

ORDINANCE NO. 6646

AN ORDINANCE AMENDING SECTIONS 6-7, 6-21, 6-22, 6-23, 6-25, 6-30 AND 6-53 OF THE CODE OF ORDINANCES OF THE CITY OF MANHATTAN, KANSAS, RELATING TO THE OWNING, KEEPING AND HARBORING OF DOGS, DANGEROUS DOGS, AND OTHER ANIMALS WITHIN THE CITY OF MANHATTAN.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS:

Section 1. That Section 6-7 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

Sec. 6-7. Keeping of dangerous or vicious animals prohibited.

- (a) It shall be unlawful for any person to own, keep, maintain or have in his possession or under his control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities.
- (b) It shall be unlawful for any person to own, keep, maintain or have in his possession or under his control within the city any of the following animals:
 - (1) All poisonous animals including rear-fang snakes;
 - (2) Apes: Chimpanzees, gibbons, gorillas, orangutans, and siamangs;
 - (3) Baboons;
 - (4) Badgers;
 - (5) Bears;
 - (6) Bison;
 - (7) Bobcats;
 - (8) Cheetahs;
 - (9) Constrictor snakes, six feet in length or more;
 - (10) Coyotes;
 - (11) Crocodilians, 30 inches in length or more;
 - (12) Deer, includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose;
 - (13) Domestic dogs hybridized with wild canines such as wolves and coyotes
 - (14) Elephants;
 - (15) Game cocks and other fighting birds;
 - (16) Hippopotami;
 - (17) Hyenas;
 - (18) Jaguars;
 - (19) Leopards;
 - (20) Lions;
 - (21) Lynxes;
 - (22) Monkeys;
 - (23) Ostriches;
 - (24) Pumas, also known as cougars, mountain lions and panthers;

- (25) Raccoons;
 - (26) Rhinoceroses;
 - (27) Skunks;
 - (28) Tigers;
 - (29) Wolves.
- (c) Subsections (a) and (b) 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.

(Ord. No. 3795, §§ 1--3, 6-17-80)

Section 2. That Section 6-21 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

Sec. 6-21. Keeping and harboring defined.

Any person who shall allow any dog or cat to remain or to lodge or to be fed within his home, store, yard, enclosure or place shall be deemed and considered as keeping and harboring such dog or cat within the meaning of this article.

(Code 1973, § 2-204; Ord. No. 4473, § 2, 11-3-87)

Cross references: Rules of construction and definitions generally, § 1-21 et seq.

Section 3. That Section 6-22 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

Sec. 6-22. Running at large prohibited.

- (a) It shall be unlawful for the owner, keeper or harbinger of any dog to permit such dog to run at large in the city at any time. Any dog shall be presumed to be running at large, and the owner, keeper or harbinger shall be presumed to have permitted it to be at large, in the following circumstances:
- (1) When such dog is found off of the premises of the owner, keeper or harbinger of such dog. Provided that, it shall be a defense for a person charged under this section that such dog was merely passing along the streets, sidewalks, avenues, or parks of the city, or upon any private property, with the consent of the owner of said property, while such dog was held upon a leash, chain, rope or harness by its master or keeper in a manner that effectively restrained the dog from interfering with, damaging, or injuring the person or property of others.
 - (2) When such dog is tethered in such a manner in which it can cross outside the premises of the owner onto public property, public right-of-way, or private property owned by any person other than the owner.
- (b) It shall not be a violation of subsection (a) for a dog to run at large in a city-designated dog park. It shall not be a violation of subsection (a) or for a dog to

run at large during a city-sponsored special event or during a special event for which the city has issued a special event permit if the city manager, or his designee, has determined that dogs at large will not pose a hazard to public health or safety or constitute a nuisance. However, in no such case shall a dog that has been determined to be dangerous, pursuant to section 6-25, be permitted to be at large. Further, it is a violation of subsection (a) if a dog at large at a city-designated dog park or special event meets the definition of an aggressive dog at large, pursuant to section 6-30.

- (c) It shall be lawful for an animal control officer or officer of the Riley County police department to pursue and capture such dog running at large. If the dog appears to be vicious or if it appears that the dog cannot be captured without endangering some person, the officer is authorized to use that force reasonably necessary to restrain or kill the dog.

