

(Published in the Topeka Metro News July 14, 2025)

ORDINANCE NO. 20573

AN ORDINANCE introduced by City Manager Dr. Robert M. Perez, concerning Cruelty to Animals, amending § 6.05.100 of the Topeka Municipal Code and repealing original section.

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

Section 1. That section 6.05.100, Cruelty to Animals, of The Code of the City of Topeka, Kansas, is hereby amended to read as follows:

Cruelty to animals.

(a) It shall be unlawful for any person to recklessly or intentionally:

(1) Kill, injure, maim, torture, burn or mutilate any animal;

(2) Abandon or leave any animal in any place without ensuring provisions for its proper care;

(3) Have physical custody of any animal and fail to provide such food, potable water, protection from the elements, opportunity for exercise adequate to maintain health, or other care as is needed for the health or well-being of such animal.

(i) Food. Food shall be wholesome, free from contamination, and of sufficient quantity and nutritive value to maintain the animal's good health. Animals shall be fed at least once a day except as dictated by veterinary treatment, normal fasts or other accepted practices. All food receptacles shall be kept clean.

(ii) Potable Water. Adequate fresh water shall be made available to animals ~~on a regular basis~~ at all times.

(iii) Protection from the Elements. A shelter suitable for the species and/or breed concerned and existing climatic conditions shall be provided for all animals kept outdoors to afford them protection and prevent severe discomfort of such animals.

(A) Shelters shall be made of durable material that is moisture- and wind-proof, with a solid floor, and of suitable size to accommodate the animal.

(B) Shelters shall contain clean, suitable bedding material consisting of a sufficient quantity of hay, straw, cedar shavings or the equivalent to promote insulation and protect the animal against cold and dampness and promote retention of body heat.

(C) When sunlight is likely to cause overheating, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight. Keeping an animal in a confined area, such as a garage, shed, or extension of a dwelling, without adequate heating and appropriate ventilation in winter months and adequate cooling and appropriate ventilation in summer months is prohibited;

(4) Leave any animal confined in a vehicle for more than five minutes in extreme weather conditions, with no requirement of a culpable mental state. Extreme weather conditions shall be defined as more than 80 degrees Fahrenheit or less than 40 degrees Fahrenheit as the heat or cold index taken in the vehicle and shall create a legal, rebuttable presumption of violation of this

act;

(5) Use of 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;

(6) Cause, instigate, stage, or train any animal to fight or permit any animal to fight any other animal or human, in violation of State statute; or

(7) Cause any physical injury other than the acts described in subsection (a)(1) of this section.

(b) It shall be unlawful for any person, with no requirement of a culpable mental state, to attach chains or other tethers, restraints or implements directly to a dog, cat or miniature pot-belly pig without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

No person shall:

(1) Continuously tether a dog, cat or miniature pot-belly pig for more than 15 minutes without supervision; or

(2) Use a tether or any assembly or attachments thereto to tether a dog, cat or miniature pot-belly pig that shall weigh more than one-eighth of the animal's body weight, or, due to weight, inhibit the free movement of the animal within the area tethered; or

(3) Tether a dog, cat or miniature pot-belly pig on a choke chain or near stationary objects or fences in a manner that could potentially cause injury, strangulation, or entanglement; or

(4) Tether a dog, cat or miniature pot-belly pig without access to shade when sunlight is likely to cause overheating, or appropriate shelter to provide

insulation and protection against cold and dampness when the atmospheric temperature falls below 40 degrees Fahrenheit, or to tether without securing the animal's water supply so that it cannot be tipped over by the tether; or

(5) Tether a dog, cat or miniature pot-belly pig in an open area where it can be teased by persons or an open area that does not provide the dog, cat or miniature pot-belly pig protection from attack by other animals; or

(6) Tether a dog, cat or miniature pot-belly pig in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

