

ORDINANCE NO. DAC-2959

AN ORDINANCE REGULATING ANIMALS IN THE CITY OF OVERLAND PARK, KANSAS; AMENDING AND REPEALING EXISTING OVERLAND PARK, MUNICIPAL CODE SECTIONS 6.04.050, 6.04.051, 6.08.030, 6.08.090, 6.08.100, 6.09.010, 6.09.015, 6.09.025, 6.10.040 AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR AND REPEALING EXISTING OVERLAND PARK, MUNICIPAL CODE SECTION 6.09.030.

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

**SECTION 1.** Overland Park Municipal Code Section 6.04.050 Number of Dogs and Cats Permitted; permits, is hereby amended to read as follows:

**6.04.050 Number of Dogs and Cats Permitted; permits.**

Except as otherwise provided in Section 6.04.051, the owning, keeping or harboring of up to two dogs and up to two cats upon any premises or property, or in any dwelling or living quarters of any type within the City is permitted, provided:

1. Any person who desires to own, keep, or harbor more than two dogs or more than two cats may apply to the City Clerk for a "special animal permit" that shall upon issuance permit the applicant to own, keep or harbor the animals specifically allowed in that permit.
  - A. All applicants must adequately show that special circumstances exist that justify the keeping of the subject animals, and that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to, the following:
    - 1) That the animals will be kept or maintained at all times in a safe and sanitary manner.
    - 2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.
    - 3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.
    - 4) That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

- 5) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.
  - 6) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.
  - 7) That the animals will not repeatedly run or be found at large, will not damage or deposit excretory matter upon the property of anyone other than their owner, and will not chase vehicles or molest or intimidate pedestrians or passersby.
  - 8) That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.
  - 9) That the applicant, or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.
- B. The City Clerk shall deny any application where the applicant fails to show proof of the aforementioned requirements or an examination of the documentation submitted by the applicant, or an investigation, by the animal control division of the police department, or both, reveals that in the opinion of the animal control division the applicant has failed to meet the requirements of this ~~s~~Section. Any application for up to four (4) dogs or four (4) cats, or three (3) dogs and one (1) cat or three (3) cats and one (1) dog, shall be required to show proof of meeting the required standards by clear and convincing evidence. Any application for more than four (4) dogs or four (4) cats, or any combination thereof in excess of four (4), shall be required to show proof of meeting the required standards beyond

a reasonable doubt. The animal control division shall submit a written report of its investigation stating the factual basis for its recommendation to grant or deny any application. The animal control division shall consider the comments of neighbors, past violations by applicant, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant, the burden of proof and the criteria set forth in this sSection, or any other factors relative to the issue of keeping additional animals. The City Clerk shall establish an application process to be followed by all individuals seeking a "special animal permit." The permit shall be issued for the period from January 1st through December 31st of each year. The fee for such special animal permit shall be \$100 the first year and \$50 for each renewal year. All fees shall be nonrefundable and nontransferable. The "special animal permit" shall be issued for the individual animals listed in the application and shall not be transferable to other animals. Should an animal subject to the permit be replaced, a new application, permit, and \$100 permit fee shall be required. The fact an individual has previously been issued a special animal permit may be considered but shall not be controlling in the City Clerk's decision to issue a special animal permit for a different animal.

2. Any applicant who had more than two cats or more than two dogs prior to annexation of their property by the City, other than the annexation accomplished effective May 8, 2002, by Ordinance No. A-2367 or the annexation accomplished by Ordinance No. A-2719, shall be permitted to keep but not replace said animals until their number equals no more than two dogs and no more than two cats. Any such applicant shall be required to apply for a special animal permit but shall not be required to pay the initial \$100 application fee, however they shall thereafter be required to pay a yearly renewal fee of \$50, provided that nothing in this sSection shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this eChapter.
3. The City Clerk may issue an "animal breeder permit" to any person who keeps dogs or cats for breeding or selling on a commercial basis within the City. The applicant must be in conformity with the City zoning ordinances and state laws, not have been convicted of violating the cruelty or animal welfare laws of this or any other jurisdiction, and make a satisfactory showing that the area for housing the animals will provide a humane standard of care and will not constitute a nuisance to the surrounding neighborhood. The fee for such an animal breeder permit shall be as follows: 1 - 2 litters per year - no license required; 3 or more litters per year, animal pounds and pet stores - \$100 per year, due on or before February 1st, provided all animals owned, kept or harbored pursuant to this paragraph, that are six months of age or older must be licensed in accordance with this eChapter. In addition, no more than one "animal breeder permit" shall be issued per

