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DIVISION 1. - GENERALLY

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Sec. 5-104. - Destruction or confinement of rabid animals or animals exposed to rabies.

Secs. 5-105—5-130. - Reserved.

Sec. 5-101. - Reporting animal bites.

Any person having an animal bite or other persons knowing of such bite shall report to the animal control officer or health officer information concerning the bite, including the location of the biting animal and the bitten person at the time of the bite, the victim's name, address and phone number, a description of the animal and the name and address of the animal's owner, if known.

(Res. No. 270-1992, § IX(A), 12-2-92)

Sec. 5-102. - Failure to report animal bite; violation.

It shall be a violation of this chapter for any person having been bitten by an animal or knowing of other persons having been bitten by an animal to fail to make a bite report to the animal control officer or health officer, including information concerning the bite, the location of the animal and the bitten person at the time of the bite, the victim's name, address and phone number, a description of the animal and the name and address of the animal's owner, if known. Failure to report an animal bite is a class G violation.

(Res. No. 270-1992, § IX(B), 12-2-92)

Sec. 5-103. - Biting animals.

- (a) Any animal control officer may take up, upon private or public property, any animal that has bitten a person or other animal, and impound the animal in a veterinary hospital or an animal care facility, or order the owner of such animal to confine or enclose such animal in accordance with the instructions of the animal control officer, for a period of not more than thirty (30) days, during which time the animal control department shall determine whether or not such animal is suffering from a disease, and, if not, the animal control department shall authorize the release of the animal upon payment by the owner of the boarding fee therefor. An animal control officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has been vaccinated for rabies within the prior twelve (12) months.
- (b) It shall be a violation of this chapter for any owner of any animal that has been ordered confined, enclosed or surrendered for disease observation by an animal control officer to fail to confine, enclose or surrender the animal in accordance with such orders. Failure to comply with orders regarding a biting animal shall be a class H violation.

(Res. No. 270-1992, § VIII, 12-2-92; Res. No. 142-2002, § 1, 10-2-02)

State law reference—Impoundment of animals that bite persons or other animals, K.S.A. 47-125.

Sec. 5-104. - Destruction or confinement of rabid animals or animals exposed to rabies.

When an animal is known to be rabid or has been bitten by a rabid animal, the director may order such animal to be destroyed or confined for a period of ninety (90) days in a veterinary hospital or an animal care facility specified by the director. In the case of domestic animals unvaccinated against rabies, the director may require post-exposure prophylaxis and one-hundred-eighty-day confinement of such animals that have been exposed to a known rabid animal at a veterinary hospital or an animal care facility.

(Res. No. 142-2002, § 1, 10-2-02)

Secs. 5-105—5-130. - Reserved.

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ARTICLE V. - NUISANCE ANIMALS; DANGEROUS ANIMALS

Sec. 5-161. - Nuisance animals; maintaining a nuisance.

Sec. 5-162. - Habitual nuisance animal.

Sec. 5-163. - Dangerous animals.

Secs. 5-164—5-190. - Reserved.

Sec. 5-161. - Nuisance animals; maintaining a nuisance.

- (a) *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, pending any one (1) or a combination of the following:
- (1) A hearing to determine whether the animal is a habitual nuisance animal, as defined in section 5-1; or
 - (2) A hearing to determine whether the animal is a dangerous animal as defined in section 5-1.
- 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. A nuisance animal shall not be impounded for more than ten (10) calendar days unless its owner has failed to pay in full all costs and fees associated therewith and has failed to comply with all animal control laws, resolutions and ordinances. If the animal is impounded more than ten (10) days, the director may order the animal to be placed for adoption or euthanasia.
- (b) *Persons aggrieved.* Any person who is aggrieved by a nuisance animal may confine the animal on the aggrieved person's property, but shall immediately notify the owner, if known, or the animal control officer if the owner is not known, for pickup and disposition of the animal. In the alternative, any person who is aggrieved by a nuisance animal may notify the animal control officer with the information concerning the nuisance, including the name and address of the owner of such animal, if known. The animal control officer shall investigate the allegations and may take up the animal. If the animal cannot be located and if the owner is known, or if the animal is found on its owner's premises, the animal control officer shall notify the owner that the nuisance actions of the animal must be abated, and upon probable cause the animal control officer may issue a uniform complaint and notice to appear alleging a violation of this chapter.
- (c) *Harboring a nuisance animal.* It shall be a violation for any owner to harbor a nuisance animal, as defined in this chapter. Harboring a nuisance animal is a class G violation.
- (d) *Additional acts of nuisance are separate violations.* Any act of nuisance after a complaint is issued to the owner against the same animal or animals alleging a violation of subsection (c) of this section, shall constitute an additional and separate violation. The first complaint after two (2) convictions for violation of subsection (c) of this section issued to the owner within twelve (12) months from the date of the first conviction regarding the same animal or animals, shall subject the owner to the provisions of this article regarding a habitual nuisance animal.
- (e) *Maintaining a nuisance.* It shall be a violation for any owner to maintain a nuisance, as defined in this chapter. Maintaining a nuisance is a class G violation. Whenever an animal control officer has determined that there has been a violation of this subsection, the animal control officer shall give written notice of such alleged violation to the owner, which shall give the owner at least seven (7) days to correct the violation particularized.

