

RESOLUTION 2006-13

A RESOLUTION REGULATING CERTAIN WOLVES AND WOLF-HYBRIDS IN BARTON COUNTY, KANSAS

WHEREAS, the Kansas Legislature, in Senate Bill 578, adopted by the Kansas Legislature in the January, 2006 session, regulated certain animals as described in section 1 (d) of the bill; and

WHEREAS, the Kansas Legislature in Senate Bill 578, section 11, provided authority for counties to adopt resolutions more restrictive than set forth in Senate Bill 578; and

WHEREAS, the Board of County Commissioners of Barton County Kansas, has determined that wolves and wolf hybrids, due to their inherent nature, may be considered dangerous to humans.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Barton County, Kansas, that, in the best interests of the citizens of Barton County, that wolves and wolf hybrids, in Barton County, Kansas, be regulated as follows:

Section 1. Senate Bill 578, *AN ACT concerning animals; imposing limitations on ownership and possession of certain animals; requiring registration; providing criminal penalties*, in its entirety, reads:

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in this act:

(a) "Person" means any individual, firm, partnership, corporation, association, municipality or other business entity.

(b) "Wildlife sanctuary" means a not-for-profit organization exempt from federal income taxation pursuant to section 501 (c)(3) of the internal revenue code of 1986, as in effect on July 1, 2006, that:

(1) Operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned or displaced dangerous regulated animals are provided care for such animal's lifetime;

(2) does not conduct any commercial activity with respect to any dangerous regulated animal possessed by the organization;

(3) does not sell, trade, auction, lease or loan dangerous regulated animals, or parts thereof, which the organization possesses;

(4) does not breed any dangerous regulated animal of which the organization possesses, except as an integral part of the species survival plan of the American zoo and aquarium association;

(5) does not conduct any activity that is not inherent to the dangerous regulated animal's nature;

(6) does not use the dangerous regulated animal for any type of entertainment purposes; and

(7) operates a refuge in compliance with regulations promulgated by the United States department of agriculture for dangerous regulated animals, except non-native, venomous snakes, under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006, and the regulations and standards adopted under such act in effect on July 1, 2006, relating to operations, animal health and husbandry. All dangerous regulated animals shall be caged in compliance with the provisions set forth in section 6, and amendments thereto.

(c) "Possess" means to own, care for, have custody of or control.

(d) "Dangerous regulated animal" means a live or slaughtered parts of:

- (1) Lions, tigers, leopards, jaguars, cheetahs and mountain lions, or any hybrid thereof;**
- (2) bears or any hybrid thereof; and**
- (3) all non-native, venomous snakes.**

(e) "Local animal control authority" means an agency of the county or city that is responsible for animal control operations in such governmental entity's jurisdiction and includes the animal control officer, as defined by K.S.A. 47-1701, and amendments thereto, of such county or city. If the county or city does not have an animal control officer, for cities of the first class, the chief law enforcement officer shall have the local animal control authority duties and responsibilities pursuant to this act and for all other cities and counties, the county sheriff shall have the local animal control authority duties and responsibilities pursuant to this act.

(f) "Registered designated handler" means a person who is registered or would be required to be registered pursuant to section 10, and amendments thereto.

Sec. 2. (a) Except as provided in this section, it is unlawful for a person to possess, slaughter, sell, purchase or otherwise acquire a dangerous regulated animal.

(b) On and after October 1, 2006, a person who possesses a dangerous regulated animal shall be in compliance with regulations promulgated by the United States department of agriculture for dangerous regulated animals, except non-native, venomous snakes, under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006, and the regulations and standards adopted under such act in effect on July 1, 2006, relating to operations, animal health and husbandry; and to provide adequate veterinary care for dangerous regulated animals. All dangerous regulated animals shall be caged in compliance with the provisions set forth in section 6, and amendments thereto.

(c) Except as provided in subsection (d), a person shall not take possession of a dangerous regulated animal or allow dangerous regulated animals in such person's possession to breed.

(d) A person who possesses a valid United States department of agriculture license, is in compliance with the United States department of agriculture animal welfare act, regulations and standards on July 1, 2006, and, within 10 years preceding July 1, 2006, has not been convicted of a felony under the laws of Kansas or a crime under a law of another jurisdiction which is substantially the same as a felony, may breed, purchase or otherwise acquire new dangerous regulated animals after July 1, 2006, in order to:

- (1) Maintain the operating inventory of dangerous regulated animals possessed on July 1, 2006;**
- (2) sell dangerous regulated animals to other United States department of agriculture licensed and compliant facilities within Kansas for replacement purposes as provided in paragraph (1); and**
- (3) sell dangerous regulated animals outside Kansas.**

Sec. 3. (a) On and after September 1, 2006, a person who possesses a dangerous regulated animal shall notify, in writing, and register the dangerous regulated animal with the local animal control authority.

