city pound.

Sec. 6-7. Causing animals to be impounded prohibited.

No person shall drive or entice any animal from beyond the city limits into the city limits or aid, abet or assist in so doing or let any animal out of any enclosure in which it may be confined or unfasten any animal or aid, abet or assist in so doing in order that such animal may be seized and impounded.

Sec. 6-8. **Procedure for redemption of animals**.

The owner or keeper of any animal which has been impounded pursuant to the provisions of this article may redeem such animal from the city at any time before the sale or disposal of the animal by:

(a) Establishing ownership of the animal;

(b) Paying all charges for the care and/or treatment of the animal by the city or anyone so caring or treating the animal;

(c) Paying any and all damages caused by said animal while running at large;

(d) Paying any other charges deemed necessary by the chief of police; and

(e) Paying any fines that may be assessed by the municipal court.

Sec. 6-9. Methods of disposal of impounded animals.

Any animal impounded pursuant to the provisions of this article for whom no owner is ascertained within three (3) days, excluding Sundays and holidays, following impoundment may be disposed of either by humane destruction or by sale or gift under such terms as the chief of police may provide; provided, however, any impounded animal which is injured or diseased beyond reasonable and humane hope of recovery may be forthwith and immediately humanely destroyed.

Sec. 6-10. Adoption of unclaimed impounded animals.

(a) At any time after three (3) days, excluding Sundays and holidays, following the impoundment of an animal in accordance with this article, such animal may be disposed of by adoption to any person who pays the costs and charges of the care and treatment of such animal and pays the deposit required by section 6.10.1 of this chapter.

(b) No person who has impounded such animal or has caused such impounding by complaint shall be eligible to adopt such animal, either directly or indirectly, and no person, firm, corporation or association engaged in medical experimentation, vivisectional practices or other laboratorial experiments utilizing animals shall be eligible to purchase such animal for such purposes.

(c) Upon receiving the animal from the shelter, the adopter has seventy-two (72) hours to obtain proper immunization and register the animal. (Ord. No. G-86-03, § 3, 7-28-86)

Sec. 6-10.1. Dogs and cats; spaying or neutering required, when.[3]

No person may adopt a dog or cat from the animal shelter unless:

(a) Such dog or cat has been first surgically spayed or neutered; or

(b) the adopting party signs an agreement to have the dog or cat spayed or neutered and deposits with the animal shelter funds sufficient to ensure that the dog or cat will be sterilized. Any funds deposited pursuant to such an agreement shall be refunded to the adopting party upon presentation of a written statement signed by a licensed veterinarian that the adopted dog or cat has been spayed or neutered.

(c) Nothing in this section shall be construed to require sterilization of a dog or cat which is being held by the animal shelter and which may be claimed by its rightful owner.

Sec. 6-11. Animals biting persons: confinement; release.

(a) Any warm-blooded animal which bites a person shall immediately be quarantined for a period of ten (10) days at the owner's, keeper's or harborer's expense with a

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[3] **State law reference** - K.S.A. 47-1731 - Dogs and cats; spaying and neutering required, when.

doctor of veterinary medicine of the owner's, keeper's or harborer's choosing. The owner, keeper or harborer of such animal shall notify the police department of the city of the date and place of confinement and shall also give notice when such animal is released. Upon such release, the veterinarian shall mail a certificate showing the condition of the health of said animal insofar as rabies is
concerned to the police department and to the person bitten. If any such animal is not immediately guarantied as required by this section for the balance of said ten-day period, then the chief of police and his authorized representatives are hereby authorized to deliver such animal to a doctor of veterinary medicine to be so confined for the termination of the ten-day period. If such animal is not immediately quarantined, it shall nevertheless be quarantined for a full ten-day period, regardless of when the quarantine commences. If a doctor of veterinary medicine will certify that the animal was vaccinated with serum and that the same was in effect at the time of the bite against the disease of rabies, then the provisions of this section relating to quarantine will not apply.

(b) It shall be the duty of the owner, keeper or harborer of any animal which bites any person to be responsible for the expenses incurred, regardless of who transports the animal to a doctor of veterinary medicine for the quarantine. This includes medical expenses or damages, if any should occur, caused by this animal. (Ord. No. G-86-03, § 4, 7-28-86)

Sec. 6-12. Unlawful to poison animals.[4]

It shall be unlawful for any person to willfully and maliciously administer or cause to be administered poison or any other substance likely to harm an animal, the property of another, with the intent to injure or destroy such animal, or to willfully and maliciously place any poison or poisoned food or other substance where the same is accessible to any such animal.

Sec. 6-13. Report of wounding, injuring or killing animal.

(a) It shall be the duty of any person not the owner or keeper of an animal who causes the death, wounding, injury or maiming of such animal within the city to immediately notify the police department or animal control officer of the occurrence of the incident and the whereabouts of said animal as last known to him or her. Any person who is proven to have left the scene of said incident without giving the required information to either the animal's owner or keeper or the proper authorities shall be deemed guilty of an offense. No person shall be required, however, to stop in unsafe traffic conditions; he or she shall report the incident as soon as he or she may safely stop.

(b) Violation of this section shall carry a penalty of a fine not to exceed one hundred dollars ($100.00). (Ord. No. G-86-03, § 5, 7-28-86)

Sec. 6-14. Disposal of dead animals.

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[4] **State law references** - Injury to domestic animals, K.S.A. 21-3727; cruelty to animals, K.S.A. 21-4310.