household or premises.

4. The City Clerk may issue an animal foster home permit to any person who keeps dogs or cats within the City on a temporary or indeterminate basis in conjunction with a licensed, sponsoring animal shelter. The applicant must be in conformity with the City zoning ordinances and state laws, not have been convicted of violating the cruelty or animal welfare laws of this or any other jurisdiction, and make a satisfactory showing that the area for housing the animals will provide a humane standard of care and will not constitute a nuisance to the surrounding neighborhood. Applicants for an animal foster home permit must file with their application a copy of their state Application for Foster Home Shelter License, and are limited to having no more than four dogs, cats, or any combination thereof in their residence at any time during the license year. The fee for such an animal foster home permit shall be \$100 per year, due on or before February 1<sup>st</sup> of each year. All animals owned, kept or harbored pursuant to this paragraph, that are six months of age or older must be licensed in accordance with this Chapter if they have resided at the animal foster home shelter for more than 30 days. Foster home shelter permittees must keep a written log showing the name, description, arrival date and departure date of any fostered animals. In addition, no more than one animal foster home permit shall be issued per household or premises.
45. The permits described in this ~~s~~Section may be revoked by the City Clerk upon a showing that the animal's place of keeping constitutes a nuisance to the surrounding neighbors, that humane standards of care are not being met by the permittee, or that a violation of City zoning regulations has occurred, or that the permittee had provided false information in their application.
56. "Nuisance" shall be defined as any act which is unreasonably annoying or vexatious to another or substantially interferes with the rights of others and shall include, but not be limited to, obnoxious odors, excessive noise, and creation of an environment attractive to other animals or insects. More than three substantiated violations of this title within a twelve-month period will automatically constitute a nuisance.
67. "Humane standards of care" shall be defined to include, but not be limited to, accessibility of the animal to food and water, proper medical attention, proper shelter from the elements, and cleanliness in animal waste areas with regular waste removal.
78. "Special circumstances" shall be defined as any unusual, extraordinary and exceptional situation or condition whereby the strict application of the numerical limits set forth in this ~~s~~Section would be contrary to the intent, purposes and objectives of such limitations and would be contrary to the public interest and welfare.
89. The provisions of this ~~s~~Section 6.04.050 shall not be applicable to service animals. For the purposes of this ~~s~~Section, service animals shall be animals providing the services specified in K.S.A. 39-1103 et seq.

**SECTION 2.** Overland Park Municipal Code Section 6.04.051 Number of dogs and cats permitted on properties annexed by Ordinance No. A-2367 or Ordinance No. A-2719; permits, is hereby amended to read as follows:

**6.04.051 Number of dogs and cats permitted on properties annexed by Ordinance No. A-2367 or Ordinance No. A-2719; permits.**

The owning, keeping or harboring of dogs and cats upon any premises or property, or in any dwelling or living quarters of any type within that portion of the City annexed by either Ordinance No. A-2367 or Ordinance No. A-2719 shall be permitted as follows for so long as the property bears a county zoning designation. On any tract smaller than 20 acres, an aggregate total of four adult cats or dogs, more than one year old, may be kept, boarded, bred or trained, whether or not for commercial gain or as pets. On any tract 20 acres or larger, an aggregate total of seven adult cats or dogs, more than one year old, may be kept, boarded, bred or trained, whether or not for commercial gain or as pets. Provided:

