

Passed: March 28, 2017
Published: April 5, 2017

ORDINANCE NO. 2313

AN ORDINANCE RELATING TO ANIMALS WITHIN THE CITY OF DERBY, KANSAS AMENDING AND REPEALING SECTIONS 6.04.010, 6.04.020, 6.04.030, 6.04.050, 6.04.120, 6.04.130, 6.04.140, 6.04.160, 6.04.170, 6.04.180, 6.04.190, 6.04.220, 6.04.230, 6.04.260, 6.04.270, 6.04.280, 6.12.030, 6.12.070, 6.12.090, 6.16.010, 6.16.020, 6.16.030, 6.16.050, 6.20.070, and 6.20.080 OF THE DERBY MUNICIPAL CODE AND PROVIDING SUBSTITUTE PROVISIONS THEREFOR; FURTHER ENACTING and ADDING NEW SECTIONS 6.04.290, 6.04.300 6.04.310, and 6.04.320 TO THE DERBY MUNICIPAL CODE; AND FURTHER DELETING AND RESERVING SECTIONS 6.04.040, 6.04.060, 6.04.240, 6.04.250, 6.20.060, 6.24.010, 6.24.020, and 6.24.030 OF THE SAME FOR FUTURE USE.

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

Section 1. Section 6.04.010 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.010 - Definitions.

As used in this title:

"Animal" means any vertebrate, including but not limited to dogs, cats, bovine cattle, horses and other equines, hogs, goats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds, that is tamed or domesticated.

"Attack" means violent or aggressive physical contact with a person or animal, or violent or aggressive behavior, including but not limited to cornering or circling, which confines the movement of a person or animal.

"Bite" or "wound" means any actual or suspected abrasion, bruise, scratch, puncture, tear, or other piercing of the skin caused by an animal.

“Dangerous or vicious animal" means an animal:

1. Which has exhibited a dangerous or vicious propensity toward persons or animals and is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property; or
2. Which, without provocation, attacks, bites or wounds a human being or animal; provided, that an animal which attacks, bites or wounds a human being shall not be considered dangerous or vicious under this provision when such attack, bite or wound occurs on the property of the animal's owner when the victim was committing a willful trespass; or

Passed: March 28, 2017
Published: April 5, 2017

3. Which, without provocation, chases or approaches a person or animal upon a street, sidewalk or any public or private property in a menacing fashion or apparent attitude of attack; or
4. Which is owned or harbored wholly or in part for the purpose of fighting other animals, or trained or being trained to fight other animals;

but which is not a prohibited animal as defined in Chapter 6.12 of this Code.

"Dangerous or vicious propensity" means having a history of approaching, without provocation, persons or animals in a menacing fashion or apparent attitude of attack.

"Dog park" means that portion of a public park or other tract of public property within which a person who owns or is in control of a dog may, in compliance with the provisions of this chapter and subject to the rules and regulations as may be posted by the city from time to time, allow his or her dog to run at large.

"Fence" means:

1. A barrier constructed of posts supporting wire, wood or other durable material and enclosing a yard or other property; or
2. A properly installed and operating electronic barrier designed to prevent a properly equipped animal from leaving the property upon which it is installed, when the premises so equipped are clearly and prominently marked to give notice of the existence of such electronic barrier.

"Fenced enclosure" means an area enclosed on all sides by a fence, building, or a combination of fences and buildings.

"Fowl" means any animal that is included in the zoological class Aves.

"Harboring" or "keeping," and any conjugation of either term, means feeding, caring for or allowing an animal to habitually or frequently remain in or on one's property.

"Inhumane treatment" means any treatment to any animal which deprives the animal of necessary sustenance, including food, water and protection from the weather, or any treatment of any animal such as overloading, overworking, tormenting, beating, mutilating or teasing or other abnormal treatment.

"Owner," means any person who keeps, possesses, harbors, cares for or has custody of any animal.

"Person" means any individual, firm, association, joint stock company, syndicate, partnership or corporation.