(a) It shall be the duty of the owner or person having the custody of any dead animal to dispose of said body or carcass by burying the same in an adequate opening in the ground which shall be, when covered, three (3) feet beneath the surface of the ground. Any person failing to so dispose of such body or carcass as required by this section, shall be deemed guilty of an offense, the fine for which shall be a minimum of fifty dollars ($50.00) and a maximum of two hundred dollars ($200.00).

(b) Nothing in this section shall be construed to permit or condone trespassing, or the burial or burning of a carcass on any property without the property owner's consent. Nothing in this section shall be construed to permit or condone illegal transportation of animal carcasses upon public highways in violation of K.S.A. 47-1201, et seq.

(c) If the owner, keeper or harborer of said carcass requests the city to dispose of the carcass, a fee of five dollars ($5.00) will be assessed. The five dollar ($5.00) fee will be paid upon request of the service. It shall be the responsibility of the owner or custodian of the animal to dispose of its carcass in one of said permissible manners within twenty-four (24) hours of the death of the animal. A request for the city's disposal service must be made to the city police department within twenty-four (24) hours of the animal's death. (Ord. No. G-86-93, § 6, 7028-86)

Sec. 6-15. **Maintenance of livestock**.

(a) Any person desiring to keep livestock within the city shall file a written application for a permit to do so with the city clerk. The application shall affirmatively show that the applicant has facilities for keeping such animals meeting the standards set by the county health officer which will confine said animals within limits not closer than one hundred (100) feet to the exterior limits of any dwelling resided in by anyone other than the applicant.

(b) No permit shall be issued or valid if issued for the permitting or keeping of a combined total of more than two (2) horses, mules, asses and cattle or for more than four (4) sheep or goats per acre or of such other limitation as the health office shall prescribe.

(c) A permit issued pursuant to this section shall be valid and effective for not more than twelve (12) months from the date of issuance thereof.

(d) Such permits shall be conditioned upon the following:

(1) The keeper of such animals maintaining a distance of one hundred (100) feet between the exterior limits of the place where the animals are kept and the exterior limits of the nearest dwelling occupied by any person other than the permit holder or owner of such animals;

(2) Such animals being confined in an enclosure sufficient to prohibit their running at large, the enclosure being maintained in a clean and sanitary condition at all times

and an approved insecticide being used in such enclosure as often as deemed necessary by the county health officer; and

(3) A shelter or area of sufficient size which is conducive to good sanitation practices and adequate drainage being provided and litter and droppings being collected and disposed of in the manner designated by the health officer.

Failure to comply with the conditions enumerated in this subsection shall be cause for revocation of the permit by the city inspector.

(e) The annual fee for such permit shall be twenty-five ($25.00) and shall be paid to the city clerk.

(f) Nothing contained in this section shall be construed to prevent the bringing of any animals to any stockyard, slaughterhouse, auction, community sale, or stock pavilion for the purpose of sale, shipment, slaughter or for show purposes, nor shall it be unlawful to keep, harbor or feed animals at any lawfully established stockyards, auction or community sale, provided that the animals are kept, harbored or fed in accordance with the regulations and requirements promulgated by the office of livestock sanitary commissioner of the state under authority of the Community Sales Law of Kansas. (Ord. No. 548), § 2, 6-25-69; Ord. No. G-79-09, § 1, 10-24-79; Ord. No. G-82-05, § 1, 5-12-82)

Sec. 6-16. Animals to be caged or restrained; rabies immunization.

It shall be unlawful for any person to keep, harbor or maintain any animal, except as provided herein. Any animal kept, harbored or maintained in the city shall be caged, fenced or otherwise restrained to the keeper's property except when under the immediate control of such keeper or his agent or some responsible member of any such person's family. Further, no mature domestic animal of the canine, vulpine, lupine, feline or rodent families shall be kept unless provided with immunization adequate to prevent contraction or spread of rabies.

Sec. 6-17. Using animals in fights.

No animal, described in section 6-1, Article 1, Section 6-1, or otherwise, shall be used in any fights. (Ord. No. G-86-03, § 7, 7-28-86)

Sec. 6-18. Unlawful animal fighting.

(a) It shall be unlawful for any person to promote, encourage, or instigate any animal fight for amusement or gain.

(b) It shall be unlawful for any person to entice, bait or abet any animal fight for amusement or gain.

(c) Violation of this section shall carry a penalty for the first offense of a fine of five hunred dollars ($500.00) or thirty (30) days in jail, or both. A second or subsequent offense shall carry a penalty of a fine of one thousand dollars ($1,000.00) or one (1) year in jail, or

both. .(Ord. No. G-04-06, §8, 07-27-04)

Sec. 6-19. Attending animal fight.

(a) It shall be unlawful for any person to witness, participate in, or engage as a spectator at any animal fight.

(b) Violation of this section shall result in a fine of two hundred fifty dollars ($250.00) or fifteen (15) days in jail, or both. Second or subsequent offense shall carry a penalty of a fine of one thousand dollars ($1,000.00) or thirty (30) days in jail, or both.. (Ord. No. G-04-06, § 9, 07-27-04)

Secs. 6-20 - 6-27. Reserved.

ARTICLE II. DOGS GENERALLY

Sec. 6-28. Applicability of registration and taxation provisions.

The provisions of this article relative to taxation and registration of dogs shall not apply to any dog temporarily in the city. For the purpose of this article, any period of time less than thirty (30) days shall be considered temporary.

Sec. 6-29. Annual tax; penalty.

(a) The owner of any dog kept, harbored, or maintained within the corporate limits of the city shall register each dog over six (6) months of age, or within ten (10 days after said dog becomes six months of age, by filing an application provided for such purpose in the office of the city clerk.

(b) The owner shall state on the application his or her name and address, and the name, breed, color and sex of each dog owned or kept by him or her.

