

ORDINANCE 392

AN ORDINANCE AMENDING ORDINANCE 4 AND CITY CODE CHAPTER II, ARTICLE 1. GENERAL PROVISIONS OF ANIMAL CONTROL AND REGULATION, and ARTICLE 2 DOGS, BY THE CITY OF GAYLORD, KANSAS, superseding all other ordinances providing for animal control and regulation passed prior to June 8th, 2022.

Be it ordained by the governing body of the City of Gaylord, Kansas:

Section 2-102. ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION ALTERNATIVE.

- (a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. Any person appointed by the city as an animal control officer shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal control officers shall be subject to the supervision and direction of the Mayor of the city.
- (b) The animal control officer may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall, within 20 days, appear in the municipal court of the city to answer the charged violation of this chapter.

Section 2-103 CAPTURE/DESTRUCTION. When deemed necessary by the animal control officer(s) or law enforcement officer(s), safety and welfare of the residents of the city, such officers and/or their agents may:

- (a) Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;
- (b) Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the animal control officer, in his or her discretion, to be of a danger to itself or to the public health and safety.
- (c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal, or any animal creating a nuisance as defined in section 2-106, where such animal is impossible or impractical to catch, capture or tranquilize.

Section 2-104 RIGHT OF ENTRY: UNLAWFUL INTERFERENCE.

- (a) The animal control officer or any law enforcement officer shall have right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.
- (b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

Section 2-105 KEEPING ANIMALS.

- (a) It shall be unlawful for owner, lessee, occupant or person in charge of any premises in the city to possess and maintain more than fifteen (15) animals or fowl within the city, with no more than five (5) of these animals consisting of horses, mules, cattle, sheep, goats or swine, or undomesticated animals.
- (b) If an owner, lessee, occupant or other person desires to possess or maintain more than fifteen (15) of such animals an exception will need to be made by City Council by submitting a written request to the City Clerk before said animals are acquired.
- (c) This provision shall not apply to:
  - (1) The maintaining of a stockyard or sales barn for the leading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;
  - (2) The maintaining of dogs which are regulated by Article 2 of this chapter;
  - (3) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and

- comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter;
- (4) The transporting of animals through the city by ordinary and customary means.

Section 2-106 NUISANCE; ANIMAL ACTIVITIES PROHIBITED.

- (1) It shall be unlawful for the owner of any animal to keep or maintain such animal in the city that constitutes a nuisance. For the purpose of this section, nuisance is defined as any animal which:
- (a) Molests or interferes with persons in the public right-of-way;
  - (b) Attacks or injures persons, or other domestic animals;
  - (c) Damages public or private property other than that of its owner or harbinger by its activities or with its excrement;
  - (d) Scatters refuse that is bagged or otherwise contained;
  - (e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.
  - (f) Is found to be running at-large is defined as to be outside of a fence or other enclosure which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be at-large
- (2) In the event any animal is found to be a nuisance, the animal control officer of the City of Gaylord, Kansas may issue a citation to the owner or owner(s) of such animal for violation of this ordinance, and if found guilty of such violation in the municipal court of the City, such owner shall pay the court costs and the fine as hereafter provided:
- (a) First offense involving such animal or animals, the sum of \$75.00, and all court costs.
  - (b) Second offense involving such animal or animals, the sum of \$150.00, and all court costs.
  - (c) Third and subsequent offenses involving such animal or animals, the sum of \$300.00, and all court costs.
- (3) All complaints relative to nuisance animal(s) in the City of Gaylord, Kansas, shall be submitted to the City Clerk of the City of Gaylord, Kansas, or the Animal Control Officer appointed by said city.

Section 2-107 NOISY ANIMALS. The keeping, or harboring of any animal which by loud, frequent and habitual howling, mewing, roaring,, crowing, or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such load or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up and/or disposing of the animal at the expense of the owner.

Section 2-108 ANIMAL CONFINES; SHELTERS.

