

## Ordinance 2051

AN ORDINANCE AMENDING THE DOG CODE OF THE CITY OF PLEASANTON, KANSAS BY CHANGING, ADDING AND REMOVING CERTAIN LANGUAGE.

Whereas, the City of Pleasanton, Kansas, has implemented certain regulations regarding dogs; and

Whereas, the City Council, having reviewed and discussed said proposed amendments and having become fully advised in the premises, determined to approve said amendments;

NOW THEREFORE IT IS ORDAINED BY THE GOVERNING BODY OF THE CITY OF PLEASANTON, KANSAS:

### SECTION 1:

Article 2-208 shall be repealed and replaced with the following language.

#### **2-208. Dangerous Dogs**

##### A. Definitions

- (1) Any dog with a known propensity, tendency or disposition to attack, to cause injury, or otherwise threaten the safety of human beings or domestic animals; or
- (2) Any dog which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places; or on private property; or
- (3) Any dog which attacks or bites, or has attacked or bitten a human being or domestic animal; or
- (4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
- (5) Notwithstanding the definition of a dangerous dog above in paragraphs (1) through (4) above:
  - (a) No dog may be declared dangerous if any injury or damage is sustained by a person or animal who at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.
  - (b) No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

- (c) No dog may be declared dangerous if the injury or damage was sustained by a rabbit, bird or fowl that was not in a fenced or enclosed area on its owner's premises.
- (d) Nothing in this article shall be deemed to regulate or prohibit the lawful maintenance of dogs by law enforcement agencies.

**2-208a. Procedure for determination of a dangerous dog.**

(A) 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 2-220 A above, the municipal judge shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared dangerous as defined by Section 2-220A. The animal control officer or law enforcement officer may order the dog to be impounded at the municipal pound, a licensed veterinary clinic or duly incorporated humane society pending the determination of whether the dog is dangerous. The owner or keeper of the dog shall be liable for the costs of keeping such dog.

- (1) Dogs seized in connection with dog fighting or that have caused a severe or fatal injury to a human shall be housed in a secure enclosure with proper exercise and care and held as evidence in the case until the conclusion of the case and order from the court on the disposition of the dogs. Disposition and release of dogs is determined in accordance to K.S.A. 21-4311 and 21-4316 and any amendments thereto.

(B) The animal control officer or law enforcement officer shall notify the owner or keeper of the dog that the hearing will be held in municipal court, at which time evidence will be presented that the dog is dangerous and at which time the owner or keeper of the dog may present evidence to rebut evidence presented by the City and present such other evidence as may be relevant.

- (1) In making a determination, the municipal judge shall consider the following:
  - (a) The seriousness of the attack or bite;
  - (b) Past history of attacks or bites;
  - (c) Likelihood of attacks or bites in the future;
  - (d) The condition and circumstances under which the animal is kept or confined;
  - (e) Other factors which may reasonably relate to the determination of whether or not the animal is vicious.
- (2) The failure of the owner or keeper to attend or participate in the hearing shall not keep the judge from making the appropriate determination concerning the dog. The hearing shall be held promptly within no less than five (5) nor more than twenty (20) days after service of notice upon the owner or keeper of the dog. The City shall have the burden of proof to show that the dog is dangerous pursuant to the dangerous dog code.

(C) If a determination is made at the hearing that the dog is dangerous, the owner or keeper shall comply with the provisions of this Article within fifteen (15) days. If the owner fails to comply with the provisions of this Article within the time provided, the dog shall be destroyed. If the owner or keeper of the dog contests the determination, he or she may appeal within ten (10) days to the district court pursuant to law.

(D) It shall be an affirmative defense to charges issued under this article that the dog was provoked, teased, injured and was protecting itself, its owner, its offspring or another human being.

**2-208b Control of dangerous dog; registration and confinement.**

(A) If the municipal court judge determines that a dog is dangerous pursuant to this Article, the owner or keeper of the dangerous dog shall be required to comply with the following:

- (1) **Registration.** The owner or keeper shall annually register the dangerous dog with the City, on such forms designated by the City Clerk, and shall have a microchip inserted into the dog by a licensed veterinarian or a duly incorporated humane society. The microchip shall detail the dangerous dog registration and such other information as may be appropriate to determine the ownership of the dog. The owner or keeper shall pay an annual registration fee to be established by the city council in the annual fee resolution and shall pay all costs associated with the microchip procedure and registration of the dog. The owner or keeper shall be responsible for maintaining with the City Clerk the address of the owner or keeper and the dangerous dog. The owner or keeper shall notify the City Clerk within seven (7) days of a change in address for the owner or keeper and dangerous dog.
- (2) **Confinement.** All dangerous dogs shall be confined in a secure enclosure. It shall be unlawful for any owner or keeper to maintain a dangerous dog upon any premises that does not have a locked enclosure. It shall be unlawful for any owner or keeper to allow a dangerous dog to be outside of the dwelling of the owner or keeper or outside of a secure enclosure unless it is necessary for the owner or keeper to obtain veterinary care for the dangerous dog or for the limited purposes of allowing said dangerous dog to urinate or defecate or to sell or give away the dangerous dog or respond to such orders of law enforcement officials as may be required.
  - (a) In such event, the dangerous dog shall be securely muzzled and restrained with a leash not exceeding four (4) feet in length, and shall be under the direct control and supervision of the owner or keeper of the dangerous dog. The muzzle shall be made and used in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.
- (3) **Sterilization.** The owner shall pay for a licensed veterinarian to spay or neuter the dangerous dog before it will be released to the owner.
- (4) **Signs.** The owner of a dangerous dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.
- (5) **Insurance.** No dangerous dog shall be licensed by the city for any licensing period unless the owner or keeper of such dangerous dog shall present to the city clerk proof that the owner or keeper has procured liability insurance in the amount of at least \$100,000, covering any damage or injury which may be caused by such dangerous dog during the 12-month period for which licensing is sought.
  - (a) Such policy shall contain a provision requiring the city to be named as additional insured for the sole purpose of the city to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

- (b) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the 12-month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the dangerous dog prior to expiration of such license.

**2-208c. Violation of requirements for dangerous dog.**

(A) It shall be unlawful for any person to violate the provisions of this Article. Any person found guilty of violating the provisions of this Article shall be assessed, fined, and the animal disposed of, as provided below:

- (1) **At-Large.** Any dangerous dog that is not confined or registered as required pursuant to this Article shall be impounded by an animal control officer or a law enforcement officer. In addition to all costs for impoundment, the owner or keeper shall pay a Two Hundred Fifty Dollar (\$250.00) fine and may require the owner to provide a secure six-sided enclosure before the dog may be returned. For a second offense within twenty-four (24) months, in which the dog is not confined or registered as required pursuant to this Section, in addition to all costs for impoundment, the owner or keeper shall pay a Five Hundred (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a ten (10) day waiting period, exclusive of Sundays and holidays, shall dispose of the dog in a manner to be determined by the animal control officer. The judge shall have no authority to suspend the fine or any portion thereof.
- (2) **Attack on Human.** If any dangerous dog shall attack, assault, wound, bite, or otherwise injure or kill, or assist in such injury or killing, a human being, the owner or keeper shall pay a Five Hundred Dollar (\$500.00) fine and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a ten (10) day waiting period, exclusive of Sundays and holidays, shall humanely euthanize said dog. The judge shall have no authority to suspend the fine or any portion thereof.
- (3) **Attack on Other Animal.** If any dangerous dog shall kill or wound, or assist in killing or wounding, any animal, the owner or keeper shall pay a Two Hundred Fifty Dollar (\$250.00) fine, and the animal control officer or law enforcement officer is empowered to impound the dog, and after the expiration of a ten (10) day waiting period, exclusive of Sundays and holidays, shall destroy said dog. The judge shall have no authority to suspend the fine or any portion thereof.

(B) If the owner or keeper of a dog impounded pursuant to this Section shall believe that there shall not have been a violation of the provisions of this Section, such owner may petition the Municipal Court, on forms approved by the Municipal Judge, petitioning that the impounded dog not be destroyed. The impounded dog shall not be destroyed pending the resolution of such owner's petition if the petition shall have been filed within five (5) days of impoundment of such dog and notice shall have been delivered within five (5) days of the impoundment of such dog. The dog shall remain impounded pending the determination of the petition. If the court shall find that there shall not have been a violation, such dog shall be released to the custody of the owner upon the payment of the expenses by the owner or keeper.

(C) In addition to the fines provided in this Section 2-225, the Municipal Judge shall have the authority to sentence the person adjudicated guilty of this Article to serve up to a maximum of six (6) months in jail. The judge shall also have the authority to restrict the owner from keeping dogs on the property for a period of not less than 6 months.


(D) Nothing in this Article shall be construed to limit the Municipal Judge's authority to impose other fees or fines appropriate with other provisions of this chapter or the city code.

SECTION 2:

Article 2, Section 220 is hereby repealed in its entirety;

The amendments included herein shall become effective and shall be integrated into the Code of the City of Pleasanton, Kansas, upon the approval of this Ordinance, the publication of a summary hereof in the official newspaper of the City, and the publication of the entire ordinance for at least one week on the official City web site, \_\_\_\_\_.

ORDAINED THIS 30<sup>th</sup> DAY OF May, 2023.

  
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MAYOR PLEASANTON  
AFFEST  
Seal  
Becky Bergwald  
\_\_\_\_\_  
CITY CLERK  
COUNTY KANSAS