

KOSCIUSKO ANIMAL CONTROL ORDINANCE

Section One: Definitions

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any live, vertebrate creature, domestic or wild, except homo sapiens.

Animal control division means the review and enforcement authority under the supervision of animal control officer (in direct cooperation with the police department whenever requested) and empowered to administer this title.

Animal control officer means any person designated by the city as a law enforcement or animal control officer who is qualified to perform such duties under the laws of this state.

Animal shelter means any facility operated by a humane society or municipal agency, or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this title or state law.

Feral dog means a dog that has escaped from domestication and become wild, dangerous or untamed.

Owner means any person, partnership or corporation owning, keeping or harboring one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered.

Performing-animal exhibition means any spectacle, display, act or event, other than a circus, in which performing animals are used.

Pet means any animal kept for pleasure rather than utility.

Pet store means any place of business which sells birds, fish, reptiles or mammals intended for use as pets; however, this shall not include commercial and hobby breeders.

Public nuisance means any animal which:

1. Molests passersby or passing vehicles;
2. Attacks other animals;
3. Trespasses on school grounds, city parks or private property;
4. Repeatedly runs at large;
5. Damages private or public property;
6. Barks, whines, scream or howls in an excessive, continuous or untimely fashion;
7. Defecates or frequently urinates on public property or private property of one other than its owner;
8. Is allowed by its owner to become a nuisance to people or other animals.

Restraint means the condition of securing any animal, by a leash or lead of less than four (4) feet; within the fenced real property limits of its owner; or by tethering in such a way that the animal is within the real property limits of its owner.

Running at large means any animal not under restraint.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal means any animal, except dogs, that constitutes a physical threat to human beings or other animals.

Vicious dog

1. Any dog which has shown a propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals.
2. Any dog which when unprovoked bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal on public or private property, or chases or approaches a person upon the streets, sidewalks or on any public grounds in a menacing or terrorizing manner or apparent attitude of attack.
3. Any dog which is owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.
4. Notwithstanding the above, no dog may be considered a vicious dog if an injury or damage is sustained by a person who at the time of such injury or damage was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. No dog may be considered vicious if an injury or damage was sustained by a domestic animal which at the time of such injury or damage was teasing, tormenting, abusing or assaulting the dog. No dog may be considered vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.
5. Vicious dog shall not include:
6. A police dog while being used to assist law enforcement officials in the performance of their official duties;
7. A dog attempting to prevent a trespass or other criminal offense on the property of its owner, keeper or harborer.
8. Menacing fashion means that the dog would cause a reasonable person being chased or approached to believe that the dog would attempt to cause physical injury to that person.
9. *Pit bull dogs, dogs belonging to the breed of dogs commonly referred to as pit bull dogs, American Pit Bull Terrier, American Staffordshire Terrier, Bull Terrier, Chow Chow, Doberman Pincher, Rottweiler, Shar Pei, Staffordshire Bull Terrier, Wolf Hybrids, and any type or breed of dog used as guard or attack dogs, shall be considered prima facie as vicious dogs under the terms and provisions of this division.*

Section Two: Enforcement

The civil and criminal provisions of this title shall be enforced by the division of animal control and the city police department.

Any police officer or animal control officer having probable cause that a person has violated a section of this title may, in lieu of obtaining a misdemeanor warrant for arrest of such suspect, issue to the person a written citation requiring the person to appear at a date and time in the municipal court to answer the charge or charges specified in the citation.

It shall be a violation of this title to interfere with an animal control officer in the performance of his duties.

Section Three: Dogs running at large prohibited

Prohibited. It shall be unlawful for the owner of any animal to permit it to run at large within the corporate limits of the city.

Impoundment of animals at large. Animals running at large may be impounded as provided elsewhere herein.

Section Four: Keeping of animals within city limits

Keeping animals near residences prohibited: exemption for dog and cats.

It shall be unlawful for any person to keep or maintain any fowl or any livestock animals (except as allowed by other specific provisions of this section), in any area zoned other than agricultural, within two hundred fifty (250) feet of any building within the corporate limits of the city used as a residence regardless of whether the residence is on the person's property or an adjacent property. Also, any such fowl or livestock kept or maintained beyond two hundred fifty (250) feet of any residence shall be held in a secure fence/cage system that does not allow for such animals to roam from their owner's property. The provisions of this section shall not apply to keeping and maintaining cats and dogs.

In areas zoned agricultural, this requirement shall not apply to roaming livestock that are not exclusively confined within two hundred fifty (250) feet of a residence (i.e., animals that are confined within a larger fenced area that allows the animals to roam farther than two hundred fifty (250) feet from any residence while on their owner's property).

Swine prohibited; exception for dealers. It shall be unlawful for any person to raise or keep hogs and pigs within the corporate limits of the city except as permitted by the zoning ordinance; provided that this section shall not apply to dealers in hogs and pigs who are hereby permitted to maintain hog and pig pens in areas zoned for such; provided, however, that such pens shall meet the sanitary requirements of the state health department.

Number restricted. It shall be unlawful for any person to have in their possession or on their property more than five (5) dogs and/or cats in any combination that exceeds a total of five (5) such animals over the age of three (3) months in any area zoned other than agricultural.

The above Restrictions notwithstanding, however, any owner of dogs that has a kennel with a concrete floor and cyclone fencing on the date of this Ordinance may have not more than eight (8) dogs in said

kennel over the age of three (3) months in any area zoned other than agricultural. Any such owner shall fully comply with all of the other terms and provisions of this Ordinance.