"Picket" or "picketed" means an animal is attached by a leash, rope, chain, lead, tether or other similar apparatus or device to another object for the purpose of confining upon the owner's, keeper's, or harborer's property.

"Running at large" means an animal is not:

1. Confined within a fenced enclosure or a secure enclosure; or
2. Under the control of a person by means of a lead, cord, rope or chain; or
3. Picketed.

Passed: March 28, 2017
Published: April 5, 2017

"Secure enclosure" means:

1. A building or structure, all exterior openings of which are kept closed and locked except when actually being used for ingress or egress; or
2. An enclosure, run or pen consisting of three or more secure sides, securely attached to a top and a bottom or, in lieu of securing the sides to a bottom, all sides are embedded in the ground to a depth of not less than twelve inches;

Provided, that an enclosure shall not be deemed secure for the purposes of this title until the same shall have been inspected and approved by the city's animal control officer.

"Shelter" means all pens, houses or fenced enclosures where animals are confined, including but not limited to hutches, cotes, lofts, kennels, warrens, feed lots, barns, stables, or other buildings or enclosures.

"Veterinarian" means a doctor of veterinary medicine licensed by the state of Kansas."

Section 2. Section 6.04.020 of the Derby Municipal Code is hereby amended to read as follows:

"6.040.020 – Enforcement responsibilities.

- A. The Police Department and all designees of the Derby Chief of Police shall be responsible for enforcement of this title.
- B. The Police Department shall investigate reported cases of animal bite and furnish the rabies control and public health information regarding animal bite cases.
- C. The Finance Department shall collect dog and cat license fees and impoundment fees."

Section 3. Section 6.04.030 of the Derby Municipal Code is hereby amended to read as follows:

"6.04.030 — Registration and Licensing required; Fees; Exceptions.

- A. Every person who owns, keeps or harbors a dog or cat, six months of age or older, within the City shall annually register and license such dog or cat with the City and pay the annual registration fee for such dog or cat in accordance with this chapter. Every person who owns, keeps, or harbors any dog or cat, six months of age or older, shall register and license such animal immediately upon establishing residence within the City.
- B. The annual license fee to be paid pursuant to this section shall be in an amount as established by resolution of the governing body of the city.

Passed: March 28, 2017
Published: April 5, 2017

- C. The owner, keeper, or harborer of a dog or cat shall, at the time of registration and payment of the license fee furnish to the City, in writing, the following information: (1) the name and address of the owner, keeper, or harborer; (2) the name, breed, color, and sex of the dog or cat; and (3) such other reasonable information as the City may request. Any person applying to license and register a spayed or neutered dog or cat shall present to the City a certificate from a veterinarian showing that such dog or cat has been spayed or neutered.
- D. No license issued pursuant to this chapter shall be transferable from one animal to another.
- E. Any owner, harborer, or keeper of a Service dog which is documented to have been individually trained to provide assistance to an individual with a disability or of a licensed Search and Rescue dog shall not be required to pay the license fee upon obtaining the license to keep the dog, but shall be subject to all other requirements contained in this chapter.
- F. The registration and licensing requirements of this Section 6.04.030 shall not apply to persons temporarily within the City for thirty days or less.

Section 4. Section 6.04.040--Tax is hereby deleted from the Derby Municipal Code. Section number 6.04.040 is hereby reserved for future use.

Section 5. Section 6.04.050 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.050 – Owner responsibilities.

Every person liable for registration and licensing of a dog or cat pursuant to this chapter shall pay the annual license fee imposed under this chapter directly to the City, or to the City through a qualified veterinarian at the time such dog or cat receives its inoculation for rabies as herein provided.”

Section 6. Section 6.04.060—Registration and licensing is hereby deleted from the Derby Municipal Code. Section number 6.04.060 is hereby reserved for future use.

Section 7. Section 6.04.120 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.120 – Impoundment and redemption.

- A. Any dog or cat found running at large in the City, and any dog or cat that does not have a current license, may be taken up and impounded by a duly authorized employee or agent of the City; provided, that any dog or cat that is found running at large and appears to be diseased, and which cannot be captured with safety, may be destroyed.

