

HOME RULE RESOLUTION NO. HR-93-5

A RESOLUTION PROHIBITING THE OWNERSHIP, POSSESSING, KEEPING, OR HARBORING OF CERTAIN ANIMALS

WHEREAS, the Board of County Commissioners of the County of Shawnee, Kansas has determined that it is necessary to prohibit the ownership, possession, keeping or harboring of certain animals within Shawnee County in order to preserve the public health, safety and welfare; and

WHEREAS, the Board of County Commissioners of the County of Shawnee, Kansas is authorized to enact legislation designed to protect the health, safety and welfare of the citizens of Shawnee County.

NOW, THEREFORE, the Board of County Commissioners of the County of Shawnee, Kansas, meeting in regular session on this 16th day of September, 1993, and intending to exercise its powers of home rule legislation pursuant to K.S.A. 19-101a, does hereby resolve as follows:

SECTION 1.0 – DEFINITIONS. As used in this resolution:

- 1.1 “Domesticated” shall mean bred for and adapted to use as a family pet capable of living within a household or to use as a product of animal husbandry generally accepted by the school of agriculture at Kansas State University.
- 1.2 “Owner” shall mean the person who owns, keeps, harbors or possesses an animal or specified animal.
- 1.3 “Temporarily” shall mean a period of less than three (3) weeks.

SECTION 2.0 – OWNING CERTAIN ANIMALS PROHIBITED.

- 2.1 It shall be unlawful to own, keep, harbor, or possess any animal which is not domesticated as defined herein.

SECTION 3.0 – EXCLUSIONS.

- 3.1 The prohibition contained herein shall not apply to the following animals:
 - a. Domestic dogs, other than those which are hybrid with a wild canine, said term “wild canine” includes but it not limited to wolves, coyotes and foxes;
 - b. Domestic cats, other than those which are hybrid with a wild feline;

- c. Domesticated rodents;
- d. Domesticated European ferrets;
- e. Rabbits;
- f. Birds;
- g. Nonvenomous snakes under eight (8) feet long and lizards;
- h. Turtles;
- i. Amphibians, other than those protected by state or federal law;
- j. Fish;
- k. Invertebrates, other than those protected by state or federal law;
- l. Llamas;
- m. Horses, cows, buffalo, sheep, mules, donkeys, swine, or goats;
- n. Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian;
- o. Any animal in the ownership of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department;
- p. Any animal in the ownership of a person temporarily transporting such animal through the County, including but not limited to a circus menagerie and/or an animal exhibition;
- q. Any animal in the ownership of a bona fide medical institution, accredited educational institution, recognized professional or scholar conducting scientific research who is in compliance with any applicable requirement from the Bureau of Disease Prevention and Control from the Kansas Department of Health and Environment (e.g. K.A.R. 28-1-14), or publicly owned zoological park or park system, or licensed game breeder licensed by the State of Kansas and/or the United States government if such licensed game breeder does not breed canine hybrids and/or feline hybrids;

- r. Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purposes of impounding, sheltering or caring for animals;
- s. Ostrich; and/or
- t. Fallow deer and sika deer.

SECTION 4.0 – GRANDFATHER CLAUSE.

- 4.1 On or before the effective date of this resolution, persons who own, keep, harbor, or possess any prohibited animal as defined above, except those referred to in Section 3.0, are exempted from the prohibitions contained herein, provided, however, such persons have complied with the permit requirements set forth in Section 5.0. However, offspring of existing prohibited animals born after the effective date of this resolution and gestation period will fall under Section 2.1 of this resolution.
- 4.2 Persons under Section 4.1 will not be allowed to obtain new prohibited animals after the date of this resolution.

SECTION 5.0 – PERMIT REQUIRED.