(c) A two year dog license tag shall be issued by the city clerk upon payment of the required fee and presentation proof of current rabies vaccination; provided that dogs given a one year rabies vaccination shall be issued a one year license.

(d) Violation of this section shall result in a fine of twenty-five dollars ($25.00), and each day's violation shall constitute a separate offense punishable by the same penalty. (Ord. No. G-92-01, 2-10-92)

Sec. 6-30. License fees.

(a) At the time of registration, the owner shall pay a fee of eight dollars ($8.00) per dog every two years.

(b) For a dog given a one year rabies vaccination, the fee shall be four dollars

($4.00) per year and the owner must renew the license the following year at the time of the rabies vaccination.

(c) The license fee required by this section shall be paid to the city clerk on or before the tenth day following the dog's rabies vaccination. If the license fee required by this section is not paid on or before the tenth day after the dog's rabies vaccination, a penalty of five dollars ($5.00) per month shall be assessed the owner. (Ord. No. G-92-01, 2-10-92)

Sec. 6-31. Rabies vaccination required.

No dog shall be registered and licensed in the city unless the owner thereof presents to the city clerk the certificate of a doctor of veterinary medicine certifying that said dog has been inoculated against rabies, which certificate shall further state the date of inoculation and the date the vaccine expires. (Ord. No. G-92-01, 2-10-92)

Sec. 6-32. Issuance, display of dog license tag.

Upon the registration of a dog and the payment of the license fee due as required by this article, the owner of said dog shall be issued a dog license tag by the city clerk. The tag shall be attached to the dog in some convenient way, and said tag shall be displayed at all times on the dog.(Ord. No. G-92-01, 2-10-92)

Sec. 6-33. Lost registration tag.

In the event a dog license tag is shown to be lost, the city clerk shall issue a new tag to the record owner or keeper of the dog upon the payment of two dollars ($2.00). (Ord. No. G-79-09, § 2, 10-24-79)

During the period of transition to the new fee schedule, the city dog tags expiring on March 1, 1992 will be valid until the date of the next rabies vaccination. Dogs with rabies vaccinations which expire between march 1, 1991 and March 1, 1992 must register with the city on or before March 1, 1992. (Ord. No. G-92-01, 2-10-92)

Sec. 6-34. **Certain dogs declared public nuisance; impoundment authorized.**[5]

Any adult dog for which a license tag has not been purchased, or which is not registered, or any dog which is permitted to run at large or which wears a license tag not assigned to it or which is vicious, dangerous or has communicable disease is hereby declared to be a public nuisance and may be seized and impounded by the city.

Sec. 6-35. Noisy dogs.

(a) No person shall knowingly keep or harbor within the corporate limits of this city any dog which is in the habit of barking or howling, by day or by night, in such a manner as

[5] **State law reference** - Permitting dangerous animal to be at large, K.S.A. 21-3418.

to disturb the peace and quiet of any person or family within the city.

(b) Violation of this section shall result in a fine of ten dollar ($10.00). (Ord. No. G-86-03, § 11, 7-28-86)

Sec. 6-36. Maximum number of dogs per premises.

(a) It shall be unlawful to possess or have under control more than three (3) dogs per household or premises. A kennel license may be issued to the keeper or owner of four (4) or more animals, if said keeper or owner's premises are in a zoning district which allows such use of property.

(b) Violation of this section will result in a minimum fine of one hundred dollars ($100.00) and a maximum fine of two hundred fifty dollars ($250.00).

(c) Nothing in this section shall be construed to prohibit or restrict the practice of veterinary medicine by a licensed Doctor of Veterinary Medicine registered with the State pursuant to K.S.A. 47-814, et seq. or of pet shops, licensed under K.S.A. 47-1703. (Ord. No. G-86-03, § 12, 7-28-86)

Sec. 6-37. **Keeping or harboring diseased, dangerous or vicious dogs unlawful; destruction authorized.**

(a) It shall be unlawful to own, keep or harbor any dog which is vicious or dangerous within the City and, upon the complaint of any person filed before the Clerk of the Coffeyville Municipal Court that any dog within the City is vicious or dangerous, a hearing shall be held before the Municipal Court. If, at the hearing, the judge finds that such dog is vicious or dangerous, he shall order the same forthwith seized and destroyed by the Police Department, City Animal Control Officer or such other person as may be designated by the Chief of Police. The judge shall be authorized to order a temperament evaluation of the dog for purposes of this section.

(b) For the purposes of this section, any animal having a poisonous bite shall be deemed a dangerous animal.

(c) Violation of this section will result in a minimum fine of two hundred fifty dollars ($250.00) and a maximum fine of five hundred dollars ($500.00). (Ord. No. G-04-06, § 13, 07-27-04)

Sec. 6-38. Exotic pets.

(a) Any person desiring to keep an exotic pet within the city limits shall file a written application for a permit from the city clerk. This permit cannot be approved until after inspection and approval for safety and sanitary housing by the animal control officer.

(b) Violation of this section result in a minimum fine of fifty dollars ($55.00) and a

maximum fine of one hundred fifty dollars ($150.00). (Ord. No. G-86-03, § 14, 7-28-86)

Sec. 6-39. Failure to comply.

Each day that a deemed violation of this article continues shall be a separate offense. In addition to any penalty, any person who violates this article shall pay all expenses, including shelter, flood, handling, and veterinary care necessitated by the enforcement of this article. (Ord. No. G-86-03, § 15, 7-28-86)

Sec. 6-40. Severability.

If any section, sentence, clause, or phrase of this article be, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. (Ord. No. G-86-03, 7-28-86)

ARTICLE III. DOG KENNELS, PET SHOPS AND GROOMING ESTABLISHMENTS[1]

Sec. 6-49. Definitions.