Passed: March 28, 2017
Published: April 5, 2017

- B. In order to redeem an impounded dog or cat, the owner, keeper, or harbinger shall pay any required and unpaid annual license fee plus any applicable impoundment fees as established by resolution of the governing body of the City for each day the dog or cat is fed and cared for by or on behalf of the City, together with any penalty provided in this chapter. Any person applying to redeem a dog or cat shall produce written proof that such dog or cat has a current inoculation for rabies, or have such dog or cat inoculated for rabies by a veterinarian prior to or at the time of redemption. Upon the presentation of such certificate to the City plus payment of the fees listed in this section, the City shall issue a license for the remainder of the year and a certificate for redemption of the dog or cat.”

Section 8. Section 6.04.130 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.130 – Notification to owner – Disposition.

The city shall make reasonable efforts to notify the owner of an impounded dog or cat if such dog or cat is wearing a city tag or owner identification tag. The ownership of impounded dogs and cats not redeemed within three business days following impoundment may be transferred to City or its designee pursuant to the Kansas Pet Animal Act, K.S.A. 47-1701 *et seq.* or the animal may be euthanized.”

Section 9. Section 6.04.140 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.140 – Rabies inoculation.

- A. No person shall keep or harbor a dog or cat six months of age or older within the City unless such animal is currently inoculated against rabies. Such inoculation shall be administered by a veterinarian, shall be kept current at all times, and a current certificate shall be presented to the City upon application for a license required by this chapter.
- B. The owner of every dog or cat inoculated against rabies shall securely fasten a metal or plastic tag, supplied by the veterinarian administering such inoculation, to the collar of such animal. The tag shall be numbered and the date or dates of inoculation shall be impressed upon the face of the tag. A dog or cat found without such tag may be impounded as provided in this chapter.”

Section 10. Section 6.04.160 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.160 – Barking disturbance.

No person shall permit or allow any dog to disturb the peace and quiet by loud, frequent, habitual or prolonged barking, howling or yelping. The testimony of one or more persons that a

Passed: March 28, 2017
Published: April 5, 2017

dog has disturbed his or her peace by such barking, howling or yelping shall constitute prima facie evidence of a violation of this section.”

Section 11. Section 6.04.170 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.170 – Animal bite procedure.

Any animal which bites a person or another animal in a malicious, ferocious or vicious attack which causes injuries shall be immediately quarantined for a period of ten days with a veterinarian, a city-approved impoundment facility, or as otherwise directed by the Chief of Police. Such dog shall be examined by a veterinarian on the tenth day following the bite, following which the veterinarian shall furnish a written statement of the condition of the dog's health to the police department. The owner of the animal will be responsible for all fees incurred during the impoundment period.

All other bites that do not fall in the category above may be quarantined at the owner's residence for ten days if proof of rabies vaccination cannot be verified.”

Section 12. Section 6.04.180 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.180 – Pet animal waste.

- (a) The person in control of every animal shall be responsible for removal of any waste deposited by their animal(s) on the public rights-of-way, public property or private property of another.
- (b) It is unlawful for the person in control of an animal to allow such pet to defecate on any public property or private property other than that of the owner or person in control of the animal. The fact that the animal was at large at the time it defecated on any property shall constitute prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to act.
- (c) Exceptions:
 - 1. The owner or person in control of the animal immediately removed and cleaned up such animal's waste from public or private property of another; or
 - 2. The owner or person in control of the animal has a physical disability or visual impairment and the animal is a service animal trained by an accredited institution to provide assistance to physically disabled or visually impaired persons.”

Passed: March 28, 2017
Published: April 5, 2017

Section 13. Section 6.04.190 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.190 – Number limitation.

No more than four dogs and four cats of the age six months or older shall be kept, owned, or harbored at any single address or location within the City. ”

Section 14. Article V-Penalties, Section 6.04.220 of the Derby Municipal Code is hereby amended to read as follows:

“Article V. Miscellaneous

6.04.220 – Unauthorized release of impounded animal.