(Res. No. 270-1992, § V, 12-2-92; Res. No. 142-2002, § 1, 10-2-02)

Sec. 5-162. - Habitual nuisance animal.

- (a) *Hearing.* Upon the director's own volition, the director may hold a hearing to determine whether an animal is a habitual nuisance animal. The owner of the animal shall be notified of the time and place of hearing. Witnesses may be called by the director and owner.
- (b) *Determination.* In making a determination, the director may consider whether such owner knowingly permitted such animal to commit acts of nuisance; and whether the animal can be kept in a manner that will prevent nuisance acts in the future and the likelihood thereof. If the director determines that the animal is a habitual nuisance, the director may order that the owner, at the owner's expense, abate the animal's nuisance actions in any one, or in any combination, of the following:
- (1) That the owner enclose or confine the animal in a manner and location that will ensure that the animal cannot repeat its nuisance actions;
 - (2) That the owner securely tie or chain the animal within an enclosed area;

- (3) That the owner muzzle the animal;
- (4) That the owner cause the animal to be examined and treated by a currently licensed veterinarian practicing in the county and that the owner obtain a written statement from the veterinarian that the animal is not threatening or causing a condition which endangers public health or the health of other animals;
- (5) That the owner prohibit the animal from being on particular parcels of public or private property;
- (6) That the owner provide an enclosure or an enclosed area for the animal and retain the animal there at all times unless in the owner's custody and securely leashed to the owner;
- (7) That the owner cause the animal to be spayed or neutered by a currently licensed veterinarian practicing in the county, and that the owner obtain a written statement from the veterinarian that the animal has been spayed or neutered;
- (8) That the owner cause the animal to be enclosed or be in any enclosure which will prevent impregnation of the animal while it is in season;
- (9) That the owner is prohibited from riding the animal on public property; and
- (10) That the owner's license to keep the animal be revoked.

If the director determines at the hearing that none of the methods outlined in this subsection will abate the nuisance action of the animal, the director may order that the animal be relinquished to an animal shelter or pound for adoption or euthanasia, or that the animal be euthanized. The director is granted authority to order an animal impounded, at the owner's expense, for not more than ten (10) calendar days from the date of issuance of the director's determination and orders, which shall be the time allowed for the owner to show compliance therewith. At the end of the ten-day period, if the owner has not complied with the director's orders, the director may order the animal made available for immediate adoption or euthanasia. If the director determines that the director's orders are not being complied with during the remaining lifetime of the animal determined to be a habitual nuisance, the director shall have the authority, after a hearing, to cause the habitual nuisance animal to be impounded and euthanized.

- (c) *Appeal.* Any owner dissatisfied with any decision of the director of the animal control department made pursuant to this section may appeal such decision within three (3) days, excluding Saturdays, Sundays and holidays, to the board of county commissioners by filing written notice thereof with the county clerk, with copies of the appeal notice to be provided to the director of the animal control department and the county counselor. The appeal shall be taken upon the record to be provided by the animal control department and shall not be a hearing de novo. A quorum of the board shall constitute a sufficient board for the purpose of conducting the appeal hearing.

(Res. No. 270-1992, § VI, 12-2-92; Res. No. 142-2002, § 1, 10-2-02)

Sec. 5-163. - Dangerous animals.

- (a) *Hearing.* Upon the complaint of any person or upon the director's own volition, or upon the issuance of a uniform complaint and notice to appear, the director of the animal control department may 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.
- (b) *Determination.* In making a determination, the director may consider any one or all 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.
- (c) *Action by director.* If the director determines that the animal is dangerous, the director 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 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 or if prior orders have not been heeded, the director may cause the animal to be euthanized.

If the director determines that the director's orders are not being complied with during the remaining lifetime of the animal determined to be a dangerous animal, the director shall have the authority, after a hearing, to cause the dangerous animal to be impounded or euthanized.

- (d) *Appeal.* Any owner dissatisfied with any determination or order of the director made pursuant to this section may appeal such order or determination within three (3) days, excluding Saturdays, Sundays and holidays, to the board of county commissioners by filing written notice thereof with the county clerk, with copies of the appeal notice to be provided to the director of the animal control department and the county counselor. The

appeal shall be taken upon the record to be provided by the animal control department and shall not be a hearing de novo. A quorum of the board shall constitute a sufficient board for the purpose of conducting the appeal hearing.

(e) *Violations.*

- (1) *Harboring a dangerous animal.* It shall be a violation of this chapter for any owner to harbor a dangerous animal. Harboring a dangerous animal is a class G violation.
- (2) *Failure to comply with director's hearing orders.* It shall be a violation of this chapter for any owner of any animal that has been determined to be a dangerous animal after a hearing by the director to fail to comply with any and all written orders issued as conditions upon which the owner was allowed to regain physical custody of the animal. Failure to comply with director's orders is a class H violation.

(Res. No. 270-1992, § VII, 12-2-92)

State law reference—Permitting dangerous animal to be at large, K.S.A. 21-3418.

Secs. 5-164—5-190. - Reserved.