

ORDINANCE NO. 2754

AN ORDINANCE AMENDING CHAPTER 6.05 “ANIMAL REGULATIONS” OF THE MUNICIPAL CODE OF THE CITY OF GARDNER, KANSAS

WHEREAS, said Gardner Municipal Code, Chapter 6.05 “Animal Regulations” was identified as needing to be revised; and

WHEREAS, there are a number of items that need to be updated in the current regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: The Governing Body of the City of Gardner, Kansas now deems it advisable to revise Chapter 6.05 “Animal Regulations” as follows:

6.05.010 Definitions. For the purpose of this chapter, the following terms, phrases, words and derivations shall have the meaning given in this section. The word “shall” is always mandatory and not merely directive.

(A) “Abandon” - includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(B) “Animals,” as used in this chapter, means all vertebrate 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; dogs, cats, or wild mammals; reptiles; fish or birds that have been tamed, domesticated or captivated.

(C) “Animal Control Facility” - means the facility or facilities operated by the city or its authorized agents for the purpose of impounding or caring for animals under the authority of this ordinance or state law. The City’s animal control facility shall be designated by the city council by resolution.

(D) “Animal Control Officer”. For the purpose of this chapter, “Animal Control Officer” shall mean the assigned Animal Control Officer, a Police Officer, or any other personnel requested to render aid and assistance in the enforcement of any provision of this chapter.

(E) “At Large”. A cat or dog shall be deemed to be “at large” if not secured by a leash or lead, unless the animal shall be on the premises of the owner, and under immediate control of a responsible person and obedient to that person’s commands.

(F) “Bite” - means 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 saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

(G) “Cat” - means any member of the species felis catus, regardless of sex.

(H) “Dangerous Animal” means:

1. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
2. Any animal which, without provocation, approaches any person in a vicious or terrorizing manner or apparent attitude of attack upon the streets, sidewalks, or any public ground or places; or
3. Any animal which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal; or
4. Any animal owned, trained, or harbored primarily or in part for the purpose of fighting.

5. Notwithstanding the definition of a dangerous animal, no dog may be declared dangerous if any injury or damage is sustained by a person 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 animal, or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

(I) "Dog" - means any member of the species *canis familiaris*, regardless of sex.

(J) "Exotic animal" means any wild animal not customarily confined by humans for domestic purposes. An exotic animal shall include, but not be limited to, wild cats, wolves, bears, nonhuman primates, crocodiles, alligators, caimans, venomous snakes and other animals not indigenous to this region of the United States, but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes.

(K) "Fowl" - means all animals that are included in the zoological class *aves*, which shall include, but not be limited to, chickens, ducks, geese, turkeys, guineas, and pigeons.

(L) "Harbor" - means any person who shall allow any animal to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure, or place of business or any other premises where he or she resides or controls.

(M) "Humane Live Animal Trap" - means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

(N) "Humanely Euthanize" - means the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method approved by the American Veterinary Medical Association or the American Humane Society.

(O) "Immediate Control" - means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(P) "Livestock" - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(Q) "Neutered" - means any male or female cat or dog that has been permanently rendered sterile.

(R) "Own" - means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this ordinance, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this ordinance.

(S) "Owner" - means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (q) above. An animal shall be deemed to be harbored if it is fed or sheltered for 3 consecutive days or more

(T) "Tethering" - tie (an animal) with a rope or chain so as to restrict its movement.

(U) "Vaccination" - means an injection of a vaccine, approved by the State Board of Public Health and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

(V) "Veterinarian" means a veterinarian duly licensed to practice the profession by the State of Kansas.

6.05.020 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 ordinance. Any person employed by the city as an Animal Control Officer and commissioned by the Chief of Police shall have such powers and authority as allowed by law in the enforcement of this ordinance. All Animal Control Officers shall be subject to the supervision and direction of the Chief of Police.

(b) Except as provided in subsection (c), it shall be the duty of the Animal Control Officer to take up and impound all animals found in the city in violation of the provisions of this ordinance.

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the Animal Control Officer may issue a citation to the owner, harborer, or keeper of

an animal in violation of this ordinance, and the person receiving the citation shall appear in the municipal court of the city to answer the charged violation of this ordinance.

6.05.030 Same; Capture/Destruction.

When deemed necessary by law enforcement officers or the Animal Control Officer for the health, 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 ordinance 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; or,
- (c) Use firearms or other suitable weapons to destroy any rabid animal, any dangerous animal, or any animal creating a nuisance as defined in Section 6.05.010(R), where such animal is impossible or impractical to catch, capture or tranquilize.

6.05.040 Same; Right of Entry; Unlawful Interference.

- (a) The Animal Control Officer or any law enforcement officer shall have the 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 ordinance, to the extent allowed by law.
- (b) It shall be unlawful for any person to conceal any animal or to otherwise interfere with the Animal Control Officer in the exercise of his or her duties in the proper enforcement of this chapter.