No person shall break open or destroy the pound or any other place or facility used for the confinement of impounded or quarantined animals, or attempt to take or drive off therefrom any animal impounded or quarantined therein without first paying the fees and charges established therefor by the city. ”

Section 15. Section 6.04.230 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.230 – Unlawful conveyance of animals.

Unlawful conveyance of animals is selling, bartering, exchanging, giving away, or offering to sell, barter, exchange, or give away any animal by a person who is required to be licensed under the Kansas pet animal act, K.S.A. 47-1701 et seq., but does not possess a valid state license issued thereunder.”

Section 16. The heading Article VI- Miscellaneous and Section 6.04.240-Unlawful conveyance of animals is hereby deleted from the Derby Municipal Code. Section number 6.04.240 is hereby reserved for future use.

Section 17. Section 6.04.250-Unlawful attendance of dog fighting—unlawful possession of dog fighting paraphernalia-Penalties is hereby deleted from the Derby Municipal Code. Section number 6.04.250 is hereby reserved for future use.

Section 18. Section 6.04.260 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.260 – Designation of dog parks.

Passed: March 28, 2017
Published: April 5, 2017

Dogs may be allowed to run at large only in dog parks designated as such by the city. Designation of dog parks shall be made by the city council upon recommendation of the city manager.”

Section 19. Section 6.04.270 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.270 – Conditions on use of dog park or off-leash areas – Suspension or revocation of dog park privileges.

A. Any person using a dog park shall be:

1. Responsible for injuries and property damage caused by their dog to other persons and shall hold the City of Derby harmless for any such damage; and
2. Deemed to have assumed all risk of loss or injury to themselves or their dog(s), resulting from activities within the dog park;

B. In addition to other penalties established for violations of this chapter, any person violating posted rules or regulations governing use of dog park(s) may be removed from the dog park and his or her privileges for future use thereof suspended or revoked.”

Section 20. Section 6.04.280 of the Derby Municipal Code is hereby amended to read as follows:

“6.04.280 – Dog parks – Unlawful Acts.

It shall be unlawful for any person to:

- A. Enter or remain in a dog park when the dog park is closed to the public or at such other times as may be established from time to time by the director of public works, approved by the city manager, and posted at the dog park;
- B. Fail to immediately leash and restrain a dog in the dog park or fail to leave the dog park when directed to do so by a law enforcement officer, code enforcement officer or animal control officer; or
- C. Violate or permit an animal in his or her custody or control to violate any posted rule or regulation regarding the use of any designated dog park.”

Section 21. New Section 6.04.290 of the Derby Municipal Code is hereby established to read as follows:

Passed: March 28, 2017
Published: April 5, 2017

“6.04.290 – Unlawful tethering or picketing.

- A. It is unlawful to continuously picket a dog for more than one continuous hour.
- B. It is unlawful to re-picket a dog, for any length of time, where said dog was previously picketed within the same twenty-four hour period and where said dog has not been provided without a hiatus from picketing for a period of three continuous hours prior to the re-picketing.
- C. It is unlawful to picket a dog for a total time period in excess of three hours in any twenty-four hour period.
- D. It is unlawful to picket a dog in such a manner or in a location that allows the dog to risk injury, strangulation or entanglement on fences, trees or other manmade or natural obstacle.
- E. It is unlawful to attach chains or other tether restraining implements directly to a dog 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.
- F. It is unlawful to picket a dog on a chain, leash, rope, or tether less than 10 feet in length.
- G. It is unlawful to picket a dog using a chain, leash, rope, collaring device, tether, or any assembly or attachment weighing more than one-eighth (1/8) of the animal’s body weight or where the weight of said chain, leash, rope, collaring device, tether, assembly, or attachment inhibits the free movement of the animal within the area picketed.”

Section 22. New Section 6.04.300 of the Derby Municipal Code is hereby established to read as follows:

“6.04.300 – Securing animals in vehicles.