1. Any person who desires to own, keep, or harbor more than the number of dogs or cats permitted above may apply to the City Clerk for a "special animal permit" that shall upon issuance permit the applicant to own, keep or harbor the animals specifically allowed in that permit.
  - A. All applicants must adequately show that special circumstances exist that justify the keeping of the subject animals, and that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all applicable City zoning requirements. The criteria to be evaluated include, without being limited to, the following:
    - 1) That the animals will be kept or maintained at all times in a safe and sanitary manner.
    - 2) That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.
    - 3) That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.
    - 4) That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

- 5) That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.
- 6) That the animals will not unreasonably annoy humans, endanger the life, health or safety of other animals or persons or substantially interfere with the rights of citizens to the enjoyment of life or property.
- 7) That the animals will not repeatedly run or be found at large, will not damage or deposit excretory matter upon the property of anyone other than their owner, and will not chase vehicles or molest or intimidate pedestrians or passersby.
- 8) That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping.
- 9) That the applicant, or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.

B. The City Clerk shall deny any application where the applicant fails to show proof of the aforementioned requirements or an examination of the documentation submitted by the applicant, or an investigation, by the animal control division of the police department, or both, reveals that in the opinion of the animal control division the applicant has failed to meet the requirements of this ~~s~~Section. Any application shall be required to show proof of meeting the required standards beyond a reasonable doubt. The animal control division shall submit a written report of its investigation stating the factual basis for its recommendation to grant or deny any application. The animal control division shall consider the comments of neighbors, past violations by applicant, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant, the burden of proof and the criteria set forth

in this sSection, or any other factors relative to the issue of keeping additional animals.

C. The City Clerk shall establish an application process to be followed by all individuals seeking a "special animal permit." The permit shall be issued for the period from January 1st through December 31st of each year. The fee for such special animal permit shall be \$100 the first year and \$50 for each renewal year. All fees shall be nonrefundable and nontransferable. The "special animal permit" shall be issued for the individual animals listed in the application and shall not be transferable to other animals. Should an animal subject to the permit be replaced, a new application, permit, and \$100 permit fee shall be required. The fact an individual has previously been issued a special animal permit may be considered but shall not be controlling in the City Clerk's decision to issue a special animal permit for a different animal. Nothing in this sSection shall exempt or except any applicant or any other person from the registration, vaccination or any other requirement of this eChapter.

2. The City Clerk may issue an "animal breeder permit" to any person who keeps dogs or cats for breeding or selling on a commercial basis within the City. The applicant must be in conformity with the City or County zoning ordinances and state laws, as applicable, not have been convicted of violating the cruelty or animal welfare laws of this or any other jurisdiction, and make a satisfactory showing that the area for housing the animals will provide a humane standard of care and will not constitute a nuisance to the surrounding neighborhood. The fee for such an animal breeder permit shall be as follows: 1 - 2 litters per year - no license required; 3 or more litters per year, animal pounds and pet stores - \$100 per year, due on or before February 1st, provided all animals owned, kept or harbored pursuant to this paragraph, that are six months of age or older must be licensed in accordance with this eChapter. In addition, no more than one "animal breeder permit" shall be issued per household or premises.

3. The City Clerk may issue an animal foster home permit to any person who keeps dogs or cats within the City on a temporary or indeterminate basis in conjunction with a licensed, sponsoring animal shelter. The applicant must be in conformity with the City zoning ordinances and state laws, not have been convicted of violating the cruelty or animal welfare laws of this or any other jurisdiction, and make a satisfactory showing that the area for housing the animals will provide a humane standard of care and will not constitute a nuisance to the surrounding neighborhood. Applicants for an animal foster home permit must file with their application a copy of their state Application for Foster Home Shelter License, and are limited to having no more than four dogs, cats, or any combination thereof in their residence at any time during the license year. The fee for such an animal foster home permit shall be \$100 per year, due on or before February 1<sup>st</sup>

of each year. All animals owned, kept or harbored pursuant to this paragraph, that are six months of age or older must be licensed in accordance with this Chapter if they have resided at the animal foster home for more than 30 days. Foster home permittees must keep a written log showing the name, description, arrival date and departure date of any fostered animals. In addition, no more than one animal foster home shelter permit shall be issued per household or premises.