(Code 1973, § 2-206; Ord. No. 3143, § 2, 5-1-73; Ord. No. 3815, § 2, 11-4-80)

Cross references: Streets, sidewalks and other public places, Ch. 30.

Section 4. That Section 6-23 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

Sec. 6-23. Prohibited from Sunset Park and Zoo

It shall be unlawful for the owner, keeper or harbinger of any dog to bring any dog into Sunset Park and Zoo even though such dog is held upon leash, chain, rope or harness.

(Code 1973, § 2-206A; Ord. No. 3143, § 3, 5-1-73; Ord. No. 3345, § 4, 4-1-75)

Cross references: Parks and recreation generally, Ch. 23.

Section 5. That Section 6-25 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

Sec. 6-25. Dangerous dogs.

- (a) As used in this section, “dangerous dog” shall mean and include any of the following:

- (1) Any dog which has a 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 dog which has attacked a human being or domestic animal without provocation; or,
- (3) Any dog kept or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting; or,
- (4) Any dog, not owned by a governmental or law enforcement unit, used primarily to guard public or private property.
- (5) Any dog that has been determined to be a dangerous dog in an administrative hearing pursuant to Section 6-25(d).
- (6) Any dog that has become a dangerous dog upon first conviction pursuant to Section 6-30(c) and upon second conviction pursuant to Section 6-30(b).

- (b) It shall be unlawful for any person to own, keep or harbor a dog that such person

knows, or reasonably should know, to be a dangerous dog, unless the owner, keeper or harbinger complies with all of the following requirements:

- (1) Confinement: The dangerous dog shall be confined, as set forth hereinafter. "Confined," as that term is used in this section, shall mean such dog is securely kept indoors or in a securely enclosed and locked pen or dog-run area made of, at least, nine-gauge chain link with no more than one-inch spacing. Said pen or run must be locked with a key or combination lock whenever such dog is within the structure. Said pen or dog-run area must have sides at least six (6) feet high and be secured over the top. If the pen or dog-run area has no bottom secured to the sides, the sides must be embedded into the ground no less than one (1) foot deep. No dangerous dog may be kept on a porch, patio, or in any part of a structure that would allow the dog to exit the structure on its own volition. No dangerous dog may be kept in a structure when the windows are open or when screened windows or doors are the only obstacle preventing the dog from exiting the structure.
- (2) Leash and Muzzle: When the dangerous dog is not confined pursuant to subsection (b)(1), the dog shall be securely muzzled and restrained with a leash, chain, rope, or harness having a minimum tensile strength of three hundred (300) pounds and not exceeding four (4) feet in length.
- (3) Notice: The owner, keeper, or harbinger shall display, in a prominent place on the premises where the dog is kept, a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign shall be posted on the pen or run of such animal.
- (4) Registration and Reporting: The owner, keeper or harbinger of a dangerous dog shall properly license the dog pursuant to section 6-36 of this code, and pursuant to the provisions set forth in this subsection. In addition to having, or obtaining, the license required by section 6-36, an owner, keeper or harbinger of a dangerous dog shall submit a completed application for a dangerous dog license to the city clerk or his/her designee, on or before May 1, 2007, or within five business (5) days of the date upon which the dog would be deemed to be dangerous under the provisions of this section, if such occurs after May 1, 2007. The application for a dangerous dog license shall be submitted on forms provided by the city clerk, and to be considered a completed application it shall be accompanied by all documents and other information required hereunder. Upon issuance, the dangerous dog license shall be effective for one (1) year from the date of issuance, or for the duration of the liability insurance required by this section, whichever is shorter, and shall be reapplied for prior to its expiration. Such dangerous dog license shall not be transferable, and shall expire whenever changes occur that would make the keeper or harbinger ineligible to obtain a license. The owner, keeper or harbinger of the dangerous dog shall pay a \$50.00 annual registration fee for each dangerous dog, and such fee shall be submitted with the application for a dangerous dog license. No dog shall be considered to be unlicensed under the terms of this subsection, if the owner, keeper or harbinger has timely filed a completed application, until such application has been denied. The owner,

keeper or harborer of the dangerous dog shall maintain with the city clerk or his/her designee the address where the dangerous dog is primarily kept or harbored. The owner, keeper or harborer shall notify the city clerk or his/her designee within five (5) business days if any of the following occurs:

- i. A change in the primary address where the dangerous dog is kept or harbored, whether in or out of the city limits; or,
- ii. A change in the person who is owning, keeping or harboring the dangerous dog; or,
- iii. The death of the dangerous dog; or,
- iv. Any change in the information supplied in the application for the dangerous dog license, or in the information submitted along with such application.