(b) The notification shall include the person's name, address, telephone number and a complete inventory of each dangerous regulated animal that the person possesses. The inventory shall include the following information: Number and species of each dangerous regulated animal; the microchip identification number and manufacturer of such microchip for each dangerous regulated animal, if available; the exact location where each dangerous regulated animal is kept; the age, sex, color, weight, scars and any distinguishing marks of each dangerous regulated animal; and the name of any person who is a registered designated handler.

(c) When a person who possesses a dangerous regulated animal has a microchip implanted in such animal for identification, the name of the microchip manufacturer and the microchip identification number shall be provided to the local animal control authority. If a dangerous regulated animal is sedated for any reason and such animal does not have a microchip implanted, a microchip shall be implanted in such animal. Within 30 days after the microchip is implanted, the name of the microchip manufacturer and the microchip identification number shall be provided to the local animal control authority. Within 30 days of acquisition, a person acquiring ownership of an offspring with a microchip implanted shall comply with microchip information reporting requirements of this subsection.

(d) A local animal control authority may inspect the premises where dangerous regulated animals are physically located.

Sec. 4. (a) The local animal control authority may charge the following annual fees:

(1) Premises inspection fee not more than \$100.

(2) Dangerous regulated animal registration fee, per animal, not more than \$50. The maximum amount charged for such animal registration per person is \$500.

(3) Additional premise inspection fee, if the person acquires and possesses another type of dangerous regulated animal, not more than \$100.

(b) A certificate of registration shall be issued by the local animal control authority to the person for each dangerous regulated animal and inspection upon payment of the fee.

(c) Any person who possesses a dangerous regulated animal shall maintain liability insurance coverage or secure a bond in an amount of not less than \$250,000 for each occurrence for liability damages for destruction of or damage to property and death or bodily injury to a person caused by the dangerous regulated animal. The person possessing the animal shall provide a copy of the policy for liability insurance or proof of the bond to the local animal control authority. Any insurer shall notify the local animal control authority, in writing, of any expiration, reduction or cancellation of liability insurance, furnished as required by this subsection, not later than 10 days before the expiration, reduction or cancellation takes effect. Any surety company who secures the performance of the bond shall notify the local animal control authority, in writing, of any expiration, reduction or cancellation of the bond, furnished as required by this subsection, not later than 10 days before the expiration, reduction or cancellation takes effect.

(d) Any fees charged and collected shall be retained by the local animal control authority to be used to implement the provisions of this act.

Sec. 5. (a) A person who possesses a dangerous regulated animal shall meet the requirements set forth in this section.

(b) A person who possesses a dangerous regulated animal shall maintain health and ownership records on each dangerous regulated animal and shall maintain the records for the life of the animal. If possession of the dangerous regulated animal is transferred to another person, a copy of the health and ownership records shall accompany the animal.

(c) A person who possesses a dangerous regulated animal shall maintain an ongoing program of veterinary care which includes a veterinary visit to the premises at least annually.

(d) A person who possesses a dangerous regulated animal shall notify the local animal control authority in writing within 10 days of a change in address or location where the dangerous regulated animal is kept.

(e) A person with a United States department of agriculture license for dangerous regulated animals shall forward a copy of such person's United States department of agriculture inspection report to the local animal control authority within 30 days of receipt of the inspection report.

(f) A person who possesses a dangerous regulated animal shall prominently display a sign on the structure where the animal is housed indicating that a dangerous regulated animal is on the premises.

(g) A person who possesses a dangerous regulated animal shall immediately notify local law enforcement officials of any escape of a dangerous regulated animal. The person who possesses the dangerous regulated animal is liable for any costs incurred by any person, city, county or state agency resulting from the escape of a dangerous regulated animal unless the escape is due to a criminal act by another person or a natural event.

(h) A person who possesses a dangerous regulated animal shall maintain a written recovery plan in the event of the escape of a dangerous regulated animal. The person shall maintain live traps or other equipment necessary to assist in the recovery of the dangerous regulated animal.

(i) If requested by the local animal control authority, a person may not move a dangerous regulated animal from such animal's location unless the person notifies the local animal control authority prior to moving the animal. The notification shall include the date and the location where the animal is moved. This subsection shall not apply to a dangerous regulated animal transported to a licensed veterinarian.