No person shall allow an animal to be outside the passenger cab of a vehicle unsecured while in motion on a street or highway. This includes riding in the back of a pickup truck or flatbed truck unless the animal is:

1. In a fully enclosed trailer;
2. In a topper enclosing the bed of a truck;
3. Contained in a ventilated kennel or similar device securely fastened to the bed of a truck;
or
4. Securely tethered in such a manner that the animal is not standing on bare metal, cannot jump or be thrown from the vehicle, is not in danger of strangulation and cannot reach beyond the outside edges of the vehicle.”

Passed: March 28, 2017
Published: April 5, 2017

Section 23. New Section 6.04.310 of the Derby Municipal Code is hereby established to read as follows:

“6.04.310 – Animals unattended inside vehicles.

It is unlawful for any person to leave an animal in a standing or parked vehicle under conditions constituting an imminent threat to the safety of the animal.”

Section 24. New Article VI-Penalties, Section 6.04.320 of the Derby Municipal Code is hereby established to read as follows:

“Article VI. Penalties

6.04.320 – Penalties for violation.

A. Any person convicted of a violation of Sections 6.04.030, 6.04.050, 6.04.180, 6.04.190, or 6.04.280 of this Code shall be punished by a fine of \$10 upon a first offense for violation of said section, a fine of \$25 upon a second offense for violation of the same section, and increasing fines in \$25 increments for subsequent offenses of the same section up to a maximum fine of \$500.

B. Any person convicted of a violation of Sections 6.04.140, 6.04.150, 6.04.160, 6.04.220, 6.04.230, 6.04.290, 6.04.300, or 6.04.310 of this Code shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, imprisonment for not more than ten days, or by both such fine and imprisonment.”

Section 25. Section 6.12.030 of the Derby Municipal Code is hereby amended to read as follows:

“6.12.030 – Animal pen – Location restrictions

No animal pen, rabbit hutch, pigeon loft or similar enclosure housing animals or fowl, other than a dog or cat pen, shall be located less than fifty feet from a dwelling or street.”

Section 26. Section 6.12.070 of the Derby Municipal Code is hereby amended to read as follows:

“6.12.070 – Prohibited Animals.

A. It is unlawful for any person to keep, harbor, own or possess within the corporate limits of the city, any warm-blooded, carnivorous or omnivorous, wild or exotic animal, including but not limited to apes, gorillas, monkeys, baboons and chimpanzees; and reptiles which are poisonous/venomous or otherwise present a risk of serious physical harm or death to human beings as a result of their size, vicious nature or physical makeup; fowl of a species which, due to size, vicious nature or other characteristics constitute a danger to human life, physical well-being, or property; lions, tigers, leopards,

Passed: March 28, 2017
 Published: April 5, 2017

panthers, jaguars, lynxes, hyenas, or other exotic cats; bears; elephants; hippopotami; rhinoceroses; alligators; crocodiles; foxes; coyotes; wolves; raccoons; skunks; badgers; bison; deer, including all members of the deer family, such as elk, antelope, and moose; and ostriches; the offspring born to any animal permitted to be kept in the city which is bred to any other animal of a different species; and offspring born to domestic dogs or cats bred to wild animals.

- B. It is unlawful for any person to maintain, keep or possess any snake of the family Boidae, including but not limited to pythons, boa constrictors or anaconda unless such snake is confined in a safe, secure, and completely enclosed location at all times.
- C. Except as provided in this section, it shall be unlawful for any person to maintain any pig pen, hog lot, or keep or maintain any pigs, hogs or swine within the city. Any person may keep one Vietnamese potbelly pig and other similar registered purebred miniature pig may be kept within the city limits; provided, that such animal weighs less than eighty pounds; has been spayed or neutered; has undergone a blood test to show the animal is free from pseudorabies; and is not maintained for a food source.
- D. It is unlawful for any person to own, keep, harbor, possess, or maintain roosters (male chickens), guineas cocks, peacocks or other birds that by nature exhibit loud calls, within the corporate limits of the city.
- E. Subsections A, B, and C of this section shall not apply to veterinarians currently licensed by the state of Kansas who keep or harbor a prohibited animal at an appropriate facility for the purpose of veterinary care or treatment; bona fide pet shops; circuses or carnivals; or educational or medical institutions, if the location thereof conforms to the provisions of the zoning ordinance of the city; all animals and animal quarters are kept in a clean and sanitary condition; and animals are maintained in quarters so constructed to prevent their escape.”

