

CHAPTER 90: ANIMALS

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DOGS AND OTHER ANIMALS

§ 90.001 DEFINITIONS.

For the purpose of this chapter, the definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED. Failure to redeem an impounded animal within 72 hours of incarceration, leaving an animal in any place where it may suffer injury, hunger or exposure or become a public nuisance or changing residence and failing to move an animal within 24 hours.

ANIMAL. All vertebrates except human beings.

ANIMAL CONTROL OFFICER or ACO. Any person hired by or contracted with by the city to enforce this chapter. This term includes a law enforcement officer of the city.

ANIMAL SHELTER. Any premises provided by the city and maintained for impounding and caring for dogs and other animals.

AT LARGE. Any animal which is off the premises of its owner and is not under the immediate and continued control of its owner or an authorized agent of the owner either by leash or voice and/or signal control. Animals controlling or protecting livestock or in other related agricultural activities are to be excluded from this definition.

BITE. Any abrasion, scratch, puncture, laceration, bruise, tear or piercing of the skin inflicted by the teeth of an animal.

DOG. Any canine animal, of either sex (whether or not spayed or neutered), or any dingo, wolf, coyote or cross that is being kept as a dog.

OWNER. Any person, corporation, partnership, association or other legal entity owning, keeping or harboring a dog, or allowing the same to habitually remain on or be fed on or about one's premises.

RESTRAINT. An animal is controlled by a leash, at "heel" beside a competent person and obedient to that person's command, within a vehicle with permission of the owner, or within the property limits of the premises controlled by the owner or other person consenting thereto.

SEVERE INJURY. Any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

VACCINATION. The inoculation of a dog with anti-rabies vaccine, having an effective immunity of at least two years, and administered under the direction of the Public Health Officer by a licensed veterinarian or with any other vaccine approved by the Public Health Officer and the State Veterinarian.

VETERINARIAN. A doctor of veterinary medicine holding a valid license.

VICIOUS ANIMAL. An animal which bites or attempts to bite any human being without provocation or which harasses, chases, bites or attempts to bite any other animal including livestock or any domestic pet.

(Ord. 2005-01, passed 11-8-2004; Ord. 2010-01, passed 8-31-2009)

§ 90.002 ENFORCEMENT.

This chapter shall be enforced by the ACO or any city law enforcement officer.

(Ord. 2005-01, passed 11-8-2004)

§ 90.003 LICENSING.

(A) It is unlawful for any person to own, harbor or keep any dog over the age of five months, or to permit such a dog which is owned, harbored or controlled by him or her to be within the city limits unless the dog has attached to its neck or leg a substantial collar containing a metal license tag which is issued by the authority of the municipality for the purpose of identifying the dog and designating a license number. No person shall own, keep or harbor any dog within the city limits unless such dog is licensed as herein provided.

(1) Application for such license shall be made to the City Clerk, or such other agent as shall be designated by him or her, which shall state the name and address of the owner and the name, breed, color, age and sex of the dog. The license fee shall be paid at the time of making application, a numbered receipt given to the applicant and a numbered metallic tag shall be issued to the owner.

(2) The annual license fee shall be \$5 for each neutered male or spayed female dog. The annual license fee shall be \$20 for each un-spayed or un-neutered dog. Any person bringing any dog into the city, after the date this chapter is effective, except as otherwise provided, shall immediately make application for such license and pay the license herein provided for; but such license shall expire on the thirty-first day of the following December. No application for a dog license shall be accepted until the applicant has produced satisfactory evidence that the dog for which the license is to be issued has been vaccinated for rabies within two years immediately preceding the date of application with "avianized flury" strain rabies vaccine.

(B) In the event that a license tag issued for a dog shall be lost, the owner may obtain a duplicate tag upon the payment of \$2 to the City Clerk.

(C) If there is a change of ownership of a dog during the license year, the new owner may have the current license transferred to his or her name upon application to the City Clerk.

(D) No person shall use for any dog a license receipt, or license tag, or evidence of vaccination for rabies issued for any other dog.

(E) The license tag provided for herein shall be stamped with a number and the year for which issued. The shape, design or color of each tag shall be changed from year to year. Every licensed dog shall at all times wear a choke chain, collar, harness or leg chain to which is attached its licence tag.

