

ORDINANCE NO. DAC-2864

AN ORDINANCE RELATING TO CRUELTY TO ANIMALS IN THE CITY OF OVERLAND PARK, KANSAS; AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTION 6.09.010.

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

SECTION 1. Overland Park Municipal Code Section 6.09.010 is hereby amended to read as follows:

6.09.010 Cruelty to animals.

~~"Cruelty to animals" is:~~

1. "Cruelty to animals" is:

- A. Intentionally and ~~m~~Maliciously killing, injuring, maiming, torturing, burning or mutilating any ~~a~~Animal. A violation of this provision is a felony which must be charged in the District Court pursuant to K.S.A. 21-4310(a)(1);~~;~~
- B. ~~I~~Intentionally abandoning or leaving any ~~a~~Animal in any place without making provisions for its proper care;
- C. having physical custody of any ~~a~~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 ~~a~~Animal;
- D. intentionally using a wire, pole, stick, rope or any other object to cause an ~~e~~Equine to lose its balance or fall, for the purpose of sport or entertainment; ~~or~~
- 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.

2. The provisions of this ~~s~~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 aAnimal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
- D. rodeo practices accepted by the Rodeo Cowboys' Association;
- E. the humane killing of an aAnimal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of aAnimals for population control, by the eOwner thereof or the agent of such eOwner residing outside of a City or the eOwner thereof within a City if no aAnimal shelter, pound or licensed veterinarian is within the City, or by a licensed veterinarian at the request of the eOwner thereof, or by any officer or agent of any incorporated humane society, the operator of an aAnimal shelter or pound, a local or state health officer or a licensed veterinarian three business days following the receipt of any such aAnimal at such society, shelter or pound;
- F. with respect to farm aAnimals, normal or accepted practices of aAnimal husbandry, including the normal and accepted practices for the slaughter of such aAnimals for food or by-products and the careful or thrifty management of one's herd or aAnimals, including aAnimal care practices common in the industry or region;
- G. the killing of any aAnimal by any person at any time which may be found outside of the owned or rented property of the eOwner or custodian of such aAnimal and which is found injuring or posing an immediate threat to any person, farm or domestic aAnimal or property;
- H. an aAnimal 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 aAnimal, when such aAnimal is vicious or could not be captured after reasonable attempts using other methods;
- I. laying an eEquine 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 aAnimal husbandry pursuant to regulations promulgated by the United States Department of Agriculture for domestic pet aAnimals under the Animal Welfare Act, public law 89-544, as amended and in effect on July 1, 2006.

3. As used in this sSection:
 - A. "Animal" shall have the meaning ascribed to it in K.S.A. 21-4313, 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 aAnimals as described in this sSection should be punished pursuant to O.P.M.C. Section 6.16.020.
5. The second or subsequent conviction of cruelty to aAnimals as described in this sSection is a non-person felony, that must be charged in the District Court pursuant to K.S.A. 21-4310(a)(2)-(5).

SECTION 2. Existing Overland Park Municipal Code Section 6.09.010 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in from and after its publication in an official City newspaper.

PASSED by the City Council this ____ day of _____, 2010.

APPROVED by the Mayor this ____ day of _____, 2010.

Carl Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

John J. Knoll
Senior Assistant City Attorney