

ORDINANCE NO. 510

AN ORDINANCE RELATING TO THE KEEPING, HARBORING, REGISTRATION, LICENSING, VACCINATION, IMPOUNDING, AND DESTRUCTION OF DOGS AND OTHER ANIMALS; PROVIDING A PENALTY FOR THE VIOLATION OF ITS TERMS AND REPEALING ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THE TERMS OF THIS ORDINANCE.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF HAVEN, KANSAS:

ARTICLE ONE. GENERAL PROVISIONS

SECTION 1. DEFINITIONS. For the purposes of this chapter, the following words and phrases shall mean:

(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 mean all vertebrate and invertebrate animals such as but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.

(c) Animal Shelter 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 chapter or state law.

(d) At-large means to be outside of a fence or other enclosure which restrains the animals to a particular premises 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.

(e) 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.

(f) Cat means any member of the species felis catus, regardless of sex.

(g) Dangerous or Vicious Animal means any animal deemed to be dangerous or vicious per section 2-115.

(h) Dog means any member of the species canis familiaris, regardless of sex.

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

(j) Harbor means any person who shall allow any animals 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.

(k) 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.

(l) 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.

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

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

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

(p) 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 chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

(q) 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 (p) above.

(r) 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.

(s) Veterinarian means a doctor of veterinary medicine licensed by the State of Kansas.

SECTION 2. CRUELTY TO ANIMALS. It shall be unlawful for any person to:

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(a) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

(b) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;

(c) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition.

(d) Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl under two months of age in any quantity less than twelve (12); or to sell, offer for sale, barter, give away, or display animals or fowls as specified in this section which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color. This section shall not be construed to prohibit the sale of animals or fowls as specified in this subsection, in proper facilities, by hatcheries or person engaged in raising and selling such animals and fowls for recognized animal husbandry purposes;

(e) Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal;

(f) Neglect or refuse to supply such animal with necessary and adequate care, food, drink, air, light, space, shelter or protection from the elements as necessary for health and well-being of such kind of animal.

(g) Abandon or leave any animal in any place without making provisions for its proper care;

(h) These provisions shall not apply to the exceptions sanctioned below under SAME;

EXCEPTIONS.

In Addition to: a) A fine of not more than One Thousand Dollars (\$1,000.00); or b) Imprisonment in jail for not more than one hundred seventy nine (179) days; or, c) Both such fine and imprisonment not to exceed a) and b), the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.

SAME; EXCEPTIONS. The provisions of the Section 2 shall not apply to:

(a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;

(b) Bona fide experiments carried on by commonly recognized research facilities;

(c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;

(d) Rodeo practices accepted by the professional rodeo cowboys' association;

(e) The humane killing of any animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;

(f) The humane killing of an animal by the animal control officer a qualified and licensed veterinarian or a law enforcement officer in the performance of his or her official duty;

(g) The humane killing of an unclaimed animal after three full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments.

NUISANCE; ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful to keep, harbor, board or maintain horses, cattle, hogs, fowl or other animals and livestock, domesticated or non-domesticated, excluding vaccinated and lawfully licensed domesticated dogs and/or cats, within the corporate limits of the City of Haven, Kansas.

Further, that the provisions of this section shall not apply to a licensed doctor of veterinary medicine engaged in his profession.

SECTION 3. NOISY ANIMALS. The keeping or harboring of any animal which by loud, frequent and habitual barking, howling, helping, mewing, roaring or screeching shall disturb the peace of any

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neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud 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, impounding and/or disposing of the animal at the expense of the owner.

SECTION 4. ANIMALS 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) 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 twenty-four (24) hours after notice is served on the owner. Any animals kept under any condition which could endanger the public or animals 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 5. VICIOUS ANIMALS.

(a) Prohibited: It shall be unlawful for any person to keep, possess or harbor vicious animals within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer. If the animal presents a clear and present danger to the public health or safety, it shall be the duty of the animal control officer or his or her agent to impound such animal.

(b) Defined: For purposes of this chapter a vicious animal shall include:

1. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
2. Any animal which attacks a human being or domestic animal(s) without provocation;
3. Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;

4. Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provide such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

(c) Complaint: Whenever a sworn complaint is filed in the municipal court against the owner of an animal alleging that such animal is vicious and in violation of this section, the municipal judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and hereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one (1) week prior to the hearing. In making a determination, the municipal judge shall consider the following:

1. The seriousness of the attack or bite;
2. Past history of attacks or bites;
3. Likelihood of attacks or bites in the future;
4. The condition and circumstances under which the animal is kept or confined;
5. Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

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The municipal judge shall order the impoundment, the muzzling in accordance with subsection (d) below and/or the confinement of the animal accused of being in violation of this section in a manner and location that will insure that it is no threat to persons or other animals pending the outcome of the hearing. If such impoundment, muzzling or otherwise safe confinement is not possible or if prior court orders to restrain such animal have gone unheeded, the municipal judge may order the animal immediately destroyed.