For the purpose of this article, the following terms shall have the meanings ascribed to them in this section:

Dog kennel shall mean any quarters of any description utilized commercially for the keeping, maintenance or breeding of dogs.

Grooming establishment shall mean any location, building or quarters of any description utilized for animal grooming or beautification operations or manipulations when such grooming, operations or manipulations are done for hire, gain or commercial advantage of any person.

Pet shop shall mean any location or quarters of any description wherein any warm-blooded domestic animal is kept or maintained for commercial purposes, including sale, and where any animal other than dogs are bed commercially.

Sec. 6-50. Compliance with article required.

It shall be unlawful for any person to operate a dog kennel, pet shop or grooming establishment within the city except as provided in this article.

Sec. 6-51. **Licensing requirements**.

(a) Any person desiring to maintain a dog kennel, pet shop or grooming establishment in the city shall file a written application for a license to do so with the city clerk. The application shall affirmatively show that the applicant has facilities for keeping such animals in quarters meeting the standards set by the county health officer, which shall include the following:

(1) Confinement of said animals within limits not closer than fifty (50) feet to the exterior limits of any dwelling resided in by anyone other than the applicant;

(2) Animals shall be confined in an enclosure sufficient to prohibit their running at large;

(3) The enclosure shall be maintained in a clean and sanitary condition at all times and an approved insecticide shall be used as often as deemed necessary by the county health officer;

(4) A shelter or area of sufficient size to be conducive to good sanitation practices and adequate drainage for the shelter or area shall be provided, and litter and droppings shall be collected and disposed of in a manner designated by the health officer; and

(5) The area is which such establishment, kennel or pet shop is to be maintained is zoned for such purpose.

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[1] **State law reference** - Animal dealers, K.S.A. 47-1701 *et seq*.

(b) Any violation of the provisions of this article as shown by a certified abstract of conviction from the appropriate court submitted to the city clerk or failure to comply with conditions set forth in this section as shown by a sworn affidavit of the county health officer shall be cause for revocation of the permit by the health officer.

© The annual fee for a license required by this section shall be twenty-five dollars ($25.00), and shall be paid to the city clerk during the month of January of each year.

(d) The licensing provisions of this section shall not apply to any kennel maintained in a proper zone and operated by a licensed doctor of veterinary medicine. (Ord. No. G-79-09, § 3, 10-24-79; Ord. No. G-82-05, § 2, 5-12-82)

MEMORANDUM

To: City Commissioners

From: Paul Kritz, City Attorney

Re: Vicious Animal Ordinance

Date: July 3, 2013

During the June 11 meeting, you directed me to review options for enacting ordinances relating to the care and control of vicious animals, to include alternatives for confining, insuring, and otherwise regulating such animals, or banning specific breeds altogether.

Also, at the June 11 meeting, Police Chief Celeste reported the Animal Control Officer does not currently keep track of dog bites by breed; therefore, no accurate, historical statistics regarding bites was readily available. Chief Celeste also reported there are 39 properly registered pit bulls in the City.

Currently, our City Code prohibits the "owning, keeping, or harboring" of "vicious animals" within the City[1]. By definition, "vicious animal" means "any animal which, by virtue of its breeding, training, characteristics, behavior, or any other facts of which the owner is aware, has a propensity, tendency, or disposition to attack without provocation, to cause injury, or to otherwise endanger the safety of human beings."[2]

Vicious dog complaints are incident-based. In dog bite cases, the animal is typically quarantined and evaluated at the animal shelter. The shelter director is trained in the administration of an "aggression assessment" known as the Safety Assessment for Evaluation Rehoming ("SAFER") test. Information about the SAFER test is readily available on the web. After the test is administered, the dog is given a grade ranging from "A" to "F". Dogs that pass the test are typically returned to the owner. Dogs that fail are euthanized, with or without the owner's consent.

Occasionally, the shelter director will make recommendations to try and reduce a dog's level of aggression. For example, in a recent case, the director recommended a somewhat aggressive female dog be spayed. The owner complied and the dog was released to the owner.

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[1] Section 6-37
[2] Section 6-1

In preparation for this discussion, and with the help of City staff, an informal survey of other cities was conducted, in order to see how others have chosen to address the vicious animal problem. Responses were quite varied, but in summary, the results are as follows:

City	Breed Specific Restriction?	Comment
Lenexa	No	Ordinance addresses "dangerous dogs"
Topeka	No	Ordinance addresses "dangerous dogs"
Garden City	Yes	Pit bulls allowed if properly confined
Chanute	Yes	Licensed animals grandfathered
Mission Hills	Yes	Considering exception for service animals
Arkansas City	No	Repealed ban after encountering difficulties with enforcement and implemented "comprehensive vicious animal ordinance"
Neodesha	Yes	
Tonganoxie	Yes	Also has ordinance against "aggressive and threatening" animals that "tends to be more useful"
Wichita	Yes	Sterilized pit bulls allowed if microchip is implanted
Andover	Yes	Licensed animals grandfathered
Kansas City	Yes	Licensed animals grandfathered
Hiawatha	Yes	
Overland Park	Yes	Licensed animals grandfathered
Independence	Yes	Licensed animals grandfathered
Ellinwood	Yes	
Edwardsville	No	Repealed breed specific restriction in favor of general "vicious animal" ordinance
Emporia	No	Repealed breed specific restriction in 2006 in favor of "expanded vicious animal" ordinance
Salina	Yes	Enacted law in 2005 after young child was seriously injured by pit bull

As you can see, 13 of the 18 (72%) cities that responded have some form of breed specific laws. Samples from the cities of Topeka and Lenexa are attached to this Memo.