- (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.
- (b) Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly- tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.
- (c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.
- (d) All animal shelters and board fences confining animals shall be maintained in good repair, and all

- animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.
- (e) Barbed wire fences and electrically charged fences shall not be permitted for animal confines except on properties for which an agricultural classification permit is held or where the barbed wire fence or electrically charge fence is protected by an exterior fence.
  - (f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official.

If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

#### Section 2-109 SAME; STOCKYARDS; COMMERCIAL HOLDING PENS.

Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

- (a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.
- (b) Grain or protein feed shall be stored in tightly covered rodent- proof metal containers or rodent-proof bins.
- (c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601:608 of this code.
- (d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies. Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.
- (e) Enclosures including fences where animals such as horses, cows, sheep and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property.
- (f) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight- fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.
- (g) Holding lots, pens and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into watercourses and such drainage system shall be subject to the approval of the health officer. The health officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses or sheep.
- (h) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer.

Section 2-110 DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property.

## ARTICLE 2. DOGS

### Section 2-201 KEEPING DOGS IN THE CITY LIMITS OF GAYLORD, KANSAS.

No person shall own or keep any dog or dogs within the City of Gaylord, Kansas, unless said dog or dogs are confined in a sufficient enclosure from which said dogs cannot escape, or said dog or dogs are fastened by means of chains on the premises of the owner or keeper. In the event any dog is found running at large, the animal control officer or law enforcement officer may issue a citation to the owner or owners of such dog for violation of this ordinance, and if found guilty of such violation in the municipal court of the City, such owner shall pay the court costs and the fine as hereinafter provided:

- (a) First offense involving such dog or dogs, the sum of \$75.00, and all court costs.
- (b) Second offense involving such dog or dogs, the sum of \$150.00, and all court costs.
- (c) Third and subsequent offenses involving such dog or dogs, the sum of \$300.00, and all court costs.

### Section 2-202 COMPLAINTS ABOUT DOGS AT LARGE.

All complaints relative to dogs being allowed to run at large in the City of Gaylord, Kansas, shall be submitted either to the City Clerk of the City of Gaylord, Kansas or to the animal control officer appointed by the City Council by said city.

### Section 2-203 DEFINITIONS OF POTENTIALLY DANGEROUS DOGS AND VICIOUS DOGS.

- (A) Potentially dangerous dogs are those dogs that have demonstrated aggressive behavior toward human beings, and which have been specifically identified by the Animal Control Officer of Gaylord, Kansas, as a "potentially dangerous dog" following an inquiry and investigation as hereafter described.
- (B) Vicious Dogs are those dogs that are found to menace, chase, display threatening or aggressive behavior, or otherwise endanger the safety of any human, domestic animal, livestock, or fowl, or dogs with a propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings, domestic animals, livestock or fowl, or any dog which attacks a human being or domestic animal one or more times.

### Section 2-204 CONTROL OF POTENTIALLY DANERGOUS DOGS.

It shall be the duty of the Animal Control Officer of the City of Gaylord, Kansas to investigate reports of "potentially dangerous dogs". Upon receiving notice that a potentially dangerous dog may be located within the city limits of Gaylord, Kansas, the Animal Control Officer or law enforcement officer shall make a reasonable inquiry and investigation of the matter and determine whether or not the dog's behavior and size imposes a significant risk of injury to humans. In the event that the Animal Control Officer or law enforcement officer should determine such dog is, in fact, a potentially dangerous dog, the Animal Control Officer shall document such conclusion and impose one or more of the following requirements:

- (a) Notify the owner or keeper that such dog must be confined or leashed at all times;
- (b) Require the owner or keeper to post conspicuous signs warning all those who may come upon the property that a "potentially dangerous dog" is on the property.