(d) Vicious Dogs to be Muzzled: It shall be the duty of every owner, keeper or harbinger of any dog in the city, which dog is vicious or has been known to bite, chase, or run after any person or animal in the streets, alleys, or any public place in the city, to keep the same muzzled with a good and sufficient wire or leather muzzle, securely fastened so as to wholly prevent such dog from biting any animal or person until such time as a determination has been made by the court as to whether the dog is vicious or not. Any person owning, keeping or harboring any dog within the city limits contrary to this section shall be guilty of a violation of this code.

(e) Immediate Destruction: Nothing in this chapter shall be construed to prevent the animal control officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any vicious animal without notice to the owner.

(f) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this section.

SECTION 6. RUNNING AT LARGE. It shall be unlawful for any person to willfully allow any animal or fowl under his or her control to be or to run at large within the city.

ARTICLE TWO. DOGS

SECTION 7. REGISTRATION AND VACCINATION REQUIRED; FEE.

(a) Every owner of any dog over six (6) months of age shall annually register with the city clerk his or her name and address with the name, sex and description of each dog owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or any dog brought into the city to fail to register such animal within thirty (30) days from acquisition or bringing the dog into the city. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog.

(b) Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document, and it shall be unlawful for the owner of any dog over six (6) months of age to fail to maintain effective rabies immunization of such dog.

(c) The owner or harbinger of any dog shall, at the time of registering such dog, present to the city clerk a certificate from an accredited veterinarian showing that a male dog has been neutered or a female dog has been spayed, if the dog has been neutered or spayed.

(d) The city clerk shall collect an annual registration fee of Three Dollars (\$3.00) for each neutered male dog and for each spayed female dog, and Seven Dollars (\$7.00) for each non-neutered male dog and for each non-spayed female dog.

(e) The registration year shall be from January 1st through December 31st of each year.

(f) It shall be unlawful to harbor, keep, board or maintain more than four (4) dogs at any residence or other place within the City of Haven, or keep, harbor, board or maintain more than four (4) cats within the City of Haven.

On and after February 1st in each year the fees imposed and required to be paid shall become delinquent, and the amount of such fees shall be and is hereby increased by \$.25 for each calendar month or fraction thereof during which the same remains unpaid and delinquent.

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SECTION 8. DOG TAGS. It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor, and shall deliver to the owner or keeper of the dog a certificate in writing, stating that the person has registered the dog and the number by which the dog is registered, and shall also deliver to the owner or keeper of the dog a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog so registered. When any tag has become lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate tag. It shall be unlawful for any person to take off or remove the city registration tag from any dog belonging to another, or remove the strap or collar on which the same is fastened.

SECTION 9. RUNNING AT LARGE; FINE.

(a) It shall be unlawful for the owner or harbinger of any dog to permit such dog to run at large within the city at any time;

(b) Any dog running at large within the city may be impounded. The owner or harbinger claiming any animal shall present a registration receipt and pay the cost of the board bill.

(c) Any owner or harbinger found guilty of allowing a dog to run at large shall in addition to presenting a registration receipt, pay a fine in the amount of \$25.00 plus costs. For a second offense within a one (1) year period, the owner or harbinger shall pay a fine not to exceed One Hundred Dollars (\$100.00) plus costs. For a third and all subsequent offenses within a one (1) year period, the owner or harbinger shall pay a fine not to exceed Two Hundred Twenty Five Dollars (\$225.00) plus costs.

SECTION 10. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.

(a) Any dog found in violation of the provisions of this article shall be subject to impoundment by the city.

(b) A record of all dogs impounded shall be kept by the city or its contractor containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment.

(c) If the dog impounded has a current registration tag attached to its collar or if the impounding officer knows the identity of the dog's owner, the owner of such dog, as shown by the records of the city clerk shall be notified in writing as soon as possible or at least twenty-four (24) hours before such dog is disposed of by destruction or sale. If, at the end of five (5) days the city clerk has been unable to locate the owner, or the owner upon having been located, refuses to claim or redeem said dog, then the dog may be sold, euthanized or otherwise disposed of.