34. ~~Any "special animal permit" or "animal breeder permit"~~The permits described in this Section may be revoked by the City Clerk upon a showing that the animal's place of keeping constitutes a nuisance to the surrounding neighbors, that humane standards of care are not being met by the permittee, or that a violation of any applicable zoning regulations has occurred, or that the permittee has provided false information in his/her application.
45. The terms "nuisance," "humane standards of care" and "special circumstances" shall have the meanings set forth in Section 6.04.050.
56. Any person who, prior to annexation into the City, had obtained a conditional use permit from Johnson County for a kennel, shall be allowed to keep dogs and cats in greater numbers than set forth above in accordance with the terms of such conditional use permit. Provided, however, that any such person may apply for a "special animal permit" as set forth above.
67. The provisions of this ~~s~~sSection 6.04.051 shall not be applicable to service animals. For the purposes of this ~~s~~sSection, service animals shall be animals providing the services specified in K.S.A. 39-1103 et seq.

**SECTION 3.** Overland Park Municipal Code Section 6.08.030 Seizure, is hereby amended to read as follows:

**6.08.030 Seizure.**

When a law enforcement officer or Animal Control Officer detects an animal in violation of 6.08.020 and 6.08.025, the officer shall make a reasonable attempt to determine, when possible, the owner of such animal. If the owner can be determined, such animal may still be seized and impounded in the discretion of the officer.

**SECTION 4.** Overland Park Municipal Code Section 6.08.090 Rabies Impoundment Procedures, is hereby amended to read as follows:

**6.08.090 Rabies Impoundment Procedures.**

Except as provided in 6.08.130, a dog, cat, or ferret which bites, scratches, or otherwise causes an abrasion that breaks the skin of a person shall immediately be quarantined at the owner's expense by City personnel with a City authorized impounding agent or a licensed veterinarian,



for a period of ten days. 1) If the owner is known and is present or is available to make arrangements, and the injury occurs during regular office hours, the animal will be impounded with a veterinarian of the owner's choice whose place of business is in Johnson County, Kansas, for a period of ten days. 2) If the injury occurs after normal business hours, and the owner is unable or unavailable to make arrangements for impounding of the animal, the animal will be impounded at a City authorized impounding agent until the next business day at which time the owner must make arrangements for the animal to be transferred to the facility of a licensed veterinarian whose place of business is in Johnson County, Kansas, for the remainder of the confinement period. The total period of confinement of the animal is to be for a period of not less than ten days from the date of the actual bite, scratch or abrasion. Any animal quarantined at the City's impound agent shall be transferred to a licensed veterinarian whose place of business is located within Johnson County, Kansas, no later than the next business day upon payment of all fees. [Procedures related to the isolation of mammals other than dogs, cats and ferrets causing exposure to rabies for observation and procedures related to mammals exposed to rabies shall be in accordance with Kansas Administrative Regulations 28-1-13 and 28-1-14, or as otherwise directed by a county, state or federal health official with jurisdiction and knowledge of the same.](#)

**SECTION 5.** Overland Park Municipal Code Section 6.08.100 Notice of Impoundment of Biting Animal to Chief Animal Control Officer, is hereby amended to read as follows:

**6.08.100 Notice of Impoundment of Biting Animal to Chief Animal Control Officer.**

In all cases of impoundment under this Section, the veterinarian or City-authorized impounding agent with whom the dog, cat, ~~or ferret~~ [or other mammal](#) is impounded, shall give immediate written notice to the Chief Animal Control Officer that such animal has been confined and will be confined not less than 10 days nor more than 12 days.

