

RESOLUTION NO. _____

Date Adopted:

Date Published/Effective:

**A RESOLUTION MODIFYING CHAPTER 5 OF THE SEDGWICK COUNTY CODE
PERTAINING TO ANIMALS AND ESTABLISHING THE ANIMAL CONTROL
ADVISORY BOARD.**

WHEREAS, pursuant to K.S.A. 19-101d, the Kansas State Legislature granted the Board of County Commissioners of Sedgwick County the authority to enforce all resolutions passed pursuant to county home rule powers; and

WHEREAS, on February 4, 1987 and December 2, 1992, the Board of County Commissioners adopted Resolution Nos. 17-1987 and 270-1992, respectively, and said resolutions provide the majority of the content contained within Chapter 5 of the Sedgwick County Code pertaining to Animals; and

WHEREAS, subsequent additions and modifications to provisions of Chapter 5 of the County Code have occurred and are presently part of Chapter 5, including but not limited to Resolution Nos. 22-1996, 29-1996, 35-00, 189-2001, 142-2002, 63-03, and 15-2007; and

WHEREAS, Sedgwick County Animal Control, which was formerly a department and then a part of the Code Enforcement Department (now the Metropolitan Area Building and Construction and Department), is now a program within the Sedgwick County Health Department; and

WHEREAS, the Director of the Sedgwick County Health Department recommends that the following changes be made to Chapter 5 of the County Code.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, AMENDS THE SEDGWICK COUNTY CODE AS FOLLOWS:

SECTION 1. DISSOLUTION OF THE ANIMAL CARE ADVISORY BOARD AND ESTABLISHMENT OF THE ANIMAL CONTROL ADVISORY BOARD.

The Animal Care Advisory Board is hereby dissolved. All appointments that have been made to said board are hereby terminated. The Animal Control Advisory Board is hereby established, pursuant to amended Sections 5-51 through 5-55, as detailed within Section 3 of this Resolution.

SECTION 2. CHANGES TO CHAPTER 5, ARTICLE I, ENTITLED "IN GENERAL".

Section 5-1 is amended as follows:

The definition for “animal control advisory board” is added:

Animal control advisory board means the board established and appointed by the board of county commissioners, as indicated within sections 5-51 through 5-55 of the County Code. The term “animal control advisory board” also includes any subcommittee(s) to whom the advisory board might delegate certain functions.

The definition for “animal control officer” is amended to read as follows:

Animal control officer means the director and/or that person’s designee, or any other person or agency designated by the board of county commissioners to enforce the provisions of this chapter.

The definition for “approved location” is amended to read as follows:

Approved location shall include, with respect to inherently dangerous animals, any property within which the director or the director’s designee has authorized for purposes of harboring an inherently dangerous animal or multiple inherently dangerous animals.

The initial clause of the definition for “dangerous animal” is amended to read as follows:

Dangerous animal means any one or a combination of the following:

The definition of “director” is amended to read as follows:

Director means the director of the Sedgwick County Health Department and/or that person’s designee, which may include Health Department employees and the animal control supervisor or manager.

The term “habitual nuisance animal” is amended to read as follows:

Habitual nuisance animal means any animal for which said animal’s owner has been convicted three (3) times or more in a twelve-month period of harboring a nuisance animal when at least three (3) convictions relate to said animal.

The definition of “health officer” is amended to read as follows:

Health officer means the director of the Sedgwick County Health Department or his or her authorized representative, including any employee of the Health Department.

The definition of “veterinarian” is amended to read as follows:

Veterinarian means a doctor of veterinary medicine currently licensed by the state of Kansas.

**SECTION 3. CHANGES TO CHAPTER 5, ARTICLE II, ENTITLED
“ADMINISTRATION AND ENFORCEMENT”**

Within the title of Section 5-2, the title should be changed to the following:

Penalty; fines.

Within subsection (c) of Section 5-2, the word “minimum” shall be replaced with the word “maximum”.

Section 5-36 is amended to read as follows:

County animal control program. The Sedgwick County Health Department shall be responsible for the implementation and enforcement of this chapter in the unincorporated area of the county, and in any city which contracts with the county for such service. Within the Health Department, the animal control program has been established.