(d) If the dog impounded has no current registration tag and the identity of the animal's owner is unknown to the animal control officer or the impounding law enforcement officer then such officer or the impounding law enforcement officer then such impounding officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding. If within three (3) full business days the owner does not appear to claim the dog, then the dog may be sold, euthanized or otherwise disposed of.

(e) If at any time before the sale or destruction of any dog impounded under the provisions of this article, the owner of an impounded dog does appear and redeem the dog, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties plus the actual costs of impoundment, and upon compliance with the registration provisions of this article. This subsection shall not apply to any dog alleged as being vicious under Section 5.

(f) The minimum impoundment fee shall be Twenty Five Dollars (\$25.00).

(g) Any dog impounded may not be released without a current rabies vaccination.

(h) Impoundment hereunder shall not preclude any court from imposing and executing any fine which might otherwise be levied under this article for violation of any of the provisions thereof; nor shall impoundment be a defense in any prosecution commenced hereunder.

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(i) The redemption of any dog impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog.

SECTION 11. DISPOSITION OF UNCLAIMED DOGS. If any dog is not redeemed by its owner or harborer within the time allowed for redemption as specified in SECTION 10 thereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year.

SECTION 12. CONFINEMENT OF DOGS IN HEAT. Any non-spayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisance, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement.

SECTION 13. KEEPING OF PIT BULL DOGS PROHIBITED; EXCEPTION.

(a) The governing body of the city finds and determines that pit bull dogs, as hereinafter defined, are unreasonably dangerous to persons and other animals within the city and that it is in the best interest of the inhabitants of the community to limit importation and propagation of pit bull dogs within the city so as to eventually eliminate them from the city.

(b) Except as otherwise provided in this section, it shall be unlawful to keep, harbor, own or in any way possess any pit bull dog, as hereinafter defined, within the corporate limits of the city,

(c) As used in this section, pit bull dog means:

1. The bull terrier breed of dog;
2. Staffordshire bull terrier breed of dog;
3. The American pit bull terrier breed of dog;
4. The American Staffordshire terrier breed of dog;
5. Dogs of mixed breed or of other breeds than above listed which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terrier;
6. Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier, American Staffordshire terrier; any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers; or a combination of any of these breeds.

(d) The prohibition of section (b) shall not apply to currently licensed veterinarians licensed by the State of Kansas who are treating or harboring pit bull dogs at their appropriate facilities in the city.

(e) Any person violating or permitting the violation of any provision of this section shall upon conviction in municipal court be fined a sum not less than Two Hundred Dollars (\$200.00) and not more than One Thousand Dollars (\$1,000.00). In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed thirty (30) days. In addition, the court shall order the registration of the subject pit bull, if any, revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the municipal court judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

ARTICLE 3. OTHER ANIMALS

SECTION 14. EXOTIC ANIMALS.

(a) It shall be unlawful for any person, firm or corporation to keep maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.

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(b) It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the city any of the following animals:

1. All poisonous animals including rear-fang snakes.
2. Apes: Chimpanzees; gibbons; gorillas, orangutans; and saimangs.
3. Baboons.
4. Badgers.
5. Bears.
6. Bison.
7. Bobcats.
8. Cheetahs.
9. Coyotes.
10. Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
11. Elephants.
12. Game cocks and other fighting birds.
13. Hippopotami.
14. Hyenas.
15. Jaguars.
16. Leopards.
17. Lions.
18. Lynxes.
19. Monkeys.
20. Ostriches.
21. Pumas; also known as cougars, mountain lions and panthers.
22. Raccoons.
23. Rhinoceroses.
24. Skunks.
25. Tigers.
26. Wolves.
27. The offspring born to any animal permitted to be kept in the city which is bred to any other animal of a different species. Offspring born to wild animals bred to domestic dogs or cats shall be considered to be exotic animals.

(c) The prohibitions of this section shall not apply to bona fide pet shops, zoos, circuses, carnivals, educational institutions, or medical institutions, if:

1. Their location conforms to the provisions of the zoning ordinance of the city.
2. All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
3. Animals are maintained in quarters so constructed as to prevent their escape.

(d) The municipal judge shall have the authority to render any animal deemed vicious confined, destroyed or removed from the city.

SECTION FIFTEEN. This ordinance shall be in effect from and after its publication once in the official City newspaper.

PASSED AND APPROVED this ____ day of _____,
1996, for the City of Haven, Kansas.

Lloyd H. Schmidt
Mayor

ATTEST:

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Cheryl Savaiano
City Clerk