In response to the survey, I also received the following comments regarding breed specific regulation, which might be of interest to you:

"In Hearn vs. Overland Park, the Kansas Supreme Court upheld the constitutionality of Kansas municipalities enacting breed specific dangerous animal laws. In that 1989 case, a group of pit bull owners challenged the constitutionality of Overland Park's breed specific dangerous animal ordinance that regulated pit bull dogs and subsequent to a weeklong trial to the court, the district court ruled in favor of the City. On appeal, the Kansas Supreme Court upheld the legality of such laws. I would note the following:

1. Be aware of the ADA limitations on prohibiting dogs by breed when the dog is properly identified and used as a guide or service dog.
2. You may want to consider restricting the animals; however, in 2005 Overland Park amended its ordinance to ban pit bull dogs and to grandfather those that were currently in the City.
3. Animal control officers need to be properly trained in how to accurately identify pit bull and other dogs subject to the ordinance.
4. As you will note in Hearn, the City presented evidence (and there is significant material available on the web) that pit bull dogs as defined in the ordinance are overrepresented as a breed in the injury and death of human beings and that when pit bull dogs attack they are more likely to cause serious injury or death.

While I am not absolutely certain, there seems to be an effort in recent years on the part of many groups who are opposed to "breed specific" laws to oppose the enactment of such laws or to challenge the validity of existing laws. The argument made by some of these groups is that the breed of a dog cannot be identified by its physical characteristics and the problem is not with breeds; but rather, with dog owners and their individual dogs. I believe the Hearn case provides the legal analysis to address these arguments.

No doubt humane societies and other groups that are interested in animal issues do not agree with "breed specific" legislation. It is likely that any discussion or effort to consider such legislation would likely be met with efforts to directly lobby elected officials and significant public turnout should there be a public hearing. I would note, however, that the jurisdictions, and there are many across the country and in Kansas that have passed such laws, have

primarily focused on the many reported cases that support the legitimate concerns of citizens that live next door to such animals. In particular these concerns relate to the fact that because the so-called pit bull breeds were genetically developed solely for the purpose of attacking and killing other dogs, there is an unknown pre-disposition to attack without the typical provocation necessary to prompt such a reaction in other breeds. At least that was the argument we made in the Hearn case. Clearly there are examples of such dogs never exhibiting past aggressive behavior that tragically kill a child in the household of the owner. The concern is that ramping up the legal penalties for keeping a dangerous animal will not protect the public from animals that have a genetic pre-disposition to be aggressive and the physical capability of causing great harm or death, when the animal has not previously exhibited such behavior.

Those jurisdictions who have adopted breed specific laws typically are reacting to the fact that as apparently in the Coffeyville case, the subject dog caused horrific injury that is normally not associated in most people's minds with a "dog bite." For example, there is likely no history of Cocker Spaniels amputating the leg of a two year old. In the Hearn case, there was evidence that the pit bull breeds were not just over-represented by breed as to fatal dog attacks, there was evidence that some percentage of the attacks were on adult humans as opposed to small children. I would say that I believe that opponents of breed specific legislation argue that the data from the late eighties and early nineties is no longer valid and I have not recently looked at the subject. As to locking jaws, I have never heard that, however, in the Hearn case expert witnesses presented evidence as to the strength of pit bull jaws as one of the reasons their attacks are so devastating.

I believe there are legitimate factual and legal arguments, as laid out in Hearn and other cases across the country that address the arguments made by opponents of breed specific legislation.

Please note that my comments are not in any way intended to suggest that any particular City should take or not take any particular action; rather, I believe there is a significant amount of legal and other information regarding these issues that support breed specific legislation. Obviously, in Kansas there is the Hearn case."

"My experience is that many residents, particularly those with small children or elderly members of the family, are uncomfortable living next door to a residence where a pit bull dog is kept. While only of anecdotal interest, I believe that I read last year the Marine Corp and other US Military authorities have banned the pit bull breeds from military housing. Interesting that this legal issue has maintained its vitality for nearly twenty-five years."

"The last time we visited this issue our local humane society came out against any such breed-specific bans and offered a number of reasons which our Commission found persuasive. Basically they argued:

- It is typically the owner who is the real problem, and any breed of dog can be made to be vicious.
- Certainly for those who revel in having a vicious fighting dog a pit bull seems to be the breed of choice. But many very responsible owners also have and like pit bulls.
- Many so-called pit bulls are actually mixed breeds, and there could be serious issues trying to prove (if challenged) that some particular dog is a "pit bull."
- Pit bulls have gotten something of a bad rap through the idea that they have a "locking jaw" which cannot be forced open once they have clamped down. This apparently is not true.
- Dog bite statistics would indicate that cocker spaniels (as I recall) are at the top of the list of dogs that have attacked humans, and pit bulls are a ways down on the list. [Don't know if that list is weighted as to severity of injury, though.]

The suggestion was made that the approach which should be taken instead is to really ramp up the penalties and consequences of harboring a vicious dog."

The watershed issue for you, as the Governing Body, to determine, is whether to enact breed specific restrictions. If so, ancillary decisions to make include:

1. Whether to ban certain breeds altogether or, in the alternative, to establish conditions for owning/keeping the affected breed (such as confinement, fencing, microchip implant, insurance, and sterilization requirements, etc.);

2. Whether to "grandfather" licensed animals that may otherwise be banned.

A straightforward example of an ordinance that bans the pit bull breed entirely, subject to certain "grandfathering" is the one from Chanute (attached hereto).

