

ORDINANCE G-1239

AN ORDINANCE CREATING SECTIONS CONTAINED WITHIN CHAPTER 215, ENTITLED “ANIMALS”, OF TITLE II, ENTITLED “PUBLIC HEALTH, SAFETY, AND WELLNESS”, OF THE CODES OF THE CITY OF JUNCTION CITY TO CRIMINALIZE THE MISREPRESENTING ANIMALS AS SERVICE ANIMALS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF JUNCTION CITY, KANSAS:

Section 1. Section 215.010 – DEFINITIONS of the Code of Ordinances of the City of Junction City, Kansas is hereby drafted to read as follows:

SECTION 215.010 – Definitions

The following words when used in this Chapter shall have the meanings set out herein:

ADEQUATE FEED: Supplying at regular intervals a quantity of wholesome foodstuff, suitable for the animal species and age, and sufficient to maintain a reasonable level of nutrition in each animal.

ADEQUATE WATER: A supply of clean, fresh, potable water supplied in a sanitary manner and either continuously accessible to each animal or supplied at intervals suitable for the animal species.

ANIMAL CONTROL OFFICER(S): The person(s) designated by the Chief of Police to act for the City of Junction City, Kansas, in the impoundment of animals, control of animals running at large and as otherwise required in this Chapter.

ANIMAL BREEDER : Any person who operates a premise where all or part of six (6) or more litters of dogs or cats, or both, or thirty (30) or more dogs or cats, or both, are sold, or offered or maintained for sale, primarily at wholesale for resale to another.

ANIMAL SHELTER: A facility which is used or designed for use to house, contain, impound or harbor any seized stray, homeless, relinquished or abandoned animal or a person who acts as an animal rescuer, or who collects and cares for unwanted animals or offers them for adoption. Animal shelter also includes a facility of an individual or organization, profit or nonprofit, maintaining twenty (20) or more dogs or cats, or both, for the purpose of collecting, accumulating, amassing or maintaining the animals or offering the animals for adoption. Junction City/Geary County Animal Shelter, shall be referred to as JCGC Animal Shelter throughout this Section.

ANIMALS : All vertebrate and invertebrate animals such as, but not limited to, bovine cattle, horses and other equines, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons and other fowl, or wild mammals, reptiles, fish or birds that have been tamed, domesticated or captivated.

BITE : 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 saline from the animal, directly or indirectly, regardless of the health or vaccination history of the animal causing such bite.

CAT: An animal which is wholly or in part of the species *Felis Domesticus*.

CHIEF OF POLICE: The duly appointed, highest ranking officer in charge of the Junction City Police Department or his/her authorized representative.

CUSTODIAN: Any person charged with responsibilities of feeding, caring for, and keeping an animal which such person is not the owner.

DANGEROUS DOG: As defined in Section 215.045.

DOG: Any animal which is wholly or in part of the species Canis Familiaries.

DOMESTIC ANIMALS: Those which by their long association with man are tame and gentle, and are now reduced to such a state of subjection to his/her will that they no longer possess the disposition or inclination to escape. Those which are bred for and adapted to living dependently in an urban setting.

DOMESTICATED BIRDS: Birds of the parrot family and finch family to include parrots, cockatoos, cockatiels, canaries and other similar domestic household birds.

EMOTIONAL SUPPORT ANIMAL: An animal, not prohibited from being present in the City under Ordinances 215.040, 215.045, or other applicable restrictions, which provides emotional support, well-being, comfort or companionship which is not a service animal under Federal law.

EXOTIC ANIMAL: Any animal not indigenous to North America and animals of any species the majority of whose population are feral.

FOSTER HOME: A type of shelter consisting of the premises of an individual who provides temporary care (less than three hundred sixty-five (365) days) for one (1) or more animals owned by a shelter that is licensed by the State of Kansas. Fosters must be formally sponsored by a Kansas licensed shelter.

FOWL: Those domestic birds commonly kept for production of meat, eggs, or feathers. For the purposes of this Chapter, fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus.

HARBORING: Any person who shall allow any animal to habitually remain or lodge or to be fed within his/her home, store, yard, enclosure or place of business or any other premises in which he/she resides or controls shall be considered as keeping and harboring such animal within the meaning of this Chapter.

HEALTH OFFICER: The Director of the Geary County Health Department or his/her authorized representative, veterinarians, or public health sanitarians in the employ of the Geary County Health Department.

HOBBY BREEDER : Any premises where all or part of three (3), four (4), or five (5) litters of dogs or cats, or both, are produced for sale or sold, offered or maintained for sale. This provision applies only if the total number of dogs or cats or both, sold, offered or maintained for sale is less than thirty (30) individual animals.