(j) If a person who possesses a dangerous regulated animal can no longer care for the animal, the person shall take the appropriate steps to find long-term placement for the dangerous regulated animal.

Sec. 6. (a) All dangerous regulated animals shall be confined within a cage of sufficient strength and design for the purposes of maintaining and housing or transporting the animal. The requirements for sufficient caging shall be established by rules and regulations adopted by the secretary of wildlife and parks. Any cage or confinement structure shall be constructed in such a manner that prohibits physical contact with any person other than such persons listed in subsection (d).

(b) No dangerous regulated animal shall be allowed to be tethered, leashed or chained outdoors, or allowed to run at large.

(c) A dangerous regulated animal shall not be mistreated, neglected, abandoned or deprived of necessary food, water and sustenance.

(d) A dangerous regulated animal shall not be allowed to come into physical contact with any person other than the person possessing the animal, the registered designated handler or a veterinarian administering medical examination, treatment or care.

(e) A dangerous regulated animal shall not be brought to any public property or commercial or retail establishment, except to bring the animal to a licensed veterinarian or veterinarian clinic.

Sec. 7. (a) Any dangerous regulated animal may be seized by the local animal control authority as provided in this section.

(b) The local animal control authority, upon issuance of a notice of inspection, shall be granted access at reasonable times to premises where the local animal control authority has reason to believe a violation of this act is occurring or has occurred.

(c) If a person who possesses a dangerous regulated animal is not in compliance with the requirements of this act, the local animal control authority shall take possession of the animal for custody and care, following the procedures in this subsection.

(d) Upon request of a person possessing a dangerous regulated animal, the local animal control authority may allow the animal to remain in the physical custody of the owner for 30 days, during which time the owner shall take all necessary actions to come in compliance with this act. During the 30-day period, the local animal control authority may inspect, at any reasonable time, the premises where the animal is kept.

(e) If a person who possesses a dangerous regulated animal is not in compliance with this act following the 30-day period described in subsection (d), the local animal control authority shall seize the animal and place it in a holding facility that is appropriate for the species for up to 10 days. The authority taking custody of an animal under this subsection shall provide a notice of the seizure by delivering or mailing it to the person possessing such dangerous regulated animal, by posting a copy of the notice at the premise where the animal is taken into custody, or by delivering it to a person residing on the premise. The notice shall include:

(1) A description of the animal seized; the authority for and purpose of the seizure; the time, place and circumstances under which the animal was seized; and a contact person and telephone number;

(2) a statement that a person from whom a dangerous regulated animal was seized may post security to prevent disposition of the animal and may request a hearing concerning the seizure and that failure to do so within five business days of the date of the notice will result in disposition of the animal;

(3) a statement that actual costs of the care, keeping and disposal of the dangerous regulated animal are the responsibility of the person from whom the animal was seized, except to the extent that a court or hearing officer finds that the seizure was not substantially justified by law; and

(4) a form that can be used by a person from whom a dangerous regulated animal was seized for requesting a hearing under this subsection.

(f) If a person from whom the dangerous regulated animal was seized makes a request within five business days of the seizure, a hearing must be held within five business days of the request to determine the validity of the seizure and disposition of the animal. The judge or hearing officer may authorize the return of the animal to the person from whom the animal was seized if the judge or hearing officer finds:

(1) That the person can and will provide the care required by law for the dangerous regulated animal; and

(2) the dangerous regulated animal is physically fit.

(g) If a judge or hearing officer orders a permanent disposition of the dangerous regulated animal, the local animal control authority may take steps to find long-term placement for the animal with a wildlife sanctuary, or an appropriate United States department of agriculture licensed facility.

(h) A person from whom a dangerous regulated animal is seized is liable for all actual costs of care, keeping and disposal of the animal, except to the extent that a court or hearing officer finds that the seizure was not substantially justified by law. The costs shall be paid in full or a mutually satisfactory arrangement for payment shall be made between the local animal control authority and the person claiming an interest in the animal before return of the animal to the person.

(i) A person from whom a dangerous regulated animal has been seized under this subsection may prevent disposition of the animal by posting security in the amount sufficient to provide for the actual costs of care and keeping of the animal. The security shall be posted within five business days of the seizure, inclusive of the day of the seizure.

(j) If circumstances exist threatening the life of a person or the life of any animal, any law enforcement agency or the local animal control authority shall seize a dangerous regulated animal without an opportunity for hearing or court order, or destroy the animal.