(5) Insurance: Any owner, keeper or harborer of a dangerous dog shall maintain liability insurance in the single-incident amount of \$100,000 for bodily injury or death of any person(s), or for damage to property which may result from actions of the dangerous dog, or from actions or inactions of the owner, keeper or harborer related to the dangerous dog. The application, or reapplication, for a dangerous dog license, pursuant to subsection (b)(4), shall include a certificate of liability insurance that indicates the required insurance level and is valid for the intended registration period.

(6) Neutering: The dangerous dog shall be spayed or neutered by a veterinarian licensed by the state of Kansas. The application, or reapplication, for a dangerous dog license, pursuant to subsection (b)(4), shall include documentation showing that the dog has been spayed or neutered.

(7) Identification: The dangerous dog shall have an identification microchip inserted into the dog, which shall not be removed during the dog's life. The application, or reapplication, for a dangerous dog license, pursuant to subsection (b)(4), shall include documentation showing that such microchip has been properly inserted. Any owner, keeper or harborer of the dangerous dog must, prior to the issuance of the dangerous dog license, make the dog available to the city to take photographs to be used to depict the animal's size, coloring, and distinguishing features. Failure to make the dog available, when reasonably requested by the city, shall be grounds for denial of the application.

(c) Any owner, keeper or harborer of a dog that is a size and breed that allows the dog to be capable of inflicting life threatening injuries upon human beings or domestic animals is hereby held to a very high standard of care regarding their knowledge of factors or incidents that indicate that the dog may be dangerous as defined in subsection (a). The court, in determining whether an owner, keeper or harborer of such dog reasonably should know about the dog's dangerousness, shall apply such very high standard. Examples of breeds to which this standard applies include, but are not limited to, the following, to wit:

- (1) American Pit Bull Terrier;
- (2) American Staffordshire Terrier;
- (3) Argentine Dogo;

- (4) Cane Corso;
- (5) Chow;
- (6) Dogue de Bordeaux;
- (7) Doberman Pinscher;
- (8) Fila Brasileiro;
- (9) German Shepherd;
- (10) Perro de Presa Canario;
- (11) Rottweiler;
- (12) Staffordshire Bull Terrier;
- (13) Any dog, whether purebred or mix, that has the appearance and characteristics of any one of the breeds listed in subsections (1) through (12).

- (d) In the event that an animal control officer or law enforcement officer has probable cause to believe that a dog is dangerous as defined by section 6-25(a), such officer may file an affidavit with the municipal court judge, setting forth the facts upon which such officer relies to support such probable cause. Upon receipt of such affidavit, if the judge determines that the facts set forth in the affidavit are sufficient to establish such probable cause, the judge shall schedule a hearing for the purpose of determining whether or not the dog in question should be deemed dangerous as defined by section 6-25(a). The judge shall also, upon request of the city prosecutor, issue a search warrant, pursuant to Charter Ordinance No. 34, to seize the dog, and to impound the dog at the municipal animal shelter pending the determination of whether the dog is dangerous. The court shall provide notice of the hearing to any known owner, harbinger or keeper of the dog. Such notice shall be served on such owner, harbinger or keeper in the same manner as the service of a subpoena. The hearing date shall not be less than five (5) days nor more than twenty (20) days following the date of service upon the harbinger or keeper. At the hearing, the city shall have the burden, by clear and convincing evidence, to prove that the dog is dangerous pursuant to section 6-25(a) and shall present evidence to that effect. The owner, keeper or harbinger of the dog may present evidence to rebut the city's evidence. The failure of the owner, keeper or harbinger to attend or participate in the hearing shall not prevent the judge from making the appropriate determination concerning the dog. After the hearing, the owner, keeper or harbinger of the dog shall be notified in writing of the judge's determination. If a determination is made that the dog is dangerous, the owner, keeper or harbinger shall comply with the requirements of Section 6-25(b) and shall pay the costs of impoundment as set forth in section 6-53 of this Code within the time frame established by the court, which shall not be more than twenty (20) days. If the dog has been impounded pending the determination by the court, the dog shall remain impounded until the harbinger or keeper has complied with this subsection. If the keeper or harbinger fails to comply with the provisions of this article within the time frame established by the court, and the court has not granted an extension of such time, the owner, keeper or harbinger shall be deemed to have abandoned the dog and it shall become the property of the city. The city shall have the right to dispose of the dog in any manner it determines to be applicable, including the destruction of the dog. Either the city or the owner, keeper or harbinger may appeal the judge's