6.05.050 License and vaccination required.

All dogs and cats, three months or older, are required to be licensed.

- (a) Before a license will be issued, the owner must produce satisfactory evidence that the dog or cat has been vaccinated against rabies by a licensed veterinarian.
- (b) All licenses and permits shall be valid for a period of one year from January 1st to December 31st of each year and shall be issued by the Gardner Police Department. After July 1st of each year, the license fee for all new licenses for the remainder of the year shall be reduced by one-half if the owner can provide satisfactory evidence of residency or ownership after July 1st.
- (c) Licenses shall be issued in the form of a durable tag which shall be fastened to the dog's/cat's collar or harness and worn at all times when the dog/cat is off the premises of the owner. License tags shall not be transferable. If a tag is lost, a duplicate tag will be issued without charge.

6.05.060 Special permit for prohibited animal.

- (a) A special permit can be issued to persons requesting permission to keep or harbor any animal deemed prohibited by any section of this chapter, or for permission to house more than a total of four dogs and cats in any combination. To obtain a special permit, persons shall make application in writing detailing the purpose and circumstances for the special permit. The Chief of Police, or designee, can grant a special permit, to include any special conditions and/or restrictions, only after review of the application and pertinent documents/reports and the applicable fees are paid.
- (b) If the special permit application is denied by the Chief of Police, or designee, the animal(s) shall immediately be removed from the City limits. If the animal(s) are not immediately removed from the City, the Animal Control Officer may issue a summons into court for the specified violation(s). Additionally, the animal(s) shall immediately be removed from the location where they are being housed and lodged at the Animal Control Facility, at the owner's expense, until final disposition of the case by the court, or special order(s) are rendered by the Municipal Court Judge.
- (c) Upon approval of the special permit, periodic checks by the Animal Control Officer can be made to ensure that any of the required conditions or restrictions for the special permit(s)

are being adhered to. Failure to comply with any of the conditions or restrictions of the special permit(s) shall be grounds for revocation of the special permit by the Chief of Police or designee.

- (d) In the event that a special permit is revoked, the Animal Control Officer may issue a summons into court for the specified violation(s). Additionally, the animal(s) shall immediately be removed from the location where they are being housed and lodged at the Animal Control Facility, at the owner's expense, until final disposition of the case by the court, or special order(s) are rendered by the Municipal Court Judge.

6.05.070 Breeder permit.

A breeder permit is required for all persons engaged in the breeding of any animal not prohibited by any section of this chapter. Special conditions may apply to persons engaged in the breeding of animals so as not to maintain any public nuisances to surrounding residences or businesses.

6.05.080 License fee.

An approved license or permit shall be issued after payment of the applicable fee. The applicable fees are:

1. For each unneutered male dog/cat \$14.00
2. For each unspayed female dog/cat 14.00
3. For each neutered male dog/cat 7.00
4. For each spayed female dog/cat 7.00
5. Special permit 55.00
6. Breeder permit 30.00

6.05.090 Animals – Keeping prohibited.

It shall be unlawful, without a special use permit, to keep, harbor, own or in any way possess within the corporate limits of the City of Gardner, Kansas:

- (a) Any wild or exotic animal as defined in GMC [6.05.010\(I\)](#).
- (b) Any animal having poisonous bites.
- (c) Any dangerous animal that has not met the requirements of any special conditions or has been ordered out of the City boundaries or ordered to be humanely euthanized.
- (d) Any animal that would be normally associated with that of being a farm animal in areas not zoned for agricultural use, except for animals as allowed by Chapter 17.05.040(G).
- (e) More than a combined total of four dogs or cats or any combination of dogs and cats over six months of age.

6.05.100 Control or protection of animals in general.

- (a) Every owner of any animal shall exercise proper care and control of his/her animal to prevent the animal from becoming a public nuisance. It is unlawful for any owner to fail to exercise such property care and control of their animal. Excessive or untimely barking, molesting passersby, chasing vehicles, attacking other domestic animals, depositing excretory matter on property other than that of the owner, damaging property, and running at large shall be deemed a nuisance and are unlawful activities under this chapter. The owner of every animal shall be responsible for the removal of any excreta deposited by his/her animal(s) on public walks, recreation areas, or private property.
- (b) It is unlawful for any person to:
 1. Permit any dangerous animal to run loose on or within the owner's premises in such a manner as to endanger the safety of any person lawfully entering or passing by such premises;
 2. To allow any yard, pen, room, building or any other place where animals are kept within the City to become filthy, offensive, unwholesome or annoying, or to allow any decayed, putrid or offensive matter to accumulate thereon;

3. Permit his/her dog/cat to run at large; dogs/cats found by the Animal Control Officer to be at large may be taken and impounded in the Animal Control Facility and the Animal Control Officer may issue a uniform complaint and notice to appear to the owner;
4. Allow unspayed female dogs/cats to be away from confinement on premises of the owner when such animals are in heat; every animal in heat shall be confined in a closed area so that the dog/cat cannot come into contact with another animal except for planned breeding.