Section 5-37(a) is amended to read as follows:

The director and the director’s designees are hereby appointed to serve as code enforcement officers pursuant to K.S.A. 19-101d(b)(2), the definition for “code enforcement officer” contained within section 1-2 of the County Code, and shall have the power to sign, issue and execute uniform complaints and notices to appear as is fully set out in the code for the enforcement of county codes and resolutions (K.S.A. 19-4701 et seq.).

Section 5-37(c)(4) through (6) is amended to read as follows:

- (4) To make dangerous animal determinations pursuant to section 5-163 of this chapter.
- (5) To cause the taking up of any nuisance animal and to cause its impoundment, if deemed appropriate.
- (6) To cause the taking up of any dangerous animal and to cause its impoundment, if deemed appropriate.

Section 5-51 is amended to read as follows:

Established. The county animal control advisory board is established under the terms and conditions set forth in this division and replaces the former animal care advisory board.

Section 5-52 is amended to read as follows:

Membership. The county animal control advisory board shall consist of seven (7) members who shall be appointed by and serve at the pleasure of the board of county commissioners.

- (a) In the event of death, resignation or disqualification of any member, such member's successor shall be appointed as provided in this section.
- (b) Members appointed by the board of county commissioners shall include the following:
 - (1) Five (5) of the members shall be chosen from the following categories, with the requirement that not less than one (1) member must be a veterinarian licensed in the state of Kansas:
 - a. Veterinarian(s) licensed in the state of Kansas;
 - b. Employee(s) that works for an animal advocacy organization operating within Sedgwick County;
 - c. Animal control officer(s) from any municipality located within Sedgwick County;
 - d. Large pet store owner(s) operating within Sedgwick County;
 - e. Horse boarder(s) operating within Sedgwick County; and
 - f. Kennel owner(s) or breeder(s) operating within Sedgwick County.
 - (2) Two (2) of the members shall be at-large members that are residents of Sedgwick County who do not fit into the criteria indicated for the other five (5) members of the board.
- (c) In the event that a board member misses three (3) or more consecutive regularly scheduled board meetings, the Board of County Commissioners is authorized to approve a resolution to remove said board member and, either in that same resolution or in a subsequent resolution, appoint a replacement board member.

Section 5-53 is amended to read as follows:

Meetings; organization; records. The animal control advisory board shall elect one of its members as chair and one member as its vice-chair. Terms of the chair and vice-chair shall be for one year, or until a successor is duly elected. The advisory board shall convene for its meetings at such time and place as shall be fixed by the chair of the advisory board. The director or the director's designee shall serve in a non-voting, ex officio capacity on the advisory board, shall serve as staff to the advisory board, and shall cause a proper record to be kept of all proceedings before the advisory board.

Section 5-54 is amended to read as follows:

Bylaws, rules and procedures. The animal control advisory board may, by majority vote, adopt bylaws, rules and procedures for the conduct of its meetings and business. Such bylaws, rules and procedures shall not be in conflict with law and shall be filed with the County Clerk.

Section 5-55 is amended to read as follows:

Duties. The duties of the animal control advisory board shall include the following:

- (1) Act in an advisory capacity to Sedgwick County Animal Control and the Board of County Commissioners on matters involving the animal population within the unincorporated areas of Sedgwick County;
- (2) Provide information, advice, and counsel to Sedgwick County Animal Control administration with respect to appropriate means and methods by which the County may adequately provide for animal welfare and protect the citizens of the County from unwarranted intrusions of uncontrolled animals, domestic or wildlife;
- (3) Work to stimulate and encourage public education on animal welfare in support of the mission of Sedgwick County and the goals of the Sedgwick County Animal Control program; and
- (4) Hear dangerous animal administrative review hearings, inherently dangerous animal license revocation hearings, and any other hearings assigned to this board by County resolution.

SECTION 4. CHANGES TO CHAPTER 5, ARTICLE III, ENTITLED “DOG LICENSE”

The first sentence of Section 5-67 is amended to read as follows:

Dangerous dogs. An owner of any dog that has been previously determined to be a dangerous animal by the director, the animal control advisory board, or which has previously been determined, declared, or adjudged dangerous or vicious in any other jurisdiction of which the director has notice or of which the owner has knowledge and which jurisdiction uses substantially the same standards as Sedgwick County for determination of a dangerous animal, which is harbored within the unincorporated area of the county, shall be required to obtain and possess an annual dangerous dog license for such dog.