In the event the potentially dangerous dog is found at large following an order of confinement being issued by the Animal Control Officer, then such animal shall be destroyed "on sight" by any law enforcement officer or Animal Control Officer appointed by the City of Gaylord, Kansas. In the event that any owner of a potentially dangerous dog fails to satisfy any of the other requirements imposed by the Animal Control Officer, then the Animal Control Officer shall cause such animal to be destroyed in a humane manner. The owner or keeper of such potentially dangerous dog shall be cited by the Animal Control Officer for allowing such dog to run at large, or for failing to so lease or confine such dig, or failing to post said signs, and upon conviction, fined not less than \$300.00, plus all court costs.

### Section 2-205 CONTROL OF VICIOUS DOGS

Upon receiving notice that a "vicious dog" is located within the City of Gaylord, Kansas, the Animal Control Officer or law enforcement officer shall make a reasonable inquiry and investigation of the matter and determine whether or not the dog is a "vicious dog" as defined herein. In the event the Animal Control Officer or law enforcement officer should determine that such dog is, in fact, a vicious dog, the owner, keeper or harbinger of the dog involved shall be directed to immediately place the dog in a secure confinement of a minimum of ten (10) days to a maximum of fifteen (15) days, at the discretion of said officer, for observation for symptoms of rabies, and should said dog exhibit such symptoms during said confinement period, that dog shall be destroyed and testing done to determine whether animal was in fact infected with rabies. The owner(s) shall be liable for all costs of such confinement and testing so incurred. If a "vicious dog: is found running at large, that such animal shall be destroyed "on sight" by the Animal Control Officer or law enforcement officer appointed by the City of Gaylord, Kansas. In the event of destruction, testing shall be done to determine whether the animal was infected with rabies. The owner(s) shall be liable for the costs of such testing, and the owner shall be cited, and in the event the owner(s) are found guilty in the municipal court of the City of the charge of allowing a vicious dog to run at large, a fine of \$350.00 plus court costs and the costs of such testing, shall be imposed. Vicious dogs for which an owner, keeper, or harbinger cannot be located shall be destroyed "on sight" by an Animal Control Officer or law enforcement officer appointed by the City of Gaylord, Kansas. In the event of such destruction, testing shall be done to determine whether that animal was infected with rabies. Should the owner(s) of such dog subsequently be ascertained, such owner(s) shall be cited, and in the event the owner(s) are found guilty in the municipal court of the City of the charge allowing a vicious dog to run at large, a fine of \$350.00 plus court costs and the costs of such testing, shall be imposed.

Section 2-206 REPEATED VIOLATIONS.

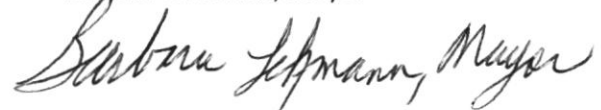
In the event that any person is convicted of three or more violations of this ordinance within a 12 calendar month period, that person shall forfeit his or her right to keep dogs in the City of Gaylord, Kansas. Such person shall cause said dog or dogs to be removed from Gaylord and, if he or she fails to do so within 10 days following his or her third conviction, the Animal Control Officer or law enforcement officer appointed by the City, may cause the animal or animals to be destroyed as quickly and humanely as possible under the then existing circumstances.

Section 3 EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its adoption and publication on the Smith County Pioneer.

Adopted and passed by the governing body of the City of Gaylord, Kansas on this 8<sup>th</sup> day of June, 2022.

Barbara Lehmann, Mayor



ATTEST:  
Aubrey Neussendorfer  
City Clerk



**ORDINANCE NO. 392 SUMMARY**

On June 8th, 2022, the City of Gaylord, Kansas, adopted Ordinance No. 392, an ordinance amending Ordinance 4 and City Code Chapter II, Article 1 Animal Control and General Provisions, Article 2 Dogs of the City of Gaylord, Kansas, suspending all other ordinances providing animal control and regulation passed prior to June 8th, 2022. A complete copy of this ordinance is available at [www.GaylordKansas.com](http://www.GaylordKansas.com) or at the city office, 509 Main Street. This summary is certified by Kyle Allen, City Attorney.