(F) The unauthorized removal of the tag hereinbefore mentioned from any dog shall constitute a violation of this chapter.

(G) No person shall place or cause to be placed upon the collar or around the neck of any dog, any counterfeit of the tag hereinbefore mentioned.

(Ord. 2005-01, passed 11-8-2004; Ord. 2010-01, passed 8-31-2009) Penalty, see § 90.999

§ 90.004 WARNINGS.

At the ACO's discretion, one warning may be issued to owners of animals in violation of this chapter.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.005 DOG SHOWS OR SERVICE DOGS.

(A) No license shall be required for dogs brought into the city-county for the purpose of participating in any dog show; but such dogs must be vaccinated as required by § 90.003.

(B) Licenses shall be required for dogs trained to assist sight or hearing impaired persons or other personal service dogs, when such dogs are actually being used by sight or hearing impaired or other disabled persons, but the fees provided for in § 90.003 shall be waived. Such dogs must be vaccinated as required by §90.003.

(C) Licenses shall be required for dogs trained to assist law enforcement officers, but the fees provided for in §90.003 shall be waived. Such dogs must be vaccinated as required by § 90.003.

(Ord. 2005-01, passed 11-8-2004)

§ 90.006 PRIMA FACIE EVIDENCE OF VIOLATION.

It is the responsibility of every owner of a dog which is within the city limits to comply with the provisions hereof. If any dog is seen within the city limits without having a current license tag attached to it by one of the means provided for herein, or running at large, it shall be prima facie evidence of a violation of this chapter by the owner of said dog.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.007 ANIMAL CENSUS.

At least once every five years, a complete census may be taken of all dogs, cats and other animals in the city and anyone found to be harboring an unlicensed animal required to be licensed by the provisions of this chapter shall be required immediately to obtain a license for such animal or shall be cited into court to answer to charges of violation of this chapter.

(Ord. 2005-01, passed 11-8-2004)

§ 90.008 NUISANCE DOGS.

(A) It is a public nuisance for any dog to:

- (1) Threaten people or property specifically including livestock, other dogs or pets;
- (2) Damage or destroy property;
- (3) Be abandoned or deserted by its owner;
- (4) Run at large and not be restrained as required by this chapter;
- (5) Chase vehicles in public streets, ways or parks;
- (6) Cause annoyance to any person by prolonged barking, howling, yelping or other means;
- (7) Deposit or buildup of excreta or waste material on any public walk, recreation area or private property;
- (8) Be an unconfined female dog or other animal in heat (estrus);
- (9) Not be vaccinated as required by this chapter; or
- (10) Be owned, kept or maintained without a current license as required by this chapter.

(B) It is unlawful for any person to own, harbor, keep or maintain any such nuisance dog. Any such nuisance dog may be taken up and impounded by the Animal Control Officer or any law enforcement officer. Any person aggrieved by a nuisance may file a complaint with the Animal Control Officer alleging a violation of this section.

(C) All female dogs or other animals in heat (estrus) shall be kept in a confined area not accessible to male animals which may be running at large.

(D) A dog owner shall be responsible for the immediate removal of any excreta or waste material deposited or built up by his or her dog on any public walk, recreation area or private property. It shall be unlawful for the owner to fail to dispose of the excreta in a sanitary manner. A dog owner may not allow a dog to deposit waste material on public property except in designated areas.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.009 VICIOUS ANIMALS.

(A) For purposes of this chapter, a **VICIOUS ANIMAL** is defined in §90.001.

(B) Any animal which is impounded as a vicious animal may, at the discretion of the impounding city officer, be impounded for a period of ten days from the date of pickup.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.010 RESTRAINT REQUIRED.

The owner shall keep his or her dog under restraint at all times and shall not permit such dog to be off the premises or property of the owner, unless under the control of a competent person.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.011 INVESTIGATION.

For the purpose of enforcing the provisions of this chapter, the Animal Control Officer or any law enforcement officer is empowered to demand from the occupants of any premises, upon or in which a dog is kept or harbored, the exhibition of such dog or other animal and the license or tag for the animal.