(c) Any public health officer, animal control officer, law enforcement officer or licensed veterinarian, or any officer or agent of any duly incorporated humane society, animal shelter or other appropriate facility, may take into custody any animal, upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in subsection (a) of this section and subsections thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of a duly incorporated humane society or licensed veterinarian for treatment, boarding and other care or, if it appears, as determined by an officer of such humane society or by such veterinarian, that the animal is diseased or disabled beyond recovery for any useful purpose, the humane killing thereof. The owner or custodian, if known or reasonably ascertainable, shall be notified in writing. If the owner or custodian is charged with a violation of this section, the law enforcement agency, city attorney's office, veterinarian or animal shelter may petition the Municipal Court to transfer ownership of the animal at any time after 21 days after the owner or custodian is

97 notified, unless the owner or custodian of the animal files and maintains a renewable
98 cash or performance bond with the Topeka Municipal Court Clerk in an amount equal to
99 not less than the cost of care and treatment of the animal for 30 days. Such cash or
100 performance bond shall be maintained and renewed every 30 days as necessary to
101 cover the cost of care and treatment of such animal until disposition of the animal by the
102 court. If the owner or custodian is not known or reasonably ascertainable after 21 days
103 after the animal is taken into custody, the law enforcement agency, city attorney's office,
104 veterinarian or animal shelter may petition the Municipal Court to transfer ownership of
105 the animal. Upon receiving such petition, the court shall determine whether the animal
106 may be transferred.

107 (d) The owner of an animal killed pursuant to subsection (c) of this section shall
108 not be entitled to recover damages for the killing of such animal unless the owner
109 proves that such killing was unwarranted.

110 (e) Expenses incurred for the care, treatment or boarding of any animal taken
111 into custody pursuant to subsection (c) of this section, pending prosecution of the owner
112 of such animal for the crime of cruelty to animals, as defined in subsection (a) of this
113 section, shall be assessed to the owner as a cost of the case if the owner or custodian
114 is adjudicated guilty of such crime. Any costs collected by the court or through the cash
115 or performance bond described in subsection (c) shall be transferred to the entity
116 responsible for paying the cost of the care, treatment, or boarding of the animal.

117 (f) If a person is adjudicated guilty of the crime of cruelty to animals, as defined
118 in subsection (a) of this section, and the court is satisfied that an animal owned or
119 possessed by such person would be in the future subjected to such crime, such animal

shall not be returned to or remain with such person. Such animal may be turned over to a duly incorporated humane society or licensed veterinarian for sale or other disposition.

(g) The provisions of this section shall not apply to:

(1) Normal or accepted veterinary practices;

(2) Bona fide experiments carried on by any research facility that is in compliance with the Animal Welfare Act (7 USC Sections 2131 through 2159), and any amendments thereto;

(3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of K.S.A. Chapter 32 or 47;

(4) Rodeo practices accepted by the Professional Cowboys Rodeo Association;

(5) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of domestic animals, by the owner thereof or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an incorporated humane society, law enforcement officer, animal control officer, 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;

(6) 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 byproducts and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;

(7) The killing by any person of any domestic animal which is found outside on private, owned, or rented property on which the domestic animal is trespassing, and which the animal is found injuring, worrying, or posing an immediate threat to any person, domestic animal, or farm animal;

(8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, or trained police officer or animal control officer using an electronic control device, when such animal is vicious or could not be captured after reasonable attempts using other methods;

(9) Laying an equine down for medical or identification purposes;

(10) Normal or accepted practices of pest control, as defined in K.S.A. 2-2438a(x), and amendments thereto;

(11) 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; or

(12) In situations where delay would result in unnecessary and prolonged suffering of an injured or rabid animal, law enforcement officers may utilize alternative means to euthanize such animal.

(h) Violation of TMC 6.05.100 is a Class A nonperson misdemeanor.

Section 2. That original § 6.05.100 of The Code of the City of Topeka, Kansas, is hereby specifically repealed.

Section 3. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper.

Section 4. This ordinance shall supersede all ordinances, resolutions or rules, or portions thereof, which are in conflict with the provisions of this ordinance.

Section 5. Should any section, clause or phrase of this ordinance be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

PASSED AND APPROVED by the Governing Body on July 8, 2025.

CITY OF TOPEKA, KANSAS

ATTEST:

Michael A. Padilla, Mayor

Brenda Younger, City Clerk