HUMANE TREATMENT: Humane treatment shall mean manner of care including, but not limited to, protection from harm, providing of shelter with adequate protection from the elements, ventilation, sanitation, and appropriate food and potable water consistent with the requirements and habits of the animal's species, type, size, age and condition.

INHUMANE TREATMENT : Any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from weather or any treatment of any animal such as overloading, over working, tormenting, beating, mutilating or teasing or other abnormal treatment as may be determined by the Animal Control Officer.

KENNEL: Any premises where four (4) or more dogs or cats, or both, are maintained in any one (1) week for boarding, training, or similar purposes for a fee or compensation.

LICENSE COLLECTOR: The duly appointed Treasurer of the City of Junction City or his/her authorized representative.

MINIATURE HORSE: An equine which generally ranges from 24 inches to 34 inches in height at the shoulders and weighs generally between 70 and 100 pounds.

OFFICER: Officer shall mean City Animal Control Officer or City Police Officer.

OWN or OWNING: Own or owning shall mean to keep, maintain, possess, control, sell, trade, or buy.

OWNER: Any person who harbors, keeps, possesses, or owns an animal and/or has a license to keep the animal. A parent or legal guardian shall be deemed to be an owner, keeper or harbinger of animals owned, kept or harbored upon their premises by minor children who are less than eighteen (18) years of age. Such term shall also include any person who exercises control over or is in possession of any such animal.

PERSON: Any individual, firm, association, joint stock company, syndicate, partnership or corporation.

PET SHOP: Any premises where there are sold, or offered, or maintained for sale, at retail and not for resale to another: Any dogs, cats, or any other animals, except those which are produced and raised on such premises and are sold, offered, or maintained for sale, by a person who resides on such premises.

RETAIL BREEDER: Any premises where all or part of six (6) or more litters or thirty (30) or more dogs or cats, or both, are sold, or offered or maintained for sale, primarily at retail and not for resale to another.

SANITIZE or SANITARY: To make physically clean and to remove and destroy, to a practical minimum, agents injurious to health, at such intervals as necessary.

SERVICE ANIMAL: Any dog or miniature horse that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals. The work or tasks performed by a service animal must be directly related to the individual's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition. This definition should be interpreted in light of 28 CFR § 35.104 and § 35.136 as well as K.S.A. 39-1113(e).

SPAY or NEUTER: Spay or neuter shall mean to surgically render permanently incapable of producing offspring, by a licensed veterinarian.

SHELTER : All pens, houses, or fenced enclosures where animals are confined, such as, but not limited to, hutches, cotes, lofts, kennels, warrens, feed lots, barns, stables, or other buildings or enclosures.

VETERINARIAN: A licensed doctor of veterinary medicine.

WILD ANIMALS: A living mammal or marsupial which is normally found in the wild state, but shall not include a farm animal.

Section 2. Section 215.043 – FALSELY REPRESENTING A SERVICE ANIMAL of the Code of Ordinances of the City of Junction City, Kansas is hereby drafted to read as follows:

SECTION 215.043 – Falsely Representing A Service Animal

- A. It shall be unlawful for any person to present, display, proffer, submit, tender, represent, or otherwise hold out;
 - 1. that an animal is a service animal when it does not fall within the definition of Service Animal in Ordinance 215.010;
 - 2. that an animal is a service animal when it does not fall within the definition of Service Animal in Ordinance 215.010 and is prohibited from being in the City under Ordinance

- 215.040(b)(1), (16), (17), (22), or (23);
3. that an animal is a service animal when it does not fall within the definition of Service Animal in Ordinance 215.010 and is prohibited from being in the City under Ordinance 215.040(b)(7), (18), or (21);
- B. In investigating this offense, law enforcement or animal control officers may only ask two questions:
 1. Is the dog or miniature horse a service animal required because of a disability?
 2. What work or task has the dog or miniature horse been trained to perform?
- C. Law enforcement or animal control officers shall not ask:
 1. About the disability;
 2. For medical documentation; or
 3. That the dog or miniature horse demonstrate the work or task;
- D. It shall be prima facie evidence if:
 1. The animal is not required for a disability;
 2. The animal has no task or work it was trained to perform;
 3. The animal is aggressive to another animal or any person; and/or,
 4. The animal is not with the person who has a disability it aids and is not reasonably reuniting with said person;
- E. Falsely Representing A Service Animal is:
 1. A misdemeanor under Ordinance 100.090 if found guilty of 215.043(A)(1);
 2. A Class B misdemeanor if found guilty of 215.043(A)(2);
 3. A Class A misdemeanor if found guilty of 215.043(A)(3).

Section 3. This ordinance shall take effect and be in force upon publication.

PASSED AND APPROVED this ____ day of _____, 20__.

Pat Landes
Mayor

ATTEST:

Tammy Melton
City Clerk

[SEAL]