**SECTION 6.** Overland Park Municipal Code Section 6.09.010 Cruelty to Animals, is hereby amended to read as follows:

**6.09.010 Cruelty to Animals.**

1. "Cruelty to animals" is:
  - A. Intentionally and Maliciously killing, injuring, maiming, torturing, burning or mutilating any Animal. A violation of this provision is a felony which must be charged in the District Court pursuant to K.S.A. 21-[43106412\(ab\)](#)(1);
  - B. intentionally abandoning or leaving any Animal in any place without making provisions for its proper care;
  - C. having physical custody of any Animal and intentionally failing 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. intentionally using a wire, pole, stick, rope or any other object to cause an Equine to lose its balance or fall, for the purpose of sport or entertainment;
- E. intentionally causing any physical injury other than the felony violations set forth in paragraph 1A above; ~~or~~
- F. molesting, willingly beating with a stick, chain, club or other object, burn or scald with any substance(s), administering any poisonous substance with the intent that the same shall be taken or swallowed, cruelly ill-treating, overworking or overloading, or disfiguring any Animals in the City; whether or not such Animal is owned by that person; ~~;~~
- G. administering any poison to a domestic animal; ~~or~~
- H. exposing any poisonous substance with the intent that the same shall be taken or swallowed by any domestic animal.

This Section shall not apply to any person legally exposing poison upon their premises for the purpose of destroying coyotes or other predatory animals.

2. The provisions of this Section shall not apply to:

- A. Normal or accepted veterinary practices;
- B. bona fide experiments carried on by 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 an 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 the agent of such Owner residing outside of a City or the Owner thereof within a City if no Animal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the Owner thereof, or by any officer or agent of any incorporated humane society, the operator of an Animal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such Animal at such society, shelter or

pound;

- F. with respect to farm Animals, normal or accepted practices of Animal husbandry, including the normal and accepted practices for the slaughter of such Animals for food or by-products and the careful or thrifty management of one's herd or Animals, including Animal care practices common in the industry or region;
  - G. the killing of any Animal by any person at any time which may be found outside of the owned or rented property of the Owner or custodian of such Animal and which is found injuring or posing an immediate threat to any person, farm or domestic Animal ~~or property~~;
  - H. an Animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the Animal, when such Animal is vicious or could not be captured after reasonable attempts using other methods;
  - I. laying an Equine down for medical or identification purposes;
  - J. normal or accepted practices of pest control, as defined in subsection (x) of K.S.A. 2-2438a, and amendments thereto; or
  - K. accepted practices of Animal husbandry pursuant to regulations promulgated by the United States Department of Agriculture for domestic pet Animals under the Animal Welfare Act, public law 89-544, as amended and in effect on July 1, 2006.
3. As used in this Section:
- A. "Animal" shall have the meaning ascribed to it in K.S.A. 21-~~4313~~6411, and amendments thereto.
  - B. "Equine" means a horse, pony, mule, jenny, donkey, or hinny.
  - C. "Maliciously" means a state of mind characterized by actual evilmindedness or specific intent to do a harmful act without a reasonable justification or excuse.
4. The first conviction of cruelty to Animals as described in this Section should be punished pursuant to O.P.M.C. Section 6.16.020.
5. The second or subsequent conviction of cruelty to Animals as described in this Section is a non-person felony, that must be charged in the District Court pursuant to K.S.A.

21-~~43106412~~(~~ab~~)(~~2~~)-(52)(B).

**SECTION 7.** Overland Park Municipal Code Section 6.09.015 Illegal Ownership or Keeping of an Animal, is hereby amended to read as follows:

**6.09.015 Illegal Ownership or Keeping of an Animal.**

Illegal ownership or keeping of an animal is owning or keeping on one's premises an animal by a person convicted of unlawful conduct of dog fighting under K.S.A. 21-~~4315-6414~~ and amendments thereto, ~~or~~ cruelty to animals as defined in subsection (a)(1) of K.S.A. 21-~~43106412~~, and amendments thereto or cruelty to animals as defined in O.P.M.C. Section 6.09.010A, within five years of the date of such conviction. Every person convicted of violating this ~~s~~Section shall be imprisoned for not more than six months or fined not to exceed \$1,000, or both such fine and imprisonment.