Section 5-68(1) is deleted in its entirety and the numbering for Sections 5-68(2) and 5-68(3) are changed to Sections 5-68(1) and 5-68(2), respectively.

Section 5-69(c) is amended to read as follows:

Licensing of dogs previously determined declared or adjudged dangerous or vicious. The owner of any dog which has been determined, declared, or adjudged dangerous or vicious by the director, the animal control advisory board, or by any

other authorized person or group in another jurisdiction as provided in section 5-163, shall be required to obtain the animal's license from the director in the manner described in subsection (b) of this section and shall be prohibited from obtaining the license from a veterinarian. The director shall write upon the face of the license issued, clearly and obviously, "*Dangerous Dog*." In addition, the owner shall be required to provide to the director at the time of making application for such license either:

- (1) Proof of homeowner's, renter's or other insurance acknowledging the ownership of such animal previously determined, declared or adjudged to be dangerous or vicious and demonstrating that such animal's subsequent acts are insured by such policy and with such policy listing Sedgwick County as an entity to be notified ten (10) days in advance if the policy is cancelled for any reason; or
- (2) A surety bond in the amount of fifty thousand dollars (\$50,000.00) written to cover any acts of such animal previously determined, declared or adjudged to be dangerous or vicious, which bond shall list Sedgwick County as an entity to be notified ten (10) days in advance if the surety bond is cancelled for any reason.

Upon notification to the director of cancellation of a policy of insurance or of a surety bond, the director shall make an investigation into the current condition of the dog.

SECTION 5. CHANGES TO CHAPTER 5, ARTICLE 5, ENTITLED "NUISANCE ANIMALS; DANGEROUS ANIMALS"

Section 5-161(a) is amended to read as follows:

Nuisance animals prohibited; impoundment. The owner of an animal shall prevent such animal from committing a nuisance or being a nuisance animal. An animal control officer is authorized to take up any animal suspected of being a nuisance animal. In accordance with K.S.A. 47-1711, such officer shall immediately record the color, breed, sex, approximate weight and other description of the animal, the reason for the seizure, the location of seizure, the owner's name and address, if known, the animal's license number, if any, and any other identification number. The animal control officer may order impoundment of a nuisance animal at an animal shelter, and the animal control officer shall notify the owner, provided the owner is known. The animal may at any time be released to the legal owner, or moved to a veterinary hospital for treatment or observation. If the animal is released to the owner, the owner is required to pay for any and all costs associated with the animal's boarding and treatment. The animal control officer shall take up an injured or diseased nuisance animal to a veterinarian for treatment, and such costs shall be the responsibility of the owner. Any disposition of the

nuisance animal would be in accordance with section 5-196(b), K.S.A. 47-1710 and 47-122a.

Subsections (a)(1) and (a)(2) of Section 5-161 are deleted in their entirety.

Section 5-162 is deleted in its entirety.

Section 5-163 is amended to read as follows:

Dangerous animals

- (a) *Director's determination of dangerous animal.* If the director were to find that an animal qualifies as a dangerous animal, as defined within Sec. 5-1, the director may declare an animal to be dangerous. If the director determines that the animal is dangerous, the director will determine an appropriate disposition as indicated within subsection (f) based on the known facts and consistent with subsection (d) and other provisions of this Chapter. For purposes of this Section, the director may designate a staff member, including but not limited to the animal control supervisor, to complete the director's responsibilities herein.
- (b) *Impoundment and notice.* The director may impound the animal and shall notify the owner of such determination in writing by personal service, residential service at the person's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing therein, or by certified mail addressed to the owner's last known address, or addressed to the location where the animal is maintained. Service by certified mail shall request return receipt, with instructions to the delivering postal employee to show to whom delivered, the date of delivery, and address where delivered. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the director shall send a copy of the notice to the owner by ordinary, first class mail. This first class mailing shall be evidenced by a certificate of mailing. Service shall be considered obtained upon the mailing of this additional notice by first class mail. If the owner is not known or service as indicated above within this subsection cannot reasonably be ascertained, notice shall be completed by publishing once in the official county newspaper a notice of hearing item describing the animal considered to be dangerous and the approximate location as to where the dangerous animal was recovered.
- (c) *Administrative review hearing.* The owner of an animal declared dangerous may request an administrative review hearing regarding the

director's determination that the animal is a dangerous animal, as well as any corresponding disposition, by filing a written request with Sedgwick County Animal Control within ten (10) days of service of such notification. Within ten (10) days of receipt of the owner's request for an administrative review hearing, the animal control advisory board, or any subcommittee composed entirely of members of the animal control advisory board so designated by the animal control advisory board (regardless of entity, the term "animal control advisory board" is utilized elsewhere to indicate the body that hears the administrative review hearing) shall hold a hearing to determine whether or not an animal is a dangerous animal as defined in section 5-1. The owner of the animal shall be notified of the time and place of the hearing. Witnesses may be called by the director and owner.

