

(Published in the Garden City Telegram this 15 day of September, 2014.)

ORDINANCE NO. 412

AN ORDINANCE DEFINING VICIOUS DOGS AND PENALTIES FOR THE SAME IN THE CITY OF SUBLETTE, KANSAS.

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

SECTION 1. INTENT: The City is passing this ordinance in order to identify and if necessary destroy dogs located within the city limits of Sublette Kansas in order to better safeguard its citizens against dog attacks.

SECTION 2. VICIOUS DOG; DEFINITIONS; REQUIREMENTS:

- a.) The law enforcement agency in conjunction with the city employees of Sublette, Kansas shall investigate each case of any animal reported as being vicious and, if probable cause exists to believe the animal is vicious, shall seize and impound such animal unless the owner agrees to impound the animal at the owner's expense at any veterinarian until the conclusion of any pending municipal court charge regarding the animal. Impoundment expenses shall be assessed as court costs against a convicted owner.
- b.) The owner shall report immediately to the city clerk and law enforcement any animal, which has actually bitten or scratched any person, regardless of the circumstances involved.
- c.) For purposes of this ordinance the term vicious animal shall mean any animal which inflicts unprovoked injury or poses an imminent threat of unjustified, serious aggression toward people or other animals.

SECTION 3. ACTS PROHIBITED:

- a.) It is unlawful for any owner, harborer, keeper or possessor who keeps any animal within the city limits to allow the following, and the same are declared to be public nuisances and prohibited:
  - (1) To permit such animal to attack or bite any person or animal that is not upon the premises of the owner, harborer, keeper or possessor.
  - (2) To permit such animal to attack or bite any person or animal that is upon the premises of the residence of such owner, harborer, keeper or possessor. It shall be an affirmative defense to this subsection (a)(2) that the use of such animal to attack or bite any person was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, criminal trespass or theft upon such property.
  - (3) To permit such animal kept by such owner, harborer, keeper or possessor within or upon the premises of any business establishment to attack or bite any person or animal upon such premises. It is an affirmative defense to this subsection (a)(3) that the use of such animal to attack or bite any person was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, criminal trespass or theft upon such property.
- b.) Exceptions. The provisions of subsection (a) shall not apply to any law enforcement officer who uses or employs an animal while engaged in law enforcement activities, nor to any owner, harborer, keeper or possessor of any animal which attacks or bites a person engaged in physically attacking or striking such owner, harborer, keeper or possessor.

SECTION 4. COMPLAINT; NOTICE TO APPEAR; IMPOUNDMENT; PENALTIES.

- a.) Any person who witnesses or has other personal knowledge that an act made unlawful by the provisions of this section has been committed in violation of such provisions may sign a complaint against the alleged violator.
- b.) Any police officer, reserve police officer or animal control officer of the city is authorized to issue a uniform complaint and notice to appear to any person when such officer personally

observes a violation of the provisions of this section or when information is received from any person who has personal knowledge that an act or acts which are made unlawful by the provisions of this section have occurred.

c.) Impoundment of Vicious Animal.

In the event it appears to law enforcement that such animal is a vicious animal then such law enforcement officer shall seize said animal and it shall be kept at the city pound until proper safeguards can be put into place to ensure the public safety or the owner is found not guilty of the offense. Impoundment fees shall be paid by the owner of the dog and assessed either through the City Clerk against the owner prior to the dog's release if applicable or assessed by the court.

d.) Penalties

(1) Upon a first conviction of a violation of this section, a person shall be fined not less than \$250.00 nor more than \$500.00. On a second or subsequent conviction of a violation of this section within seven years of the most recent conviction, a person shall be sentenced to not less than five days' imprisonment nor more than 30 days' imprisonment, and shall be fined not less than \$350.00 nor more than \$500.00. The person convicted must serve at least five days' imprisonment and pay at least \$350.00 before the person is granted suspension or reduction of sentence.

SECTION 5. DESTRUCTION OF ANIMAL. Upon an initial conviction of a violation of this section, the judge of the municipal court of the city may order the owner, harbinger, keeper or possessor of such vicious animal to destroy such animal. Upon a second or subsequent conviction, the judge shall order the owner, harbinger, keeper or possessor to destroy the animal.

- a.) Confinement of animal. Upon conviction of a violation of this section, the judge of the municipal court shall order the owner, harbinger, keeper or possessor of such vicious animal to confine such animal in a secure enclosure. If the owner, harbinger, keeper or possessor takes the vicious animal off the property, the judge shall order the animal to be under the direct physical control of some person by use of a chain, leash or similar device, and the animal shall be muzzled by a caged muzzle. Failure to comply with any such order shall be deemed a violation of this section and subject the violator to the penalties set forth above.

SECTION 6. EFFECTIVE DATE: That this ordinance shall be in full force and effect from and after its publication once in the official newspaper.

SECTION 7. PREVIOUS ORDINANCES: All Ordinances or portions thereof which are in conflict with this Ordinance are hereby repealed. Any section or part of this ordinance deemed to be unconstitutional or invalid shall not invalidate the remaining provisions of this ordinance.

SECTION 8. ORDINANCE #280: Nothing in this ordinance shall invalidate or replace any portion or part of Ordinance #280 concerning the regulations of pit bulls in the City of Sublette, Kansas.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF SUBLETTE, KANSAS, AND THE MAYOR, THIS 8th DAY OF SEPTEMBER, 2014.

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JERY BAILEY-MAYOR

(SEAL)  
ATTEST:

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JEANNIE TRIGG, CITY CLERK