6.05.110 Cruelty to animals.

Except for the exemptions provided in K.S.A. 21-6412(c), it shall be unlawful for any person to:

- (a) Intentionally kill, injure, maim, torture, burn or mutilate any animal.
- (b) Abandon or leave any animal within the City limits without making provisions for its proper care.
- (c) Have physical custody of any animal and fail to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is needed for the health or well-being of such kind of animal.
- (d) Make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health.
- (e) Permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.
- (f) To leave any animal confined in a vehicle in extreme weather conditions defined as less than 32 degrees Fahrenheit or more than 85 degrees Fahrenheit. This section does not apply if the vehicle is running via a remote start function providing climate control for the animal.

6.05.120 Animal Traps Prohibited.

It shall be unlawful for any person to use, place, set out or deploy any animal trap above ground which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing, or any other devices that will damage or severely injury any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of any trap specifically designed to kill rats, mice, gophers or moles with the consent of the owner or occupant of the property where the trap is set; and with the further exception of the use of cage-type live traps deployed for the control of nuisance animals as long as the traps deployed are tended every 12 hours.

6.05.130 Tethering.

It shall be unlawful to Tether an animal outdoors to a stationary object or to a mobile device, including but not limited to a trolley, or a pulley, when a weather advisory or warning is issued by local, state or federal authorities or when outdoor environmental conditions, including extreme heat, cold, wind, rain, snow or hail pose an adverse risk to the health or safety of such animal based on such animal's breed, age or physical condition unless tethering is for a duration no longer than 15 minutes.

6.05.140 Animal Control Facility Established.

A municipal Animal Control Facility shall be established to carry out the provisions of this ordinance. Such Animal Control Facility may be operated by a contractor and all services required herein may be provided by a contractor. When so contracted, the Animal Control Facility shall have the following services and facilities as a minimum:

- (a) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this ordinance.
- (b) Group holding facilities for stray, ownerless, and unvaccinated animals impounded for violation of the provisions of this ordinance.
- (c) Individual isolation facilities for sick, biting, rabid, and suspected rabid animals.

(d) Facilities for the humane destruction of animals.

6.05.150 Impoundment of animals – Retrieval or disposal.

The Animal Control Officer is authorized to receive and dispose of, at his/her discretion, dogs, cats or other small animals, and to impound, dispose of or destroy any dog/cat running at large in violation of the terms of this chapter. Such dogs/cats may be taken up or impounded even though no citizen makes a complaint and even though the Animal Control Officer issues no notice to appear. Impoundment shall be subject to the following:

- (a) The Animal Control Officer shall attempt notification of the owner of a dog/cat, identifiable by a tag or other approved method, which is impounded under this chapter, by telephone, letter or personal service.
- (b) Such dog/cat shall be confined in the approved Animal Control Facility by the Animal Control Officer. The dog/cat shall be confined for a period of at least 72 hours, with such period of time beginning at 9:00 a.m. on the morning following the day the owner is notified or the attempt made as provided in this section. If the dog/cat is not identifiable by a tag or other adequate identification no notice is required and such dog/cat shall be confined for a period of at least 72 hours beginning at 9:00 a.m. of the morning following its capture.
- (c) If the owner does not reclaim his/her dog/cat during the impound period, then the Animal Control Officer may dispose of such dog/cat.
- (d) Any currently vaccinated dog/cat covered by permit as required in this chapter may be claimed by its owner upon payment of an impoundment fee and boarding fee as follows:
 1. Impoundment fee:
 - a. \$25.00 – first offense;
 - b. \$50.00 – second offense;
 - c. \$75.00 – third and each subsequent offense;
 2. Boarding fees of \$25.00 per day, beginning with the first day of impoundment.
- (e) The City of Gardner shall attempt to recover all costs incurred in caring for any dog/cat impounded or held pursuant to the provisions of this chapter. Costs can include, but are not limited to, impoundment, boarding, necessary veterinarian care and administrative fees. Said fees shall be in addition to any fine imposed for violation of the provisions of this chapter.
- (f) All unvaccinated dogs/cats impounded for reason of suspected disease may be reclaimed by their owners upon evaluation and treatment by a licensed veterinarian approved by the Chief of Police.
- (g) Any person refusing or failing to comply with the provisions of this section or with the order or directives of the Animal Control Officer relating thereto is guilty of a misdemeanor.

6.05.160 Breaking Pound.

- (a) It shall be unlawful for any unauthorized person to open, unlock, break open, or attempt to break open the Animal Control Facility, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this ordinance, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.
- (b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.