determination to the Riley County District Court, by filing an appeal, and posting the appropriate bond, pursuant to Article 46 of Chapter 12 of the Kansas Statutes. In the event of an appeal by the owner, keeper or harbinger of a dog impounded hereunder, the bond for such an appeal shall include an amount to insure the payment of the costs of impoundment for 30 days and such bond may be adjusted during the pendency of such appeal. The failure to post such bond, or any adjustment thereto, within a time frame established by the Court shall be deemed an abandonment of the dog by the owner, keeper or harbinger and the city shall have the right to dispose of the dog in any manner it determines to be applicable, including the destruction of the dog. If the dog is not determined to be dangerous, the court may determine whether the owner, keeper or harbinger shall pay any, or all, of the costs of impoundment, taking into consideration whether other reason(s) existed for impoundment and such other relevant factors as the court determines.

- (e) In addition to any penalties the court may prescribe for violation of this section, if the court finds, after notice to the keeper or harbinger and an opportunity for hearing, that such dangerous dog represents a continuing threat of serious harm to human beings or other domestic animals, either because the court finds that the keeper or harbinger is unlikely to comply with the provisions of this section, or because the court finds that, even with compliance with this section, the dangerous dog poses a threat to the public that is unreasonable, the court shall order such animal destroyed.
- (f) No person who has been convicted of a violation of this section shall keep or harbor a dangerous dog, nor shall such person be eligible for a dangerous dog license for a period of five (5) years following such conviction. In addition, no dangerous dog shall be kept or harbored, and no license shall be issued for any dog, if the primary location where such dog is to be kept or harbored is the residence of a person who has been convicted of a violation of this section within the previous five (5) years. Except that, if the court permits the person who has been convicted of a violation to keep or harbor his or her dangerous dog(s) existing at the time of the conviction, the person may keep and harbor such dogs and apply for or re-apply for a dangerous dog license only for those particular dog(s).

Section 6. That Section 6-30 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

Sec. 6-30. Aggressive dogs at-large.

- (a) An “aggressive dog” means any dog, while at-large, that, without provocation, exhibits aggression or combativeness toward a person or another domestic animal, whether or not the person or animal is actually attacked, bitten, or otherwise physically injured by the dog.
- (b) Any person found guilty of permitting a dog to run at large, in violation of Section 6-22, where such dog is an aggressive dog, shall be subject to a minimum fine of \$50 and such other penalties as are permitted under this Code. The court shall require such person to attend, and complete, a class in responsible dog ownership

training, offered by any individual or organization approved by the Court. Further, the court may find the dog to be dangerous and require the owner, keeper, or harbinger to comply with Section 6-25(b) before the dog is released, if the dog is impounded. In the case of a second, or subsequent, conviction of a person for this offense involving the same dog, the court shall declare the dog to be a dangerous dog, and the court shall require the person so convicted to comply with the requirements of Section 6-25(c).

- (c) Any person found guilty of permitting a dog to run at large, in violation of Section 6-22, where such dog is an aggressive dog and where such dog is of a size and breed that allows the animal to be capable of inflicting life threatening injuries upon human beings or domestic animals, as described in Section 6-25(c), shall be subject to a minimum fine of \$100 and such other penalties as are permitted under this Code. The court shall require such person to attend, and complete, a class in responsible dog ownership training, offered by any individual or organization approved by the court. In the case of a first conviction of a person for the offense of permitting an aggressive dog to run at-large, where such dog is of a size and breed that allows the animal to be capable of inflicting life threatening injuries upon human beings or domestic animals, as described in Section 6-25(c), the court shall declare the dog to be a dangerous dog, and the court shall require the person so convicted to comply with the requirements of Section 6-25(c).
- (d) If an aggressive dog has been impounded, the dog shall not be released until the owner, keeper, or harbinger has paid all fines, if applicable, and the costs of impoundment within the time frame established by the court, which shall not be more than twenty (20) days. If the owner, harbinger, or keeper fails to comply within such time frame, and the court has not granted an extension of such time, the owner, keeper or harbinger shall be deemed to have abandoned the dog and it shall become the property of the city. The city shall have the right to dispose of the dog in any manner it determines to be applicable, including the destruction of the dog. If, pursuant to subsection (b) or (c), a determination has been made that the dog is dangerous, the owner, keeper, or harbinger shall comply with the requirements of Section 6-25(b) and shall pay the costs of impoundment as set forth in section 6-53 of this Code within the time frame established by the court, which shall not be more than twenty (20) days. If the owner, harbinger, or keeper fails to comply within such time frame, and the court has not granted an extension of such time, the owner, keeper or harbinger shall be deemed to have abandoned the dog and it shall become the property of the city. The city shall have the right to dispose of the dog in any manner it determines to be applicable, including the destruction of the dog.
- (e) In any appeal, by the defendant, from any provision of this Section, if the subject animal is impounded, the bond for such appeal shall include an amount to insure the payment of the costs of impoundment for 30 days and such bond may be adjusted during the pendency of such appeal. The failure to post such bond, or any adjustment thereto, within a time frame established by the court, shall be deemed