Section 27. Section 6.12.090 of the Derby Municipal Code is hereby amended to read as follows:

“6.12.090 – Penalties.

- A. Any person convicted of a violation of Sections 6.12.010, 6.12.060, or 6.20.080 of this Code shall be punished by a fine of \$10 upon a first offense for violation of said section, a fine of \$25 upon a second offense for violation of the same section, and increasing fines in \$25 increments for subsequent offenses of the same section up to a maximum fine of \$500.
- B. Any person convicted of a violation of Sections 6.12.030, 6.12.040, or 6.12.050 of this Code shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, imprisonment for not more than ten days, or by both such fine and imprisonment.
- C. Any person convicted of a violation of Section 6.12.070 of this Code on a first offense shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars,

Passed: March 28, 2017
Published: April 5, 2017

imprisonment up to six months in jail, or by both such fine and imprisonment. Any person convicted of a violation of Section 6.12.070 of this Code on a second or subsequent offense shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, imprisonment up to six months in jail, or by both such fine and imprisonment.

D. Each day that any violation of this chapter occurs shall constitute a separate offense and shall be punishable under this chapter as a separate violation.”

Section 28. Section 6.16.010 of the Derby Municipal Code is hereby amended to read as follows:

“6.16.010 – Definitions.

As used in this chapter:

“Active beehive” means any container used for housing bees in which any bees are found.

“Bees” means any insect of the family Apidae.

“Householder” means any person residing in a dwelling.

“Person” as used herein, means any individual, firm, association, joint stock company, partnership or corporation.

“Premises” as used herein, means a lot, tract or parcel of land including structures located thereon.

“Proprietors” as used herein, means the manager or one in control of any business enterprise.”

Section 29. Section 6.16.020 of the Derby Municipal Code is hereby amended to read as follows:

“6.16.020 – Number limitation on beehives within the city.

A. No person shall keep a number of beehives on premises within the city in numbers that exceed the following per acre scale:

1. Lots or premises 1.00 acre or less in size: 2 hives;
2. Lots or premises 1.01-2.00 acres in size: 3 hives.

Passed: March 28, 2017
Published: April 5, 2017

One (1) additional beehive in excess of 3 hives shall be allowed for each additional acre of area per lot or premises within the City.

B. Multiple adjacent lots under one ownership shall be calculated as a single lot or premises according to the above per acre scale.

Section 30. Section 6.16.030 of the Derby Municipal Code is hereby amended to read as follows:

“6.16.030—Conditions for keeping beehives on premises within the City.

No person shall maintain or keep beehives within the City unless said hives are located a minimum of 25 feet from neighboring dwellings, are located a minimum of 15 feet from neighboring property lines, and an adequate and accessible supply of fresh water is available and adjacent to the hives on the premises at all times.

Section 31. Section 6.16.050 of the Derby Municipal Code is hereby amended to read as follows:

“6.16.050 – Penalty for violation.

Any person convicted of a violation of Sections 6.16.020, 6.16.030, or 6.16.040 of this Code shall be punished by a fine of \$10 upon a first offense for violation of said section, a fine of \$25 upon a second offense for violation of the same section, and increasing fines in \$25 increments for subsequent offenses of the same section up to a maximum fine of \$500.”

Section 32. Section 6.20.060-Interference with the duty of animal control officer is hereby deleted from the Derby Municipal Code. Section number 6.20.060 is hereby reserved for future use.

Section 33. Section 6.20.070 of the Derby Municipal Code is hereby amended to read as follows:

“6.20.070 – Animal bites and wounds.

