**RESOLUTION NO. \_\_\_246-2021\_\_\_\_\_\_**

Date Adopted:

Date Effective: Upon Publication

**A RESOLUTION AMENDING VARIOUS PROVISIONS WITHIN CHAPTER 5**

**OF THE SEDGWICK COUNTY CODE AND ADDING**

**PROVISIONS REGARDING THE TETHERING OF ANIMALS**

 **WHEREAS,** the Board of County Commissioners adopted the Sedgwick County Animal Code (codified as Chapter 5, Sec. 5-1, et seq. of the Sedgwick County Code) on December 2, 1992 with Resoluion No. 270-1992; and

 **WHEREAS,** numerous amendments to the Sedgwick County Animal Code have been approved by the Board of County Commissioners since its adoption; and

 **WHEREAS,** the Board of County Commissioners see fit to amend the Sedgwick County Animal Code as follows.

 **NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, AMENDS THE SEDGWICK COUNTY CODE AS FOLLOWS:**

**SECTION 1. AMENDMENT TO SECTION 5-227 OF THE SEDGWICK COUNTY CODE:**

*Sec. 5-227 of the Sedgwick County Code is amended to state as follows:*

Sec. 5-227. - Exceptions to prohibition.

 The following shall be exempt from the prohibition of harboring inherently dangerous animals in the county:

(1) The Sedgwick County Zoo.

(2) The Kansas Wildlife Exhibit.

(3) Any facility accredited by the Association of Zoos and Aquariums (AZA).

(4) Licensed or accredited medical institutions.

(5) Accredited educational institutions.

(6) Veterinary clinics in possession of inherently dangerous animals for treatment or rehabilitation purposes.

(7) Traveling circuses.

(8) Persons temporarily transporting inherently dangerous animals through the county provided that the transit time shall not be more than three (3) days.

(9) License holder harboring one (1) or more inherently dangerous animals at an approved location.

(10) Tanganyika Wildlife Park.

(11) Exotic Pets, located at 6254 E. 37th St N., Suites 100, 110 and 120, Wichita, Kansas. Exotic Pets will be limited to two permanent alligators and can be a temporary holding facility for inherently dangerous animals for Animal Control and law enforcement. This exception is limited to 25 years after its inclusion into Section 5-227.

**SECTION 2. AMENDMENT TO SECTION 5-104 OF THE SEDGWICK COUNTY CODE:**

*Sec. 5-104 of the Sedgwick County Code is amended to state as follows:*

Sec. 5-104. – Destruction or confinement of rabid animals or animals exposed to rabies.

When an animal has been bitten by a known rabid animal, the Animal Control Director shall conform to the most current Kansas Statutes, Kansas Administrative Regulations, and Kansas Department of Health and Environment Rabies Control Requirements.

**SECTION 3. AMENDMENT TO SECTION 5-1 OF THE SEDGWICK COUNTY CODE:**

*Sec. 5-1 of the Sedgwick County Code is amended to state as follows:*

Sec. 5-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandon* means for any owner or harborer to leave an animal in any place without making reasonable provisions for its proper care or without a demonstrated or apparent intent to recover or resume custody. This includes leaving any animal in a vehicle during extreme weather conditions as determined by the animal control officer and a heat index chart.

*Animal* means any vertebrate or invertebrate organism of the kingdom *Animalia,* such as, but not limited to, dogs, cats, cattle, horses and other equines, buffalos, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated, except man.

*Animal care advisory board* means the board established and appointed by the board of county commissioners, as indicated within sections[5-51](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTIIADEN_DIV2ANCAADBO_S5-51ES) through[5-55](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTIIADEN_DIV2ANCAADBO_S5-55DU) of the Code. The term "animal care advisory board" also includes any subcommittee(s) to whom the advisory board might delegate certain functions.

*Animal control officer* means the director of the county department of animal control and/or that person's designee, or any other person or agency designated by the board of county commissioners to enforce the provisions of this chapter.

*Applicant* means a person at least eighteen (18) years of age who has filed a completed application that has not yet been acted upon by the director.

*Approved location* means a location approved by the animal control director, with such location being subject to the provisions of this Code that pertain to inherently dangerous animals.

*At large* means the act of an animal which constitutes:

 (1) Being off property of the owner; and/or

 (2) Not being effectively physically restrained on a chain or leash or not being kept in a suitable fence or by or in another means of physical restraint from which the animal can escape; or

 (3) In the case of an inherently dangerous animal, not being properly restrained as required by[section 5-228](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTVIIIINDAAN_S5-228INDAANLIRE)(b)(1)m. and[section 5-228](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTVIIIINDAAN_S5-228INDAANLIRE)(c)(1)l. of this Code.

*Attack* means violent or aggressive physical contact or attempted violent or aggressive physical contact.