The City of Wichita has opted to allow pit bulls, subject to certain conditions and limitations, such as requiring microchip implants. Take note of Wichita's comprehensive definition of a "pit bull" (also attached).

If you decide not to enact breed specific laws, then you may wish to consider "beefing up" our vicious animal code. Examples of more elaborate "dangerous animal" codes are those of Lenexa and Topeka (also attached).

Finally, an example of an "anti-tethering" law is attached for your review as you deliberate enacting such a law for Coffeyville.

Upon receiving further guidance from the Commission, staff will begin the process of preparing appropriate ordinances for your consideration.

CHANUTE - PIT BULL ORDINANCE

6.04.130 - Pit bulls.
It shall be unlawful to keep, harbor, or in any way possess within the corporate limits of the city any pit bull dog; provided, that pit bull dogs licensed with the city by September 1, 2009, may be kept within the city under the terms of Section 6.04.135, Chanute Municipal Code. "Pit bull dog" is defined to mean:

1. Staffordshire bull terrier breed of dog.
2. The American pit bull terrier breed of dog.
3. The American Staffordshire terrier breed of dog.
4. 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.
5. Any dog which has the appearance and characteristics of being predominantly of the breeds of 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.
6. The provisions of this section shall not apply to veterinary clinics or animal shelters licensed by the State of Kansas.

WICHITA – DEFINITION OF "PIT BULL"

Pit Bull dog is defined to mean any and all of the following dogs:

1. The Staffordshire Bull Terrier breed of dogs;
2. The American Staffordshire Terrier breed of dogs;
3. The American Pit Bull Terrier breed of dogs;
4. Dogs which have the appearance and physical characteristics of being predominately of the breeds of dogs known as Staffordshire Bull Terrier, American Pit Bull Terrier or American Staffordshire Terrier.

A dog which possesses five out of the following eight characteristics shall be considered to be a Pit Bull:

1. Head is medium length, with a broad skull and very pronounced cheek muscles, a wide, deep muzzle, a well-defined, moderately deep stop, and strong under jaw. Viewed from the front the head is shaped like a broad, blunt wedge.
2. Eyes are round to almond shaped, are low in the skull and set far apart.
3. Ears are set high. Un-cropped ears are short and usually held rose or half prick, though some hold them at full prick.
4. Neck is heavy and muscular, attached to strong, muscular shoulders.
5. Body is muscular, with a deep, broad chest, a wide front, deep brisket, well-sprung ribs, and slightly tucked loins.
6. Tail is medium length and set low, thick at the base, tapering to a point.
7. Hindquarters are well muscled, with hocks, set low on the legs.
8. Coat is a single coat, smooth, short and close to the skin. Pit bull puppies have the same characteristics, though in juvenile or adolescent form. Muscles, along with breadth and depth of head and chest may be less developed. Specifically excepted from this definition is any dog with proof, by a written certification from a veterinarian licensed by the State of Kansas, that the dog does not contain in its lineage any American Pit Bull Terrier, American Staffordshire Terrier or Staffordshire Bull Terrier.

CITY OF LENEXA – "DANGEROUS DOG" CODE

Section 3-2-D-7 KEEPING DANGEROUS ANIMALS.

A. Prohibitions: No person shall own or permit to be kept on his premises any dangerous animal. This subsection will not be construed to apply to zoological parks, performing animal exhibitions or circuses, bona fide licensed veterinary hospitals for treatment, bona fide educational or medical institutions, museums, or any other place where they are kept as live exhibits or for study.

B. Seizure and Impoundment: If Animal Control has probable cause to believe that a person owns a dangerous animal on premises in the City, the Animal Control Officer shall cause the animal to be immediately seized and impounded, or euthanized, if seizure and impoundment are not possible without risk of serious physical harm or death to any person. Upon seizure and impoundment, said animal may be euthanized or delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. In lieu of seizure and impoundment, the Animal Control Officer may order the animal immediately removed by the owner, if Animal Control has reason to believe that the owner can safely and promptly provide for the removal of the animal. The owner must provide Animal Control with proof confirming the safe relocation of the animal upon request.

C. Costs: Any reasonable costs incurred in seizing, impounding, euthanizing or confining any dangerous animal shall be the responsibility of the owner of such animal. Such costs shall be in addition to any fine or penalty provided for violation of this Chapter. Failure to pay said costs within 10 days after receipt of a written notice of the amount due shall be a violation of this Section.

Section 3-2-D-8 DANGEROUS DOGS.

A. Determination of a Dangerous Dog:

1. If an Animal Control Officer has probable cause to believe a dog is dangerous, as defined in *Section 3-2-G-3*, the City Attorney may file a petition with the Municipal Court, verified by the Animal Control Officer, seeking a determination that the dog is dangerous. If the City intends to seek an order from the Court that the dog be euthanized, the petition shall specifically identify that as the remedy requested.

2. The City Attorney shall provide the owner of the dog with a copy of the petition, and written notice of the date, time, and location of the hearing.

3. When the Animal Control Officer has probable cause to believe that the subject dog may pose a threat of serious harm to human beings or other animals, the Animal Control Officer or a law enforcement officer is authorized to seize and impound the dog pending the hearing and/or any appeal. If the subject dog has been impounded, the matter shall be scheduled for a hearing within seven (7) business days from the date of impoundment. If the dog is not impounded, the hearing shall be held within fourteen (14) days from the date the petition is filed in the Lenexa City Code Municipal Court. These deadlines may be extended by the Court for good cause shown.