- (d) *Determination.* In making a determination as to whether the animal qualifies as a dangerous animal as defined within section 5-1, the director (in the initial determination under subsection (a)) and the animal control advisory board (during its administrative reviewing hearing indicated under subsection (c)) may consider any of the following factors:
- (1) The seriousness of the approach, attack or bite;
 - (2) The history of attacks or bites;
 - (3) Whether the animal had been previously determined, declared or adjudicated to be dangerous or vicious by the director or in any other jurisdiction of which the director has notice or of which the owner has knowledge, and which jurisdiction uses substantially the same standards as the county for determination of a dangerous or vicious animal;
 - (4) The likelihood of attacks or bites in the future;
 - (5) The conditions and circumstances existing at the time of the approach, attack or bite;
 - (6) The conditions under which the animal is kept, enclosed or confined; and
 - (7) The status of the animal's license and vaccination, if required under applicable state, county or city law, resolution or ordinance.
- (e) *Decision by the animal control advisory board.* If the animal control advisory board determines by a majority vote of members present during the hearing that the animal is dangerous, the board shall determine an appropriate disposition based on the facts determined at the hearing and will notify the owner in writing of the outcome of the hearing within seven (7) days after the hearing concludes. The written decision shall be provided to the owner in person at the conclusion of the hearing or else

sent by ordinary, first class mail to the owner's last known address. Service of the written decision shall be considered complete at the time that it is personally served or three (3) calendar days after it has been mailed.

- (f) When the director or the animal control advisory board makes determinations under this section, the director or board that makes the determination may order that the owner, at the owner's expense, do any one, or any combination of the following:
 - (1) Enclose or confine the animal in a manner and in a location that will ensure that the animal poses no threat of repeating any act which may result in the animal being declared dangerous on a subsequent occasion;
 - (2) Comply with the board's or director's written orders regarding signage and posting of the owner's premises giving appropriate notice to the public that the premises are inhabited by a dangerous animal; or
 - (3) If such confinement is not possible, if prior orders and notices from the board, the director, the County Court judge, and/or animal control officers have not been heeded, or if the animal has caused great bodily harm to, or killed a human being, the director or board that makes the determination under this section may order that the animal be euthanized. In the event of a euthanization ordered by the director, any such euthanization shall be stayed until the owner's time to request an administrative review hearing has expired. In the event of a euthanization ordered by the animal control advisory board at a meeting where the owner and/or the owner's agent was present to contest the determination, any such euthanization shall be stayed until the owner's appeal deadline as indicated within subsection (g) has expired, unless the owner or owner's agent were to sign a waiver.
- (g) *Appeal.* Any owner dissatisfied with any determination or order of the animal control advisory board made pursuant to this section may appeal such order or determination to the District Court of the Eighteenth Judicial District of Kansas, within thirty (30) days of service of the written decision described in subsection (e). In order to appeal the board's decision, the owner shall file a notice that such party is appealing from such judgment or order with Sedgwick County Animal Control within thirty (30) days of service of the written decision. The owner shall then cause true copies of all pertinent proceedings before the animal control advisory board to be prepared and filed with the clerk of the District Court

of the Eighteenth Judicial District of Kansas. The clerk shall thereupon docket the same as an action in the District Court, which court shall then proceed to review the same, either with or without additional pleadings and evidence, and enter such order or judgment as justice shall require. A docket fee shall be required by the clerk of the District Court as in the filing of an original action. The owner appealing the matter shall also provide copies of the appeal notice to the director and the county counselor. Any such appeal shall not be *de novo* regarding the facts determined at the animal control advisory board administrative review hearing, but would instead be limited to a determination of if the board's decision was within the scope of its authority, whether it was substantially supported by evidence, and whether it was fraudulent, arbitrary or capricious.