*Bite* means any actual or suspected abrasion, scratch, puncture, tear, bruise or piercing of the skin caused by any animal which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

*Completed license application* means an inherently dangerous animal license application form that is submitted with all required information and that is accompanied by all required documents.

*Cruelty to animals* is defined within[section 5-191](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTVIANCR_S5-191CRANPR).

*Dangerous animal* is defined within[section 5-163](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTVNUANDAAN_S5-163DAAN).

*Director* means the director of the county department of animal control and/or that person's designee, which shall include law enforcement officers.

*Enclosure* means a fence, cage or structure which forms an enclosed area intended to prevent the entry of members of the public into such enclosure, and intended to confine a dangerous or inherently dangerous animal. Such enclosure shall be designed to prevent a dangerous or inherently dangerous animal from escaping from the enclosure and shall have a secure top attached to all sides and one (1) or more of the following:

 (1) The sides shall be embedded or buried two (2) feet into the ground;

 (2) The sides must be secured into a concrete pad or slab; or

 (3) The sides must be securely attached to a wire bottom.

Such enclosure shall be locked and shall provide adequate lighting and shelter from the elements and shall be kept in a clean and sanitary condition.

Enclosures for inherently dangerous animals shall be subject to more stringent requirements as set forth herein.

*Farm animal* means an animal raised on a farm or ranch and used or intended for use as food or fiber.

*Fowl* means all animals that are included in the zoological class *Aves*.

*Habitual nuisance animal* means any animal determined to be such by the director after a hearing as provided in[section 5-162](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTVNUANDAAN_S5-162HANUAN), and which is based on the animal's owner having been convicted three (3) times in a twelve-month period of harboring a nuisance animal when each of the three (3) convictions relates to the same animal.

*Harbor* means to keep, to maintain, to have in one's possession, to have under one's control or to allow any animal to habitually remain or lodge or to be fed or to be given shelter or refuge within a person's home, store, yard, enclosure, outbuilding, abandoned vehicle or building, place of business, property or any other premises which a person owns, has possession or control of or on which the person resides.

*Health officer* means the director of the Sedgwick County Department of Health or his authorized representative, including any employee of the Sedgwick County Department of Health.

*Inherently dangerous animal* means an inherently dangerous mammal and/or an inherently dangerous reptile.

*Inherently dangerous mammal* is any live member of the *canidae, felidae,* or *ursidae* families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans, and which include:

 (1) *Canidae,* including any member of the dog (*canid*) family not customarily domesticated by man, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis familiaris*).

 (2) *Felidae,* including any member of the cat family weighing over fifteen (15) pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (*Felis catus*).

 (3) *Ursidae,* including any member of the bear family, or any hybrids thereof.

 *(4)* Any animal of the suborder *Strepsirrhini* or *Haplorrhini*, including any member of the (non-human) primate family, or any hybrids thereof.

*Inherently dangerous reptile* is any live member of the class *reptilia* which is:

 (1) Venomous, including, but not necessarily limited to, all members of the following families: *Helodermidae; Viperidae; Crotalidae; Atractaspidae; Hydrophilidae;* and *Elapidae.*

 (2) A "rear fanged" snake of the family *Colubridae* that are known to be dangerous to humans, including, but not necessarily limited to, all members of the following families: *Dispholidus typus; Thebtornis kirtlandii;* and *Rhabdophis spp.*

 (3) Of the family *Boidae* (boas and pythons); specifically the following species: *Python reticulatus; Eunectes sp.; Python sebae;* and *Python molurus.*

 (4) A member of the order *Crocodilia* (crocodiles, alligators and caiman).

*Inhumane treatment* is defined within[section 5-193](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTVIANCR_S5-193INTRANPRVI).

*License holder or licensee* means a person at least eighteen (18) years of age who has a valid inherently dangerous animal license and is in compliance with all provisions of the inherently dangerous animal article of this Code.

*Notice* means written notice to the owner of an animal which:

 (1) Is mailed or hand-delivered to the owner's address of record on the license issued to that owner for the licensed animal;

 (2) Is mailed or hand-delivered to the owner's address as ascertained from any other public record;

 (3) Is mailed to an address which has been ascertained by personal observation of an animal control officer to be a premises or building at which the owner may be contacted;

 (4) Has been tacked, taped or attached upon or to the owner's premises or dwelling, if such can be ascertained; or

 (5) Has been left with a person of suitable age and discretion at such owner's premises or dwelling.

If the owner is not known, notice shall be published in the official county newspaper at least one (1) week prior to any hearing regarding the animal.

*Nuisance* is defined within[section 5-161](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTVNUANDAAN_S5-161NUANMANU)(a).

*Nuisance animal* is defined within[section 5-161](https://library.municode.com/ks/sedgwick_county/codes/code_of_ordinances?nodeId=SECOKACO_CH5AN_ARTVNUANDAAN_S5-161NUANMANU)(b).

