ORNIDANCE NO. 18379

AN ORDINANCE introduced by Councilmember John Alcala, relating to tethering or chaining of dogs, amending Topeka City Code § 18-4 and specifically repealing said original section.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code § 18-4, Cruelty to animals, is hereby amended to read as follows:

Cruelty to animals.

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

(1) Intentionally kill, injure, maim, torture or mutilate any animal;

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

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

(4) Have custody of an animal, as owner or otherwise, and fail to provide such animal with necessary protection from the elements as set forth below:

a. Shelter from sunlight. When sunlight is likely to cause overheating, serious bodily injury or death of the animal, sufficient shade shall be provided to allow the vertebrate animals kept outdoors to protect themselves from the direct rays of the sun.

b. Shelter from cold weather. Housing facilities shall be provided for all dogs and cats kept outdoors when the atmospheric temperature falls.
below forty (40) degrees Fahrenheit. Such structure shall be provided with a sufficient quantity of suitable bedding materials, consisting of hay, straw, cedar shavings or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat. Such shelter shall be so constructed to keep the animal dry and retain sufficient body heat to prevent serious bodily injury or death of the animal.

(5) (a) To attach chains or other tethers, restraints or 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.

(b) No person shall:

(1) Continuously tether a dog for more than one (1) continuous hour, except that tethering of the same dog may resume after a hiatus of three (3) continuous hours, for up to three (3) hours total time on tether per day; provided that for the purpose of tethering a dog, a chain, leash, rope or tether shall be at least ten (10) feet in length; or

(2) Use a tether or any assembly or attachments thereto to tether a dog that shall weigh more than one eighth (1/8) 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 on a choke chain or in such a manner as to cause injury, strangulation, or entanglement of the dog on fences,
trees, or other man made or natural obstacles; or

(4) Tether a dog 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 forty (40) degrees Fahrenheit, or to tether a dog without securing its water supply so that it cannot be tipped over by the tether; or

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

(6) Tether an animal 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) The following definitions apply to words used in this section:

(1) When used as a verb, “tether” or “tethering” shall mean fastening a dog to a stationary object, pulley run line or a stake.

(2) When used as a noun, “tether” or “tethers” shall mean a chain, leash, rope, cable, chain, string, leather or nylon strap, or any other material used to fasten a dog to a stationary object, pulley run line or a stake.

(b) Any public health 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.

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

(d) Expenses incurred for the care, treatment or boarding of any animal taken
into custody pursuant to subsection (b) of this section, pending prosecution of the owner of
such animal for the crime of cruelty to animals, as defined in subsection (a), shall be
assessed to the owner as a cost of the case if the owner or custodian is adjudicated guilty
of such crime.

(e) If a person is adjudicated guilty of the crime of cruelty to animals, as defined
in subsection (a) of this section, and the court is satisfied that an animal owned or
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.

Section 2. That original City of Topeka Code § 18-4 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.

PASSED and APPROVED by the City Council JAN 18 2005.

James A. McClinton, Mayor

ATTEST:

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY
DATE 11/10/04 BY
TO BE CODIFIED X
NOT TO BE CODIFIED