6.05.170 Keeping Dangerous Animals.

1. Prohibitions: No person shall own or permit to be kept on their 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.

2. **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 humanely 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.
3. **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.

6.05.180 Dangerous Dogs.

Determination of a Dangerous Dog:

1. If an Animal Control Officer has probable cause to believe a dog is dangerous, as defined in Section 6.05.010(H), 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 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. 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. 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 a dangerous animal as found in Section 6.05.010(H), 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.

5. 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.
6. 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.
7. 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.
8. Stipulations by Owner: 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. 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.
9. Regulation of Dangerous Dogs: The following provisions shall apply to all dogs determined to be dangerous:
 - (a) Confinement Required: All dangerous dogs shall at all times be confined in an enclosure 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.
 - (b) 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.
- (c) 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.
- (d) 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 transfers ownership of the dog or if the dog dies.
- (e) 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.
- (f) 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.
- (g) Spaying or Neutering Required: All dangerous dogs shall be spayed or neutered.
- (h) Relocation: 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. 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. 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 Section 6.05.010(H) shall not be relocated into Gardner. However, if the dog was deemed dangerous solely based on breed, the dog may be allowed to relocate to Gardner.

- (i) 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.
- (j) 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 humanely 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.
- (k) Penalty: Any person found guilty of violating the provisions of this Section shall be punished as provided in Section 6.05.240 of this Code.

6.05.190 Dangerous Cats.

All of the procedures, regulations, requirements, and penalties set out in Section 6.05.180 of this Article regarding dangerous dogs are hereby made applicable to any cat the City seeks to have declared, and which may be declared, dangerous. However, in lieu of the confinement requirements found at Section 6.05.180,9.,a., any person desiring to keep a dangerous cat in the City must confine such cat within the residential structure at all times, except for transport for veterinarian care where it must be confined to a carrier.

6.05.200 Animal biting persons/Rabies – Report – Impoundment and examinations.

- (a) When any animal subject to rabies has bitten or attacked any person, or when an animal is suspected of having rabies, it shall be the duty of any person having knowledge of such facts to report the same immediately to the Gardner Police Department.
- (b) Such animal shall be confined for a period of 10 days as directed by the Animal Control Officer. If the animal possesses a current, verified, rabies vaccinated tag, and the person bitten is the owner or member of the immediate family, the Animal Control Officer can authorize the quarantine of said animal within the confines of the owner's residence. No person shall release from confinement any such animal or remove such animal from its place of confinement to another place without the consent of the Chief of Police or designee. The confinement of the animal shall be at the expense of the owner or custodian of such animal. No person shall refuse surrender of any animal for quarantine when demand is made by the order of the Animal Control Officer.
- (c) The Animal Control Officer shall be empowered in his/her discretion to order examination of such animal to determine whether it may have rabies. If the animal dies or is killed, a laboratory examination of the head shall be made.

6.05.210 Vehicular Accidents Involving Animals.

Any person who is the operator of a motor vehicle that strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained and located, the operator shall at once report the accident to the Animal Control Officer or any Law Enforcement Officer.

6.05.220 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.

6.05.230 Chapter enforcement.

- (a) Any person, firm, corporation, partnership or association violating any of the provisions of this chapter shall, unless otherwise specifically provided, be subject to penalty as herein provided.
- (b) The Animal Control Officer may issue a uniform complaint and notice to appear to any owner as defined in this chapter whose animal is in violation of the provisions of this chapter. The owner may enter a voluntary appearance and plea of guilty or no contest to the offense charged in the complaint upon payment of the amount established by the Municipal Court schedule of fines, but in no event shall the fine be less than (1) \$25.00 for the first offense, (2) \$50.00 for the second offense, (3) \$100.00 for each subsequent offense. The scheduled fines shall be the minimum fines where a penalty is imposed pursuant to GMC [6.05.240](#). A uniform complaint issued to the owner of an animal involved in a bite shall have a mandatory court appearance before the Judge of the Municipal Court for the City of Gardner, Kansas.

6.05.240 Penalty.

Any person convicted of the violation of any provision of this chapter declaring an unlawful act or for failure to pay the tax herein required, or who fails or neglects any other duty required by this chapter shall on conviction thereof, be fined not more than \$1,000 or be imprisoned for not more than six months or be both so fined and imprisoned.

SECTION TWO: Any and all ordinances inconsistent with the herein provisions are hereby repealed.

SECTION THREE: This Ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED by the City Council this 21 day of November, 2022.

SIGNED by the Mayor this 21 day of November, 2022.

{SEAL}

/s/
Todd Winters, Mayor

Attest:

/s/
Sharon Rose, City Clerk

Approved as to form:

/s/
Ryan B. Denk, City Attorney