(Ord. 2005-01, passed 11-8-2004)

§ 90.012 INTERFERENCE WITH LAW ENFORCEMENT OFFICER.

It is unlawful for any person to prevent, hinder or detain the Animal Control Officer or any other law enforcement officer in the performance of any duty or power imposed on such officer by this chapter.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.013 CRUELTY TO ANIMALS.

(A) A person commits the offense of cruelty to animals if he or she knowingly or negligently subjects an animal to mistreatment or neglect by:

- (1) Inflicting pain upon or injuring any animal;
- (2) Provoking, haranguing, teasing, tormenting or in anyway disturbing a dog or other animal with the intent to cause it to bark or attack any person;
- (3) Laying out or exposing any poison for the purpose of killing any animal;
- (4) Overworking, beating, tormenting, injuring or killing any animal;
- (5) Carrying any animal in a cruel manner;
- (6) Failing to provide an animal in his or her custody with proper food, drink or shelter;
- (7) Promoting, sponsoring, conducting or participating in a horse race of more than two miles; or
- (8) Promoting, sponsoring or conducting or participating in any fight between any animals.

(B) Any animal whose owner has been charged with cruelty to that animal may be retained at the animal shelter until disposition of the charge, if the Animal Control Officer believes that returning the animal to the owner may endanger its life. At the hearing, if the owner is convicted, the judge shall determine whether the animal will be returned to the owner or placed for adoption by the animal shelter.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.014 EXECUTION OF FINE OR IMPRISONMENT.

If the judgment is for a fine and imprisonment, until fine be paid, the defendant must be committed to the custody of the proper officer and by him or her detained until the judgment is complied with. The imprisonment must not exceed one day for

every \$75 of fine.

(Ord. 2005-01, passed 11-8-2004; Ord. 2010-01, passed 8-31-2009) Penalty, see § 90.999

§ 90.015 PROPER ENCLOSURE.

While on the owner's property, a vicious or potentially vicious animal shall be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top, and shall also provide protection from the elements for the dog. If it has no bottom secured to the sides, the sides must be imbedded in the ground no less than two feet.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.016 FREEING CONFINED ANIMALS.

It is unlawful for any person to open gates or doors or otherwise cause or permit dogs or other animals to escape confinement against the wishes of the owner.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

IMPOUNDING ANIMALS

§ 90.030 SEIZURE AND IMPOUNDING OF ANIMALS.

(A) Any dog which is found running at large or abandoned may be seized and impounded by any law enforcement officer.

(B) Any other animal which is found running at large or abandoned may be impounded by a law enforcement officer.

(Ord. 2005-01, passed 11-8-2004)

§ 90.031 NOTICE OF IMPOUNDMENT: REDEMPTION.

(A) The impounding official shall give notice of impoundment of any animal by causing personal service on the owner, or some responsible person at the owner's residence or place of business. If such person cannot be found, notice shall be given by posting in the County Sheriff's office at the county jail in the city.

(B) The owner must redeem the impounded animal within 72 hours after the giving of the notice or it shall be subject to disposal by the Animal Control Officer or any law enforcement officer as provided in § 90.032. The owner of any impounded dog or other animal may not regain possession of the animal until he or she has paid an impounding fee of \$25, plus \$10 for its keeping, for each 24-hour period, or part thereof, that it is impounded.

(C) In addition, the Animal Control Officer, or any law enforcement officer, may collect from the owner of the animal, the actual expenses of seizing such dog or other animal.

(D) The Animal Control Officer or any law enforcement officer may issue a ticket or notice to appear in court to the person redeeming any dog or other animal impounded for violation of any provision of this chapter, or any other dog or animal ordinance of the city, and file a complaint in the City Court.

(E) In the event a dog or any other animal is redeemed, and such animal is unlicensed as provided by the licensing ordinances of the city, the person redeeming must, within 48 hours of the time of redemption, show proof to the Administrator that said dog has received all shots required by existing city ordinances and obtain a license for said dog from said Administrator. In the event the dog is redeemed on a weekend, the redemptioner shall have until 9:00 a.m. the following Wednesday morning to comply with this requirement. Failure to comply shall be cause for the Animal Control Officer or any law enforcement officer to issue a ticket or notice to appear in court for violation of the dog licensing ordinance of the city.