A. No animal owner shall:

1. Permit such animal to attack, bite or wound any person or animal when not on the premises of such owner;

Passed: March 28, 2017
 Published: April 5, 2017

2. Permit such animal to attack, bite or wound any person or animal upon such owner's residential premises or upon the premises of any business establishment not then open to the public, unless:
 - a. Such premises are posted at each entrance with a prominent and conspicuous sign warning of the presence of such animal and such animal is confined in a secure enclosure; or
 - b. The attack, bite or wound was necessary to apprehend or prevent the escape of a person engaged in the commission of an act of robbery, theft or act of violence; or
 3. Permit such animal to attack, bite or wound any person or animal upon the premises of any business establishment that is open to the public unless such attack, bite or wound was necessary to apprehend or prevent the escape of a person engaged in commission of a robbery, theft or act of violence.
- B. As used in this section, "permit" means to allow or let an event occur or to fail to take reasonable measures, including but not limited to restraining or confining an animal, to prevent occurrence of an event. Knowledge or intention on the part of an owner shall not be an element of this offense.
- C. The provisions of this section shall not apply to:
1. A law enforcement officer using an animal while engaged in law enforcement activities; or
 2. The owner of an animal that attacks, bites or wounds a person who is engaged in physically attacking or striking such owner.”

Section 34. Section 6.20.080 of the Derby Municipal Code is hereby amended to read as follows:

“6.20.080 – Violation – Penalty.

- A. A person violating any provision of this chapter 6.20 is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars or by imprisonment of not more than six months or both such fine and imprisonment.
- B. Each day that any violation of this chapter occurs shall constitute a separate offense and shall be punishable under this chapter as a separate violation.
- C. In addition to the penalties enumerated in subsections A and B of this section, the judge of the municipal court may, upon a person’s third conviction of section hereof involving the same animal, revoke such person’s license to keep said animal.”

Section 35. Chapter 6.24-Fishing including Sections 6.24.010-Fishing license required-exceptions; 6.24.020-Creel and length limits, and 6.24.030-Violations, is hereby deleted from the Derby Municipal Code. Chapter 6.24 is hereby reserved for future use.

Passed: March 28, 2017
Published: April 5, 2017

Section 36. Repeal

The existing provisions of sections 6.04.010, 6.04.020, 6.04.030, 6.04.040, 6.04.050, 6.04.060, 6.04.120, 6.04.130, 6.04.140, 6.04.160, 6.04.170, 6.04.180, 6.04.190, 6.04.220, 6.04.230, 6.04.240, 6.04.250, 6.04.260, 6.04.270, 6.04.280, 6.12.030, 6.12.070, 6.12.090, 6.16.010, 6.16.020, 6.16.030, 6.16.050, 6.20.060, 6.20.070, 6.20.080, 6.24.010, 6.24.020, and 6.24.030 of the Derby Municipal Code are hereby repealed.

Section 37. All other provisions of the Municipal Code of the City of Derby, Kansas shall remain in full force and effect except as specifically amended herein. All other ordinances or parts of other ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

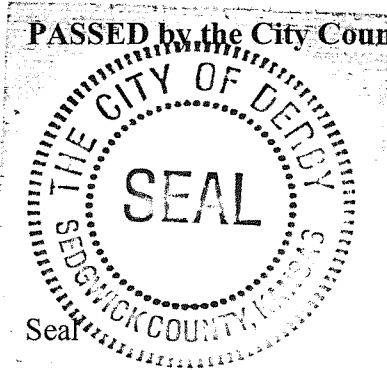
Section 38. Severability


Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

Section 39. Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication of the ordinance or a summary thereof once in the City's official newspaper as provided by State law.

PASSED by the City Council this 28th day of March, 2017 and **SIGNED** by the Mayor.





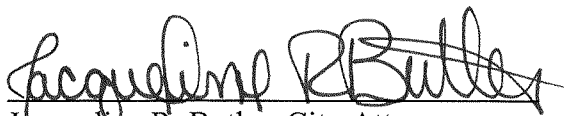
Randy White, Mayor

Attest:



Karen Friend, City Clerk

Approved as to form:



Jacqueline R. Butler, City Attorney