- (h) *Costs of harboring animal during the appeal to district court.* During the appeal process to district court, if the animal control advisory board has ordered that the animal is to be housed within an animal shelter, the owner shall be responsible for the cost of keeping such animal in the animal shelter. The owner of such animal can file a renewable, non-refundable, cash or performance bond with the animal shelter where the animal is being held, within the thirty-day appeal period, in an amount equal to the cost of care and treatment of the animal for 30 days. Said cash or performance bond shall be renewable for an additional 30 days and each successive 30 days the animal is held by Sedgwick County Animal Control during the pendency of the appeal. Payment of said renewal shall be within five (5) days of the running of the previous 30-day period. If said cash or performance bond, or its renewal, is not tendered to the animal shelter within the time specified above, then Sedgwick County Animal Control shall have immediate ownership of said animal and the director shall determine the disposition of such animal consistent with this Chapter and the decision of the animal control advisory board. Should the owner prevail in their appeal to the district court, the owner shall be reimbursed by the County for the actual cost of keeping the animal in the shelter.

- (i) *Noncompliance.*

- (1) It shall be a violation of this Chapter for any owner of any animal that has been determined to be a dangerous animal by the director or the animal control advisory board to fail to comply with any and all written orders issued as conditions upon which the owner was allowed to keep or regain physical custody of the animal. Failure to comply with said orders is a class I violation.

- (2) If the director determines that the board's orders are not being complied with during the remaining lifetime of the animal determined to be a dangerous animal, the animal control advisory board shall have the authority, after a hearing, with notice, as indicated within this section, to cause the dangerous animal to be impounded and/or euthanized.

SECTION 6. CHANGES TO CHAPTER 5, ARTICLE VI, ENTITLED "ANIMAL CRUELTY"

Sec. 5-191(c) is amended to read as follows:

- (c) *Violation.* It shall be a violation of this chapter for any person to commit cruelty to any animal. Committing cruelty to any animal is a class I violation.

Section 5-192 is amended to read as follows:

Authority to take custody of animal when animal shows evidence of cruelty or inhumane treatment.

- (a) Any code enforcement officer, public health officer, animal control officer, law enforcement officer, licensed veterinarian or officer or agent of any 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 section 5-191, or inhumane treatment, as defined in section 5-1. 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 or other care, or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for humane killing.
- (b) The owner, custodian or harbinger of an animal killed pursuant to subsection (a) 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.

- (c) If the owner, custodian or harborer is charged with a violation of cruelty to animals, as defined in section 5-191 or under K.S.A. 21-6412, or inhumane treatment of animals under section 5-193 and as defined within section 5-1, the animal shelter in possession of said animal may file a petition with the District Court of the Eighteenth Judicial District of Kansas to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the owner, custodian or harborer is notified. Upon receiving such petition, the District Court shall determine whether the animal may be placed for adoption or euthanized.
- (d) If the owner, custodian or harborer is not known or reasonably ascertainable, after 21 days after the animal is taken into custody, the animal shelter in possession of said animal may file a petition with the District Court of the Eighteenth Judicial District of Kansas, unless the owner or custodian of the animal files a renewable cash or performance bond with the Sedgwick County Clerk, in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the District Court shall determine whether the animal may be placed for adoption or euthanized.
- (e) Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to subsection (a), pending prosecution of the owner, custodian or harborer of such animal for the violation of cruelty to animals or inhumane treatment of animals, shall be assessed to the owner, custodian or harborer as a cost of the case if the owner, custodian or harborer is adjudicated guilty or pleads guilty or *nolo contendere*.
- (f) The Board of County Commissioners shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.
- (g) If the owner, custodian or harborer is found guilty by the court of committing cruelty to any animal, as defined in section 5-191 or under K.S.A. 21-6412, or inhumane treatment of any animal under section 5-193, and the court having jurisdiction is satisfied that an animal owned or possessed by such person would be in the future subjected to such violation, 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.

Section 5-193(b) is amended to read as follows:

- (b) *Violation.* It shall be a violation of this chapter for any person to treat any animal in an inhumane manner or to provide inhumane treatment to any animal. Treating an animal inhumanely is a class H violation.

Section 5-195 is amended to read as follows:

Fighting animals.