(Ord. 2005-01, passed 11-8-2004)

§ 90.032 DISPOSITION OF UNREDEEMED ANIMALS.

The refusal or failure of the owner of any such impounded animal to pay the fee and charges within 72 hours of notification shall be held to be an abandonment of the animal by the owner. In the event that any impounded dog or other animal is not redeemed by the owner, it may be disposed of by the Animal Control Officer or any law enforcement officer in a humane manner. A dog or other animal may be placed for adoption with a suitable person subject to requirements that it be spayed or neutered as required by M.C.A. § 7-23-4204. Any impounded dog or other animal suffering from an infectious disease shall not be released, but shall be put to death unless the Chief of Police shall otherwise order.

(Ord. 2005-01, passed 11-8-2004)

§ 90.033 ALTERNATIVE TO DEATH OF ANIMAL; REMOVAL OF ANIMAL FROM MUNICIPALITY.

(A) Whenever an animal is to be put to death under this chapter, except for infection with rabies, the owner or other person may apply to the City Court for permission to remove the animal permanently from the municipality.

(B) Upon such person's filing with the court his or her written agreement to remove the animal from the municipality and

be responsible for its remaining out permanently, the City Judge may, in his or her discretion, make an order allowing the animal to be removed from the municipality instead of being put to death.

(Ord. 2005-01, passed 11-8-2004)

CONTROL OF LIVESTOCK

§ 90.045 ANIMALS AND FOWLS TO BE KEPT IN ENCLOSURES.

All animals, including cattle, horses, hogs, mules, sheep, goats, other livestock and fowls must be kept within a fenced or similar enclosure and upon the private premises of their owner or the person responsible for them at all times.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.046 NUMBER OF ANIMALS ALLOWED BY WEIGHT.

There can be no more than one animal with a live weight in excess of 50 pounds (except dogs) for each two acres of enclosed land upon which said animal is kept.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.047 STAKING PROHIBITED.

No animal shall be staked outside the enclosed premises on private property required in §90.045.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.048 PREMISES TO BE MAINTAINED.

This chapter does not change the requirements of other ordinances and chapters requiring premises upon which animals are kept to be maintained in a sanitary and healthy condition.

(Ord. 2005-01, passed 11-8-2004)

§ 90.049 APPLICATION.

This chapter applies to any person owning, keeping or harboring any such animal.

(Ord. 2005-01, passed 11-8-2004)

§ 90.050 ENFORCEMENT.

In addition to the members of the city police force, the City Animal Control Officer shall have the authority to enforce the provisions of this chapter.

(Ord. 2005-01, passed 11-8-2004)

FOWL AT LARGE

§ 90.065 FOWL AT LARGE.

It shall be unlawful for any person or persons who may own or have the care or custody of any chickens, geese, ducks, turkeys or any other domestic fowls to allow or suffer the same to run at large outside the enclosure of such person or persons.

(Ord. 2005-01, passed 11-8-2004) Penalty, see § 90.999

§ 90.066 ENFORCEMENT.

In addition to the members of the city police force, the City Animal Control Officer shall have the authority to enforce the provisions of this chapter.

(Ord. 2005-01, passed 11-8-2004)

ANIMAL KENNELS

§ 90.080 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Any dog or other animal over the age of six months.

KENNEL. A building, enclosure or portion of any premises:

- (1) Where dogs are boarded or kept for hire, sale or breeding;
- (2) Where dogs are kept or maintained by any person other than the owner thereof; or

(3) Where three or more dogs over the age of six months are kept or maintained.

OWNER. Any person owning, keeping or harboring any animal as defined in this section.

(Ord. 2005-01, passed 11-8-2004; Ord. 2010-01, passed 8-31-2009)

§ 90.081 LICENSE; FEE; ISSUANCE; APPLICATION.

(A) Any person maintaining a kennel within the city shall pay a yearly license fee for maintaining such kennel.

(B) Issuance of any kennel license shall be subject to the right of inspection of the kennel and premises by the Animal Control Officer, or any law enforcement officer of the city.