- 5.1 No person as described in Section 4.0 shall own, keep or harbor any animal prohibited by this resolution without first obtaining a permit from the county clerk.
- 5.2 Applications for exotic or captive wild animals permits by those grandfathered in shall be made to the county clerk upon forms provided by the county clerk and setting forth such information as necessary to properly implement the provisions of this resolution. Each application must contain, but shall not be limited to, the name of the owner, harbored, keeper or possessor of the animal, his or her street address, mailing address, and telephone number. Such application forms shall be completed by the applicant and submitted to the county clerk for review and approval. Payment of the permit fee shall accompany the application. The county clerk shall have the Sheriff's Department review and approve the application if a confinement facility is required under paragraph 5.6 below. The permit shall constitute consent by the applicant to any reasonable scheduled or unscheduled inspection of the animal and its shelter by the animal control officer or any state or county law enforcement officer.
- 5.3 The permit fee shall be Twenty-Five and No/100 Dollars (\$25.00) per animal.

- 5.4 All persons and institutions listed must insure that all animals and animal quarters conform to all applicable rules or regulations promulgated under the authority of federal statute enacted by the United States, or by any statute enacted by the state or by any rule or regulation promulgated by any agency or department as authorized by state statute. All animals shall be kept in a clean and sanitary condition and so maintained as to limit objectionable odors; and insure that all animals are maintained in quarters, which are adequately constructed so as to prevent their escape.
- 5.5 All canine hybrids and feline hybrids shall be securely confined indoors or in a securely enclosed and locked pen or kennel. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used must be locked with a key or combination lock when such animals are within the structure. Such structures must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to confine such animals must comply with all Shawnee County, Kansas zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. This Section 5.5 shall apply to any licensed animal breeder licensed by the State of Kansas and/or the United States government.
- 5.6 All person and institutions listed in Section 3.1(n), (o), (p), (q), (r), and Section 4.0 must be properly licensed if so required, by any rule or regulation promulgated under the authority of federal statute enacted by the United State, or by any statute enacted by the state or by any rule or regulation promulgated by the agency or department as authorized by state statute.

SECTION 6.0 – ENFORCEMENT.

- 6.1 **Confiscation.** The County may bring an action to seek confiscation of an prohibited animal in the district court. The district court judge may order the immediate confiscation of the prohibited animal by the county sheriff upon a finding that the animal poses an immediate danger to the public or itself. Upon conviction of a person for owning an animal prohibited by this resolution, the district court judge shall order the county sheriff to confiscate the animal. The sheriff may delegate the actual confiscation to the Kansas Department of Parks and Wildlife or to any appropriate licensed animal rehabilitation or care facility. Any animal confiscated pursuant to this provision shall be transferred to an appropriate licensed animal rehabilitation or care facility. The district court judge may order the animal released to the owner upon a showing that the animal will be transferred to an appropriate licensed animal rehabilitation or care facility or to a location outside the county where such animal may be legally kept. If the owner fails to make such a showing within fourteen (14) days of the

confiscation of the animal, the court shall order the animal to be disposed of by the rehabilitation or care facility in such manner as the director or such facility sees fit. If the animal is sold by the facility, the proceeds of the sale shall be first used to pay all expenses incurred by the facility in confiscating, housing, caring for, and disposing of the animal; then for payment of any fines or court costs which remain unpaid; and then the balance shall be paid to the owner.

- 6.2 **Criminal Penalty.** Any person convicted of violating the provision of this resolution shall be fined not less than Fifty and No/100 Dollars (\$50.00) nor more than Five Hundred and No/100 Dollars (\$500.00), and upon any second or subsequent conviction shall be fined not less than One Hundred and No/100 Dollars (\$100.00) nor more than One Thousand and No/100 Dollars (\$1,000.00) and confined in the county jail for not more than ten (10) days. Each consecutive day's violation shall constitute a separate offense.

SECTION 7.0 – EFFECTIVE DATE.

- 7.1 This resolution shall take effect thirty (30) days after publication in the official County newspaper.

**BOARD OF COUNTY COMMISSIONERS
SHAWNEE COUNTY, KANSAS**

Donald J. Cooper, Chairman

Victor W. Miller, Vice-Chairman

Winifred Kingman, Member

ATTEST:

Patsy A. McDonald, County Clerk