*Owner* means any person who:

 (1) Has a right of property in an animal;

 (2) Keeps or harbors an animal;

 (3) Has an animal in that person's care;

 (4) Acts as a custodian of an animal;

 (5) Licenses a dog in compliance with article III of this chapter; and/or

 (6) Obtains a vaccination certificate or veterinarian's confirmation for a dog and/or cat in compliance with article IV of this chapter.

Additionally, any person who knowingly permits a dog or cat to remain on or about any premises occupied by that person shall be considered the owner of such dog or cat.

*Person* means an individual, organization, partnership or corporation.

*Shelter* means a structure or housing, with insulation, that provides dry protection from all elements of the weather.

*Shift cage* means a cage in which an inherently dangerous animal may be placed without physical contact between the animal and any person to permit safe feeding, cleaning, cage repair or other separations.

*Take up* means to put into physical custody and impound at an animal shelter or veterinary hospital.

*Tether* means attaching a leash, rope, chain, lead or other similar apparatus or device to the body of an animal and an inanimate or immovable object for the purpose of confining the animal or limiting the movement of the animal.

*Trained personnel* means an individual, at least eighteen (18) years of age, who is an employee, volunteer, family member and/or owner who has received training according to the provisions of the inherently dangerous animal article.

*Traveling circus* means a circus that harbors one (1) or more inherently dangerous animals in the unincorporated area of the county for not more than two (2) weeks in any calendar year, that does not own real property in the unincorporated area of the county that is used for a purpose associated with said circus, and that does not have its primary place of business in the county.

*Trespass* means entering or remaining without consent upon property other than the property of the owner.

*Unincorporated area* means outside the corporate limits of any city.

*Vaccination certificate* means a written document issued and signed by a veterinarian which attests to the rabies vaccination of a particularly described dog or cat and which contains the number of the metallic vaccination tag issued to such dog or cat.

*Veterinarian* means a doctor of veterinary medicine currently licensed by the state.

*Veterinarian's confirmation* means a written statement, issued and signed by a veterinarian, which attests that rabies vaccination of a particularly described dog or cat would be injurious to the animal because of its age or health.

*Wild animal* means a living mammal or marsupial which is normally found in the wild.

**SECTION 4. AMENDMENT TO SECTION 5-193 OF THE SEDGWICK COUNTY CODE:**

*Sec. 5-193 of the Sedgwick County Code is amended to state as follows:*

Sec. 5-193. – Inhumane treatment of animals prohibited; violation.

(a) Defined. Inhumane treatment means any treatment to any animal which constitutes a material deviation from the standard of care which a reasonable person would observe under the same circumstances and which:

 (1) Deprives the animal of necessary sustenance, including but not limited to, a sufficient supply of food and fresh, potable water supplied in a sanitary manner and at reasonable intervals;

 (2) Deprives the animal of proper shelter;

 (3) Deprives the animal of exercise appropriate to the animal's species except for normal and customary husbandry practices;

 (4) Causes the animal to be kept in an unsanitary condition or tethered in such a manner as to cause injury, strangulation, or entanglement of the animal; or

 (5) *Deprives the animal of veterinary care when needed to treat illness or injury.*

(b) Violation. It shall be a violation of this chapter for any person to treat any animal in an inhumane manner or to provide inhumane treatment to any animal. Treating an animal inhumanely is a class H violation.

**SECTION 14.PUBLICATION AND EFFECTIVE DATE.**

The Sedgwick County Clerk shall publish this resolution once in the official County newspaper. This Resolution becomes effective upon publication.

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Commissioners present and voting were:

PETER F. MEITZNER \_\_Aye\_\_\_\_\_\_\_\_\_\_\_

SARAH A. LOPEZ \_\_\_\_\_\_\_\_\_\_\_Aye\_\_

DAVID T. DENNIS \_\_Aye\_\_\_\_\_\_\_\_\_\_\_

LACEY D. CRUSE \_\_\_\_\_\_\_\_\_\_\_\_Aye\_

JAMES M. HOWELL \_\_Aye\_\_\_\_\_\_\_\_\_\_\_

Dated this \_\_8th\_\_\_\_\_\_ day of \_\_December\_\_\_\_\_\_\_\_, 2021.

BOARD OF COUNTY COMMISSIONERS

OF SEDGWICK COUNTY, KANSAS

ATTEST:

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ PETER F. MEITZNER, Chairman

KELLY B. ARNOLD, County Clerk Commissioner, First District

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LACEY D. CRUSE, Chair Pro Tem

Commissioner, Fourth District

APPROVED AS TO FORM: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SARAH A. LOPEZ

Commissioner, Second District

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KIRK W. SPONSEL

Assistant County Counselor \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DAVID T. DENNIS

Commissioner, Third District

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JAMES M. HOWELL

Commissioner, Fifth District