- (a) *Fighting animals prohibited.* For purposes of this section, unlawful conduct of animal fighting is:
 - (1) Causing, for amusement or gain, any animal to fight with or injure another animal;
 - (2) Knowingly permitting such fighting or injuring on premises under one's ownership, charge or control; or
 - (3) Training, owning, keeping, transporting or selling any animal for the purpose or with the intent of having it fight with or injure another animal.
- (b) *Disposition of fighting animals.*
 - (1) When a person is cited under this section or under K.S.A. 21-6414 or 21-6417, any code enforcement officer, public health officer, animal control officer, law enforcement officer, veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal on the premises where the animal fight is alleged to have occurred, and any animal owned, harbored or kept on the premises of any person cited under this section.
 - (2) When a code enforcement officer, public health officer, animal control officer, law enforcement officer, veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility takes custody of an animal under this section, such officer may place the animal in the care of a duly incorporated humane society, animal shelter or licensed veterinarian for boarding, treatment or other care. If it appears to a licensed veterinarian that the animal is diseased or disabled beyond recovery for any useful purpose, such animal may be humanely killed. If it appears to the licensed veterinarian by physical examination that the animal has not been trained for aggressive conduct or is a type of animal that is not commonly bred or trained for aggressive conduct, the county counselor shall order that the

animal be returned to its owner when the animal is not needed as evidence in a case filed under this section, section 5-191, section 5-193, or K.S.A. 21-6412, 21-6414, or 21-6417. The owner, harbinger, or keeper of an animal humanely killed under this section shall not be entitled to damages unless the owner proves that such killing was unwarranted.

- (3) If the animal is placed in the care of an animal shelter, the animal shelter may petition the District Court of the Eighteenth Judicial District of Kansas to be allowed to place the animal for adoption or euthanize the animal at any time after 21 days after the animal is taken into custody, unless the owner or custodian of the animal files a renewable cash or performance bond with the Sedgwick County Clerk in an amount equal to not less than the cost of care and treatment of the animal for 30 days. Upon receiving such petition, the District Court shall determine whether the animal may be placed for adoption or euthanized.
- (4) The Board of County Commissioners shall review the cost of care and treatment being charged by the animal shelter maintaining the animal.
- (5) If a person is convicted of causing or permitting animals to fight or of attending an animal fight under this section or under K.S.A. 21-6414 or 21-6417, an animal taken into custody pursuant to subsection (b) shall not be returned to such person, and the expenses incurred for the care, treatment and boarding of such animal prior to conviction of the owner, harbinger or keeper shall be assessed to the owner, harbinger or keeper.
- (6) If no such conviction results, the animal shall be returned to the owner, harbinger, or keeper and, provided that the animal was placed at the animal shelter by Sedgwick County Animal Control, the court shall order Sedgwick County to pay to the animal shelter all expenses incurred by the shelter for the care, treatment and boarding of such animal, including any damages caused by such animal, prior to its return.
- (c) *Harboring an animal after a conviction prohibited.* Illegal ownership, harboring or keeping of an animal is owning, harboring or keeping on one's premises that same type of animal by a person convicted of causing or permitting animals to fight under this section within five (5) years of the date of such conviction.
- (d) *Violations.*

- (1) *Causing or permitting an animal to fight.* It shall be a violation of this chapter for any person to cause or to permit any animal to fight. Causing or permitting an animal to fight is a class I violation.
- (2) *Attending an animal fight.* It shall be a violation of this chapter for any person to attend any unlawful conduct of an animal fight. Attending an animal fight is a class I violation.
- (3) *Harboring an animal after a conviction.* It shall be a violation of this chapter for any person to harbor any animal that is the same type of animal as that person was convicted for a violation of this section within five (5) years of the date of such conviction. Harboring an animal after a conviction is a class I violation.

Section 5-196 is amended to read as follows:

Surrendered animal by harborer/owner.