(k) Upon proper determination by a licensed veterinarian, any dangerous regulated animal taken into custody under this section may be immediately euthanized when the dangerous regulated animal is suffering and is beyond cure through reasonable care and treatment.

(l) The agency or authority taking custody of the dangerous regulated animal may recover all costs incurred under this section.

Sec. 8. Exemptions to the provisions set forth in this act are as follows:

(a) Institutions accredited by the American zoo and aquarium association or the zoological association of America shall be exempt from sections 2 and 3, and amendments thereto.

(b) A wildlife sanctuary registered with the local animal control authority shall be exempt from section 2, and amendments thereto.

(c) The Kansas department of wildlife and parks, or a person issued a permit by the secretary pursuant to K.S.A. 32-952, and amendments thereto, shall be exempt from this act.

(d) A licensed or accredited research or medical institution shall be exempt from sections 2 and 3, and amendments thereto.

(e) A United States department of agriculture licensed exhibitor of dangerous regulated animals while transporting or as part of a circus, carnival, rodeo or fair shall be exempt from this act.

Sec. 9. Nothing in this act shall preclude a person who holds a valid United States department of agriculture license from selling or transferring the entire business and the dangerous regulated animals covered by such license to another person who holds a valid United States department of agriculture license.

Sec. 10. (a) Annually, on or before April 1, a local animal control authority shall report to the secretary of the Kansas department of wildlife and parks on dangerous regulated animals registered with the local animal control authority during the preceding calendar year. The report shall include all registration information submitted to the local animal control authority under subsection (b) of section 3, and amendments thereto, and information on enforcement actions taken under this act.

(b) It shall be a violation of this act for a person who does not own the dangerous regulated animal, to care for, have custody or control of such animal unless such person is a registered designated handler. Any such person applying for a designated handler registration shall file an application on a form prescribed by the local animal control authority. Application for such

registration shall be accompanied by an application fee not exceeding \$25. If the local animal control authority finds the applicant to be qualified to be a registered designated handler after meeting the training, experience and ability requirements determined by the secretary of wildlife and parks, the local animal control authority shall issue a designated handler registration which shall expire at the end of the calendar year.

(c) The secretary of wildlife and parks shall provide educational training programs for the local animal control authority concerning the provisions of this act and the handling of dangerous regulated animals.

(d) The secretary of wildlife and parks shall adopt rules and regulations:

(1) Establishing training, experience and ability requirements for registered designated handlers; and

(2) to implement the provisions of this act.

Sec. 11. A county or city may adopt resolutions or ordinances governing dangerous regulated animals that are more restrictive than this act. Such resolution or ordinance may include, but not be limited to, additional animals to the definition of a dangerous regulated animal, additional caging standards, and stricter care and treatment provisions. If a county or city already has a resolution or ordinance in existence that is substantially the same or more restrictive, such county or city shall be in compliance with this act.

Sec. 12. Any person who knowingly violates this act is guilty of a class A nonperson misdemeanor.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

FURTHER, in addition to the animals identified in section 1 (d) of Senate Bill 578, a dangerous regulated animal shall include any member of the dog (canid) family not customarily domesticated by man, to include wolf or wolves, 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*); and

Barton County shall regulate animals described in section 1 using the same regulatory scheme set forth in Senate Bill 578.

Violations shall be punishable as a class B misdemeanor as is allowable under County resolutions.

FURTHER, after adoption of this Resolution, except as otherwise set forth herein, possession of any wolf, wolves or wolf hybrids is prohibited.

ADOPTED this 12th day of June, 2006.

BOARD OF COUNTY COMMISSIONERS
OF BARTON COUNTY, KANSAS

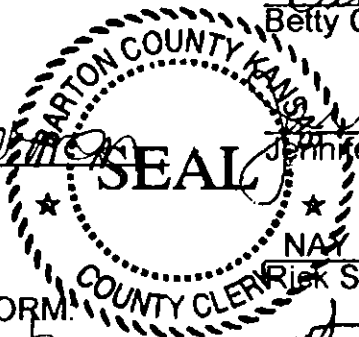
Betty Chlumsky

Betty Chlumsky, Chair

ATTEST:

Donna Zimmerman

Donna Zimmerman
County Clerk



Jennifer Schantz

Jennifer Schantz, Commissioner

NAY VOTE

Rick Scheufler, Commissioner

APPROVED AS TO FORM:

Richard A. Boeckman

Richard A. Boeckman,
County Counselor

Kenny Schremmer

Kenny Schremmer, Commissioner

Joe Wilson

Joe Wilson, Commissioner