an abandonment of the dog by the keeper or harborer and the city shall have the right to dispose of the dog in any manner it determines to be applicable, including the destruction of the dog.

- (f) Nothing contained within this section shall be deemed to prevent the prosecution of a keeper or harborer of an aggressive dog for a violation of the provisions of Section 6-25, if applicable.

Section 7. That new Section 6-31 shall be added to the Code of Ordinances of the City of Manhattan, Kansas, and shall read as follows:

Sec. 6-31. Restrictions on Tethering Dogs.

- (a) For the purposes of this chapter, “tether” or “tethering” shall mean attaching a leash, rope, chain, lead, tether or other similar apparatus or device to the body of an animal and another object for the purpose of confining the animal or limiting the movement of the animal.
- (b) It shall be unlawful to tether a dog unless the leash, rope, chain, lead, tether, or other similar apparatus, is at least ten (10) feet long, and such leash, rope, chain, lead, tether or other similar apparatus, including any assembly or attachments thereto, weighs no more than one-eighth of the dog’s body weight. Dogs shall be tethered in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles.

Section 8. That Section 6-53 of the Code of Ordinances of the City of Manhattan, Kansas, is hereby amended to read as follows:

Sec. 6-53. Redemption and impoundment fees.

An animal impounded at the animal shelter may be redeemed by the owner, keeper or harborer, or by such person's authorized agent, within the period of time set forth in section 6-52. Prior to redeeming the animal, the person so redeeming shall pay an impoundment fee of \$30.00 plus \$10.00 for each day, or part thereof, that the animal was cared for at the animal shelter. If the animal is required to have a City of Manhattan license, and does not have a current license, or if the animal does not have a current anti-rabies vaccine, the person so redeeming shall pay an impoundment fee of \$40.00 plus \$10.00 for each day that the animal was cared for at the animal shelter. If a dog has been impounded at the animal shelter for quarantine purposes, pursuant to section 6-27 of the Code, the owner, keeper and harborer shall be jointly and severally responsible to the city for an impoundment fee of \$30.00 for licensed animals, or \$40.00 for nonlicensed animals, plus \$10.00 for each day, or part thereof, that the animal was so impounded, whether or not such animal is redeemed. If the person redeeming the animal resides within the City of Manhattan, no animal shall be redeemed under any circumstances described herein until and unless it is licensed pursuant to the ordinances of the city, including the fulfillment of all requirements for such licensing and the payment of all license fees therefore. If the animal is not required to be licensed within the city, the owner may redeem the animal, but shall provide a rabies certificate that proves that the animal has a current, valid rabies vaccination within 14 days of the date of redemption.

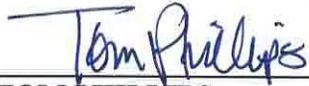
(Ord. No. 4491, § 1, 1-19-88; Ord. No. 6032, § 1, 9-15-98; Ord. No. 6058, § 1, 2-16-99;
Ord. No. 6139, § 1, 5-16-00; Ord. No. 6297, § 4, 10-1-02)

Section 9. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

PASSED AND ADOPTED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS, THIS 17TH DAY OF JULY, 2007.



CITY OF MANHATTAN, KANSAS



TOM PHILLIPS
Mayor

ATTEST



GARY S. FEES, CMC
City Clerk