- (a) *Defined.* For purposes of the animal code, surrendered animal means:
 - (1) Where the animal has been in the custody of the animal shelter or other appropriate facility a minimum of three (3) full business days during which the public has clear access to inspect and recover the animal through time periods ordinarily accepted as usual business hours and such animal has not been recovered, it shall be deemed surrendered.
 - (2) Where the animal is defined as livestock (cow, ox or other bovine, goat, sheep, horse, ratites, donkey, swine, mules or other animal of similar or larger size) and the name and address of the animal's owner/harbinger is reasonably known to the animal control officer, Sedgwick County Sheriff's officer, or code enforcement officer, and reasonable notice is provided of the animal being taken into the custody of animal control, any animal subsequently not redeemed by the harborer/owner from the appropriate facility within ten (10) full calendar days of the notice shall be deemed surrendered. Where the name and address of the livestock's owner/harbinger is not reasonably known to the animal control officer, Sheriff's officer, or code enforcement officer, and reasonable notice cannot be provided of the animal being taken into the custody of animal control, any livestock animal subsequently not redeemed by the owner/harbinger from the appropriate facility within ten (10) full calendar days of the date the livestock animal comes into the custody of animal control or the Sedgwick County Sheriff, shall be deemed surrendered.

- (b) *Disposition of surrendered nuisance animals.* The harborer/owner of a nuisance animal shall redeem the animal within the time limits set forth in subsection 5-196(a) and shall pay any costs incurred while the animal was held, regardless of the adjudication of any nuisance case. If the animal is not so redeemed and found surrendered, the animal control officer, Sheriff's officer, or code enforcement officer shall make disposition of the animal or direct the shelter or authorized facility to make disposition of the animal in accordance with K.S.A. 47-1710 and 47-122a. If the harborer/owner of a nuisance animal is convicted of said offense, the harborer/owner may be required to pay the costs incurred for the boarding of said animal by the County Court judge, provided said costs have not already been paid.

SECTION 7. CHANGES TO CHAPTER V, ARTICLE VIII, ENTITLED "INHERENTLY DANGEROUS ANIMALS"

Section 5-227 is amended to add subsection (10), which reads as follows:

- (10) Tanganyika Wildlife Park.

Section 5-228, subsection (9) is amended to read as follows:

Insurance requirements. Any person owning or harboring one or more inherently dangerous animal shall obtain and keep in place insurance covering said inherently dangerous animal(s). The owner / harborer shall provide the director a certificate of insurance indicating proof of liability insurance for the inherently dangerous animal in the minimum amount of one million dollars (\$1,000,000.00) covering any acts of the inherently dangerous animal(s) owned or harbored by the applicant while on or off of the approved location. Said certificate of insurance shall contain a clause granting a minimum of thirty (30) calendar days prior to notice to the county in care of the County Counselor's Office, the County Clerk, and the director before any material change or cancellation of insurance is effective.

Section 5-229 is amended to read as follows:

Violations and enforcement. It shall be considered a violation of this Code for a person to fail to abide by the provisions of this article. Such violation shall cause such person to be subject to one (1) or more of the following enforcement provisions:

- (1) *Revocation of license.*
- a. A license issued pursuant to this article may be revoked by the director due to any failure to abide by the provisions of this article.

If the director determines that the licensee's license shall be revoked, the director shall notify the licensee in writing of such determination by personal service, residential service at the licensee's usual place of abode by leaving a copy of the notice with some person of suitable age and discretion residing therein or by certified mail addressed to the licensee's last known address, or addressed to the location where the inherently dangerous animal(s) is/are maintained. Service by certified mail shall request return receipt, with instructions to the delivering postal employee to show to whom delivered, the date of delivery, and address where delivered. Service of process by certified mail shall be considered obtained upon the delivery of the certified mail envelope. If the certified mail envelope is returned with an endorsement showing refusal of delivery, the director shall send a copy of the notice to the licensee by ordinary, first class mail. This first class mailing shall be evidenced by a certificate of mailing. Service shall be considered obtained upon the mailing of this additional notice by first class mail. If service of the notice cannot reasonably be ascertained in any manner as indicated above, service may be completed by mailing the notice to the licensee's last known address by first class mail.

- b. If a license is revoked, the owner of the animal(s) which is/are the subject of the license shall transfer ownership of the animal(s) by sale or gift to another person who is in compliance with this article, with the written approval of the director, and provided the other person has or can obtain a license required by this article. In the alternative and with the written approval of the director, the animal(s) can be permanently removed from the county.
- c. The licensee may request an administrative review hearing regarding the director's revocation of their inherently dangerous animal license by filing a written request with Sedgwick County Animal Control within ten (10) days of service of such notice from the director. Within ten (10) days of receipt of the licensee's request for an administrative hearing, the animal control advisory board, or any subcommittee composed entirely of members of the animal control advisory board so designated by the board shall hold a hearing to determine, by majority vote, whether or not said license shall be revoked. The licensee of the animal shall be notified of the time and place of the hearing. Witnesses may be called by the director and the licensee.