4. The hearing shall be conducted by the Municipal Judge or other person designated by the Mayor, either of whom will sit as an administrative judge for purposes of this Section. As administrative judge, he or she is empowered to hold hearings, subpoena witnesses, take the testimony of persons under oath, and to require the production of any evidence relating to any matter being heard

5. At the hearing, all interested parties shall be given an opportunity to present testimony and relevant materials on the issue of whether the dog in question is dangerous. The testimony and relevant materials shall include but not be limited to Animal Control reports, the facts, circumstances, and seriousness of any attack or wound, past history of wounds inflicted by the dog in question, and the potential propensity of the dog to inflict wounds in the future. The hearing shall be civil in nature, informal in the presentation of the testimony and open to the public.

6. If the Court, after hearing the testimony and reviewing the relevant materials, determines that the City has proven by a preponderance of the evidence that the dog meets the definition of dangerous dog as found in *Section 3-2-G-3*, the dog shall be deemed dangerous. In addition, the Court has the authority to order the dog removed from the City, or destruction of the dog, as it deems appropriate. If destruction or removal of the dog is not ordered, the owner shall have fourteen (14) days from the date of the Court's determination to comply with all of the requirements of this Code pertaining to dangerous dogs, or within such other time frame as the Court may require. Future compliance hearings and/or the requirement to post bond to ensure compliance or to perfect an appeal may be ordered at the discretion of the Court. If the owner fails to comply with the provisions of this Section within the time frame ordered, unless stayed by the filing of an appeal, the dog shall be ordered destroyed.

7. If the dog was impounded prior to the hearing and is determined to be dangerous, the owner shall provide proof of compliance with all of the requirements of this Code pertaining to dangerous dogs to Animal Control, and pay all applicable impoundment and boarding fees, before the dog may be

released. If the owner appeals the Court's decision, the dog shall remain impounded pending the determination on appeal, and all associated boarding costs shall be the responsibility of the owner. If the dog is determined not to be dangerous, it may be released to its owner immediately upon payment of all impoundment and boarding fees.

8. The failure of an owner to appear at a hearing, or the removal of the dog from the City prior to the scheduled hearing, does not preclude the Court from holding a hearing and/or determining that the dog is dangerous. In addition to any other order, the Court may order the owner to provide Animal Control with the exact location, address, and contact information for the new owner of the dog (if moved), and require that the animal not be returned to the City without first notifying Animal Control and verifying full compliance with this Chapter.

9. If an owner desires to contest the Court's determination that a dog is dangerous, he or she may appeal to the district court. The owner shall file a notice of appeal with the municipal court clerk within ten (10) days of the Court's determination. If the dog has been impounded, the Court may require that the owner post a bond in an amount sufficient to pay for the animal's current impoundment and boarding fees, and a minimum of 30 additional days boarding, which shall also be required within ten (10) days of the Court's determination. The dog shall remain impounded until a final determination is made on appeal. The municipal court clerk will prepare the record on appeal, similar to an appeal from a municipal court pursuant to K.S.A. 12-4602 and K.S.A. 22-3609, and amendments thereto, and submit the record to the district court. The district court shall review the matter de novo, and the City's burden of proof shall be the preponderance of the evidence.

B. Stipulations by Owner:

1. The owner of a dog subject to a petition seeking a dangerous determination may waive his or her right to a hearing and enter a stipulation that the dog is dangerous, or a stipulation that the evidence would be sufficient to sustain a finding that the dog is dangerous. Any such stipulation shall be reduced to writing, signed by the owner. A stipulation shall have the same legal effect as a determination by the Court that the dog is dangerous. The owner shall comply with all provisions of this Code regarding dangerous dogs within fourteen (14) days from the date of the stipulation, or some later time frame if agreed to by the City and approved by the Court. If the owner fails to come into compliance with the Code within the designated time frame, the dog shall be ordered destroyed.

2. For purposes of this Chapter, a dog that is stipulated to be dangerous under this Section shall be synonymous with a dog determined to be dangerous by the Court. Further, entering into a stipulation is not an appealable order.

C. Regulation of Dangerous Dogs: The following provisions shall apply to all dogs determined to be dangerous:

1. Confinement Required: All dangerous dogs shall at all times be confined in an enclosure, as defined in *Section 3-2-G-3*, or inside a structure. No dangerous dog shall be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no dangerous dog shall be kept in a house or structure when the windows are open or when window screens or screen doors are the only obstacles preventing the dog from exiting the structure.

2. Confinement Exceptions: An owner of a dangerous dog will be allowed to have its dog outside of an enclosure or structure only for the following purposes: (1) to obtain necessary veterinary treatment; (2) to transfer ownership of the dog; (3) exercise; (4) elimination breaks; or (5) to comply with the commands of an Animal Control Officer. These exceptions apply only if the dangerous dog is securely muzzled, restrained with a leash of sufficient strength and not more than four feet in length, and is under the direct control of an adult capable of exercising control over the dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

3. Registration: An owner of a dog determined to be dangerous shall register it with the City within fourteen (14) days of the determination, and annually thereafter in conjunction with its licensing schedule. The registration shall be on a form provided by the City and accompanied by a nonrefundable registration fee as provided by ordinance or resolution or as otherwise permitted. Such registration fee shall not be prorated if required for less than a full year, and shall be separate and distinct from license fees required by the Code. The registration form shall include the name, address, and telephone number of the owner; an alternate contact person by name, address, and telephone number; a picture or pictures of the dog showing its (1) face, (2) color, and (3) any distinctive markings; the height, weight, breed, and approximate age of the dog; the animal's microchip type and registration number; liability insurance carrier information; and any other information deemed necessary by the City.