**SECTION 8.** Overland Park Municipal Code Section 6.09.025 Abuse and Neglect of Animals, is hereby amended to read as follows:

**6.09.025 Abuse and Neglect of Animals.**

A. No owner, keeper or harbinger of an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that an owner must offer some freedom from continuous chaining, stabling and tethering. ~~All restraints placed on an animal must be such that it prevents the animal from being tangled or injured by the restraint.~~ The area where animals are kept must also be kept free from unsanitary conditions and vermin-harboring debris.

B. Tethering. For the purposes of this Section, "tethering" is the use of a chain, leash, tie, tether, rope or other device to restrain any animal to an inanimate object. It shall be unlawful to tether any animal in a manner that is inhumane, cruel, or detrimental to its welfare.

In addition to the above general requirements, the tethering of a dog shall be subject to the following conditions:

a. Dogs shall not be tethered outside except between the hours of 7:00 a.m. and 7:00 p.m.

b. Any device used for the purpose of tethering a dog shall provide the dog at least ten feet in which to run.

- c. Any device used for the purpose of tethering a dog shall not be of a weight that inhibits the free movement of the dog within the area tethered.
- d. 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.
- e. It is unlawful to attach chains or other tether restraint implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and all such tethering devices shall be made from a material that prevents injury to the animal.

~~B.~~—No person shall offer to give or give a live animal as a prize or as a business inducement or any other form of gratuity.

**SECTION 9.** Overland Park Municipal Code Section 6.10.040 Exemptions, is hereby amended to read as follows:

**6.10.040 Exemptions.**

The provisions of this ~~C~~chapter shall not apply to the transportation of such animals through this City ~~, when such transporter has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof.~~ Also, the provision of this Chapter shall not apply to the keeping of a service dog to accommodate an individual with a disability recognized by the Americans with Disabilities Act (ADA), provided the owner keeper or harborer of the dog can provide reliable verification of the training and use of the dog as a service dog. Provided, subject to the reasonable accommodations provisions of the ADA, all such dogs must be registered with the City as a dangerous animal and kept in accordance with the Ordinance requirement for the keeping of pit bull dogs.

**SECTION 10.** Overland Park Municipal Code Section 6.09.030 Abuse and Neglect of Animals, is hereby repealed.

~~**6.09.030 Injury to a Domestic Animal.**~~

~~"Injury to a domestic animal" is willfully and maliciously:~~

- ~~A. Administering any poison to any domestic animal;~~
- ~~B. Exposing any poisonous substance with the intent that the same shall be taken or swallowed by any domestic animal; or~~
- ~~C. Killing, maiming, or wounding any domestic animal.~~

~~This section shall not apply to any person exposing poison upon their premises for the purpose of destroying wolves, coyotes, or other predatory animals, nor shall it apply to any licensed~~

~~veterinarian who administers any such substance in the practice of veterinary medicine in accordance with the standards of the veterinarian profession.~~

**SECTION 11.** Existing Overland Park Municipal Code Sections 6.04.050, 6.04.051, 6.08.030, 6.08.090, 6.08.100, 6.09.010, 6.09.015, 6.09.025 and 6.10.040 are hereby repealed.

**SECTION 12.** This ordinance shall take effect and be in force from and after its publication in an official City newspaper.

PASSED by the City Council this \_\_\_\_\_ day of June, 2012.

APPROVED by the Mayor this \_\_\_\_\_ day of June, 2012.

\_\_\_\_\_  
Carl Gerlach, Mayor

ATTEST:

\_\_\_\_\_  
Marian Cook, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael R. Santos  
City Attorney