(C) Application for such kennel license shall be made to the City Clerk and initial application must be accompanied by the written consent of at least 75% of all persons in possession of premises within 100 feet of the proposed kennel and accompanied by a deposit of a license fee as provided in this chapter, which deposit shall be returned to the applicant if the license is not issued.

(D) The application for license shall state:

(1) The name and address of the owner;

(2) The location of the proposed kennel;

(3) The number of animals therein;

(4) Verification from the property owner's insurer that there is sufficient liability insurance to cover any reasonably foreseeable occurrence involving the animals kept on the premises; and

(5) The endorsement of the City Clerk, showing that the premises sought to be licensed as a kennel does not violate any zoning ordinance or resolution.

(E) All applications for licenses shall be submitted to the City Council for approval.

(Ord. 2005-01, passed 11-8-2004; Ord. 2010-01, passed 8-31-2009)

§ 90.082 CLASSES ESTABLISHED; LICENSE FEES.

(A) There shall be three classes of kennels as follows.

(1) (a) A Class One kennel shall be:

1. Where more than three but no more than five adult dogs are kept; or

2. Where not more than three litters are bred annually.

(b) The annual license fee for the Class One kennel shall be \$75.

(2) (a) A Class Two kennel shall be:

1. Where no more than five adult dogs are kept; or

2. Where more than three but no more than five litters are bred annually.

(b) The annual license fee for a Class Two kennel shall be \$100.

(c) No Class Two license shall be issued until the premises to be used for such purposes have been inspected and approved by the Animal Control Officer or city law enforcement officer.

(3) (a) A Class Three kennel shall be:

1. Where dogs are boarded for periods of no more than 30 days for each dog; and

2. Where dogs are not bred.

(b) The annual license fee for a Class Three kennel shall be \$100.

(c) No Class Three license shall be issued until the premises to be used for such purposes have been inspected and approved by the Animal Control Officer or city law enforcement officer.

(B) Every person, firm or corporation licensed under this chapter shall be subject to regulation, inspection, control and supervision by the Animal Control Officer or City Law Enforcement Officer.

(Ord. 2005-01, passed 11-8-2004; Ord. 2010-01, passed 8-31-2009)

§ 90.083 EXPIRATION OF LICENSE.

Each license issued under this chapter shall expire on December 31 of the year of its issuance.

(Ord. 2005-01, passed 11-8-2004)

§ 90.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is provided shall be subject to §10.99.

(B) Any owner keeping such nuisance dog in violation of §90.008(A) shall be punished by a fine of up to \$500 and imprisonment for up to six months.

(C) Any person responsible for maintaining a vicious animal as defined by §90.001 and 90.009 shall be fined not less than \$50 for the first offense, and not less than \$200 or more than \$500 for the second or subsequent offense. The court, upon conviction of a second or subsequent offense, may, in its discretion, order the killing or destruction, or permanent removal from the city limits, of a vicious animal.

(D) A person violating the provisions of §90.013 shall be guilty of a misdemeanor, and shall be punished by a fine of up to \$500 and imprisonment for up to six months.

(E) (1) Any dog which is impounded as a vicious dog may, at the discretion of the impounding city officer, be impounded for a period of ten days from the date of pickup.

(2) Any person responsible for maintaining a vicious dog, as defined by this chapter, shall be fined not less than \$100 for the first offense and not less than \$200 or more than \$500 for the second or subsequent offense. The court, upon conviction of a second or subsequent offense, may, in its discretion, order the destruction of a vicious dog.

(3) Any person violating any other provisions of §§90.030 through 90.033 not otherwise provided for shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of up to \$500 and imprisonment for up to six months.

(F) Any person who shall violate any of the provisions of §§90.045 through 90.050 shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be guilty of a misdemeanor, and shall be punished by a fine of up to \$500 and imprisonment for up to six months.

(G) Any person or persons found guilty of any violation of the provisions of §§90.065 or 90.066 shall be adjudged guilty of a nuisance and be fined not less than \$20 or more than \$100.

(H) Any person violating any section of §§90.080 through 90.083 shall be guilty of guilty of a misdemeanor, and shall be punished by a fine of up to \$500 and imprisonment for up to six months.

(Ord. 2005-01, passed 11-8-2004)