4. Insurance Required: No dangerous dog shall be registered by the City unless the owner of such dangerous dog presents to the City proof that the owner has procured liability insurance in the amount of at least five hundred thousand

dollars ($500,000.00) covering any damage or injury which may be caused by such dangerous dog. The City shall be listed as certificate holder, and shall be required to be notified of any cancellation, termination or expiration of the liability insurance policy. The owner shall maintain the liability insurance required by this subsection at all times, unless and until the owner shall cease to own the dangerous dog. The owner must provide proof to the City if he or she Lenexa City Code transfers ownership of the dog or if the dog dies.

5. Warning Signs: The owner of a dangerous dog shall display in a prominent place a clearly visible warning sign indicating that there is a dangerous dog on the premises. A similar sign is required to be posted on any enclosure used to confine the dangerous dog. All such signs shall comply with the City's sign ordinance.

6. Microchip Required: The owner of a dangerous dog shall have a microchip implanted into the dog for identification purposes, and the name of the microchip manufacturer and identification number of the microchip must be provided to the City. All costs related to the purchase, implantation, and registration of the microchip are the responsibility of the owner.

7. Spaying or Neutering Required: All dangerous dogs shall be spayed or neutered.

8. Tethering Prohibited: No dangerous dog may be leashed or tethered to an inanimate object.

9. Relocation:

a. If an owner of a dangerous dog moves the animal to another location within the City, the owner shall, within five days of any change in address, notify Animal Control and provide an updated registration form to the City.

b. If an owner of a dangerous dog moves the animal out of the City, the owner shall provide Animal Control with the exact location and address of the dog's new residence. The Animal Control Officer shall notify the receiving jurisdiction that the dog has previously been determined to be a dangerous dog.

c. A dog which has been determined or deemed by another jurisdiction to be dangerous, or some other comparable designation, with a similar definition and standards as found in Sections 3-2-G-3 and 3-2-D-8-A, shall not be relocated into Lenexa. However, if the dog was deemed dangerous solely based on breed, the dog may be allowed to relocate to Lenexa.

10. Notification of Escape: The owner or keeper of a dangerous dog shall immediately notify Animal Control if such dog escapes from its enclosure or restraint and is at large. Immediate notification also shall be required if the dog bites or attacks a person or domestic animal.

11. Compliance; Violations: It shall be unlawful for any owner of a dangerous dog to fail to comply with any of the requirements and conditions set forth in this Section. Any dangerous dog found to be in violation of this Section may be subject to immediate seizure and impoundment. Upon conviction for a violation of this Chapter, in addition to any other penalty as allowed, the Court may order the dog euthanized. Any costs for impoundment, boarding, or euthanasia shall be the responsibility of the owner. Failure to pay said costs within 10 days after receipt of a written notice of the amount due shall be a violation of this Section.

12. Penalty: Any person found guilty of violating the provisions of this Section shall be punished as provided in *Section 1-1-C-3* of this Code.

TOPEKA – DEFINITION OF "DANGEROUS DOG"

Dangerous dog shall mean any of the following:

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

(2) Any dog which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places; or on private property other than on the property of the owner; or

(3) Any dog which, unprovoked, attacks or bites, or has attacked or bitten a human being or domestic animal; or

(4) Any dog which was previously determined to be a vicious animal pursuant to the previous Topeka City Code 18.8 or 6.05.080; or

(5) Notwithstanding the definition of a dangerous dog above, no dog may be declared dangerous if any injury or damage is sustained by a person or animal who at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

(6) No dog may be declared dangerous if an injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the dog. No dog may be declared dangerous if the dog was protecting or defending a human being or if the dog was protecting or defending her litter of offspring or offspring on the owner's property, within the immediate vicinity of the dog from an attack or assault.

TOPEKA'S "TETHERING" CODE

When used as a verb, "tether" or "tethering" shall mean fastening a dog or cat to a stationary object, pulley run line or a stake. When used as a noun, "tether" or "tethers" shall mean a chain, leash, rope, cable, chain, string, leather or nylon strap, or any other material used to fasten a dog or cat to a stationary object, pulley run line or a stake.

(i) It shall be unlawful for any person to attach chains or other tethers, restraints or implements directly to a dog or cat without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal. No person shall:

(ii) No person shall:

(A) Continuously tether a dog or cat for more than fifteen (15) minutes without supervision;

(B) Use a tether or any assembly or attachments thereto to tether a dog or cat that shall weigh more than one-eighth of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area tethered; or

(C) Tether a dog or cat on a choke chain or in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, or other manmade or natural obstacles; or

(D) Tether a dog or cat without access to shade when sunlight is likely to cause overheating, or appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below 40 degrees Fahrenheit, or to tether a dog without securing its water supply so that it cannot be tipped over by the tether; or

(E) Tether a dog or cat in an open area where it can be teased by persons or an open area that does not provide the dog or cat protection from attack by other animals; or

(F) Tether a dog or cat in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

Any public health officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly incorporated humane society, animal shelter or other appropriate facility, may take into custody any animal, upon either private

or public property, which clearly shows evidence of cruelty to animals, as defined in subsection (a) of this section and subsections thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding and other care or, if it appears, as determined by an officer of such humane society or by such veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, the humane killing thereof. The owner of an animal killed pursuant to subsection (b) of this section shall not be entitled to recover damages for the killing of such animal unless the owner proves that such killing was unwarranted. Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (b) of this section, pending prosecution of the owner of such animal for the crime of cruelty to animals, as defined in subsection (a) of this section, shall be assessed to the owner as a cost of the case if the owner or custodian is adjudicated guilty of such crime. If a person is adjudicated guilty of the crime of cruelty to animals, as defined in subsection (a) of this section, and the court is satisfied that an animal owned or possessed by such person would be in the future subjected to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.