- d. In making a determination, the animal control advisory board shall determine whether the licensee has failed to abide with the requirements of the County Code pertaining to the inherently dangerous animal license and whether any violations should result in revocation of the license.
- e. If, based on the facts determined at the hearing, the animal control advisory board determines that the licensee's license shall be revoked; the board shall notify the licensee in writing of the outcome of the hearing within seven (7) days after the hearing concludes. The written decision shall be provided to the licensee in person at the conclusion of the hearing or else sent by ordinary, first class mail to the licensee's last known address. Service of the written decision shall be considered complete at the time that it is personally served or three (3) calendar days after it has been mailed.
- f. Any licensee dissatisfied with any determination or order of the animal control advisory board made pursuant to this section may appeal such order or determination to the District Court of the Eighteenth Judicial District of Kansas, within 30 days of service of the written decision described in subsection (e). In order to appeal the board's decision, the licensee shall file a notice that such party is appealing from such judgment or order with Sedgwick County Animal Control within 30 days of service of the written decision. The licensee shall then cause true copies of all pertinent proceedings before the animal control advisory board to be prepared and filed with the clerk of the District Court of the Eighteenth Judicial District of Kansas. The clerk shall thereupon docket the same as an action in the district court, which court shall then proceed to review the same, either with or without additional pleadings and evidence, and enter such order or judgment as justice shall require. A docket fee shall be required by the clerk of the district court as in the filing of an original action. The licensee appealing the matter shall also provide copies of the appeal notice to the director and the county counselor. Any such appeal shall not be *de novo*, but would instead be limited to a determination of if the animal control advisory board's decision was within the scope of its authority, whether it was substantially supported by evidence, and whether it was fraudulent, arbitrary or capricious.

(2) *Impoundment; disposition of impounded animals.*

- a. Any inherently dangerous animal which is kept by any person in contravention of this article may be taken up and impounded by the director, an animal control officer, a code enforcement officer or a law enforcement officer for the protection and health of the animal and/or for the protection of the health, safety and welfare of the public. Cost of take-up, impoundment, and care of the animal will be charged to its owner and/or harbinger regardless of whether the animal is claimed by or returned to said owner and/or harbinger.
 - b. If an animal cannot be taken up safely or if proper and safe housing cannot be found for the animal, the director can immediately cause the animal to be destroyed.
 - c. The owner and/or harbinger of the animal can reclaim the animal only if said owner and/or harbinger is in compliance with this article and only after all fines and costs have been paid by the owner and/or harbinger. Any other intended disposition of the animal requires the approval of the director.
 - d. If no owner or harbinger can be located or will claim the animal after three (3) full business days after impoundment, the director may cause the sale, adoption, donation, or euthanization of the animal, subject to any other provisions under the County Code or Kansas Statutes that require animals to be held for longer periods prior to any such disposition.
- (3) *Criminal proceedings.* Any person who violates any provision of this article may be prosecuted for such violation pursuant to the code for the enforcement of county codes and resolutions (K.S.A. 19-4701 et seq.) and chapter 8 of this Code. Any violation of this article shall be a class 1 violation with each day's violation constituting a separate offense.
 - (4) *Other remedies.* The county shall have such other remedies as are and as may be from time to time provided by state or local law.
 - (5) *Remedies cumulative.* The remedies provided herein shall be cumulative.

SECTION 8. PUBLICATION.

Upon the adoption of this Resolution, the Clerk of Sedgwick County shall publish this Resolution once in the official county newspaper. This Resolution shall take effect upon said publication.

Commissioners present and voting were:

DAVID M. UNRUH
TIM R. NORTON
KARL PETERJOHN
RICHARD RANZAU
JAMES B. SKELTON

Dated this _____ day of _____, 2014.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS


ATTEST:

KELLY B. ARNOLD, County Clerk

DAVID M. UNRUH, Chairman
Commissioner, First District

TIM R. NORTON, Chair Pro Tem
Commissioner, Second District

APPROVED AS TO FORM:



JUSTIN M. WAGGONER,
Assistant County Counselor

KARL PETERJOHN
Commissioner, Third District

RICHARD RANZAU
Commissioner, Fourth District

JAMES B. SKELTON
Commissioner, Fifth District