In areas zoned agricultural, it shall be unlawful for any person to have in their possession or on their property more than ten (10) dogs and/or cats in any combination that exceeds a total of ten (10) such animals over the age of three (3) months.

Section Five: Responsibility of owner generally

No owner shall fail to:

1. Exercise proper care and control of his animals including but not limited to dogs or cats;
2. Prevent them from becoming a public nuisance, as defined in Section One or private nuisance; or
3. Comply with the standards set out next below and all other provisions of this title.

It shall be unlawful for any lot or stall or stable or other place where animals are kept to be in an unclean, filthy or unsanitary condition. All lots, stalls, stables, pens, yards and other places where cattle, horses, mules, hogs, dogs, cats or other animals are kept for any purpose whatsoever, anywhere in the city, shall be kept clean and wholesome by removal of all offensive matter and by suitable cleansing and disinfecting as often as may be necessary, which care is hereby required and made the duty of every person having, owning or controlling such places.

The owner of every animal, including but not limited to cats and dogs, shall remove any fecal matter deposited by such animals on public walks, streets, recreation areas or private property of another. It shall be unlawful for the owner of any property to allow unsanitary or malodorous conditions to develop on his property due to the keeping, maintaining, owning or harboring of animals. Yards, pens, premises and animals shall be kept free of insect infestations.

Animal pens or enclosures shall be large enough to provide reasonable freedom of movement to the animals contained therein.

No owner of an animal shall abandon such animal or fail to maintain such animal in a healthy condition or to provide appropriate veterinary treatment immediately if ill.

No owner shall fail to provide his animals with sufficient good and wholesome food and water, proper shelter and protection from the weather and to generally provide humane care and treatment.

No owner shall keep or harbor any animal(s) which by loud, frequent or habitual barking, lowing, yelping or other noise or action, disturbs any person or neighborhood within the corporate limits of the City.

Section Six: Vaccinations

Required. Any person owning, keeping, harboring or having custody of any dog or cat three (3) months of age or older within the city shall have that animal vaccinated against rabies and annually thereafter with the approved dosage of an approved anti-rabies virus (vaccine) properly administered by a person legally authorized to do so; it shall be unlawful for any person to own or have in his possession any dog or cat not so vaccinated. Every dog or cat must be vaccinated in accordance with the Compendium of Animal Rabies Vaccines as prepared by the National Association of State Public Health Veterinarians, Inc.

Tag bearing vaccination serial numbers to be worn. The owner of any dog or cat shall see that the animal wears a securely braided metal tag with the serial number of the vaccination and the year in which the animal was inoculated stamped thereon and shall see that the collar and tag are worn by the animal at all times.

Section Seven: Keeping of vicious animals or vicious dogs.

A vicious animal or dog shall be securely confined indoors or confined in a securely enclosed and childproofed locked pen or structure upon the premises of the person owning or harboring the same. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded in the ground no less than two (2) feet.

Such pen must provide protection for the dog from the elements.

No person owning or harboring or having the care of a vicious dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled, except that a vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club show or upon prior written approval of the animal control supervisor. Such dog may not be leashed to inanimate objects, e.g., trees, buildings, etc., and the muzzle must be sufficient to prevent such dog from biting persons or other animals.

Any such leash shall be not more than four feet in length, and the person holding the leash must be not less than eighteen years of age, and sufficiently able to restrain said animal.

No vicious dog may be kept on a porch or patio or any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or doors are the only obstacle preventing the dog from exiting the structure.

All owners, keepers or harborers of vicious dogs within the city shall display in a prominent place on their premises a sign easily readable by the public using such words as "Beware of Dog." In addition, a similar sign shall be posted on the kennel or pen of such animal.

Every vicious animal shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

The persons having the enforcement duty under this title may enter the premises where a vicious dog or animal is kept for the purpose of inspection of the premises to ascertain whether such complies with the provisions of this title. Such inspection shall be made only after twenty-four (24) hours notice to the occupant of the premises and shall require that a police officer be present.

This section shall not apply to dogs kept by law enforcement agencies.

Section Eight: Dogs running at large impounded.

Authority to seize; confinement period. An unrestrained dog or an -animal constituting a public nuisance shall be taken by the police or animal control officers and impounded in an enclosure or animal shelter kept for that purpose, to be provided and maintained by the city, and there confined in a humane manner. Such an animal shall be kept for at least five (5) days unless sooner claimed by the owner;

impounded dogs and cats not suffering from an injury or infectious disease shall be kept for not less than five (5) working days.

Any vicious dog shall be immediately seized by the division of animal control if:

1. The owner does not secure the liability insurance coverage required under Section Twelve;
2. The owner does not maintain the dog in a proper enclosure; or
3. The owner willfully or negligently permits the dog outside the dwelling of the owner or outside the proper enclosure and does not have the dog muzzled and under personal physical restraint of the owner.

Notice to owner; redemption. If by a tag or other means the owner of an impounded animal can be readily identified, the animal control division shall, upon impoundment, notify the owner by telephone or mail. Within five (5) days, the rightful owner of any animal held under this section may obtain said animal upon the payment of an impoundment fee; if the animal is a pet required to be properly vaccinated, licensed and tagged, the owner may obtain the animal upon the payment of an impoundment fee as hereinafter provided. If an unvaccinated pet is claimed by the owner, the owner must make arrangements for the vaccination of the animal satisfactory to the animal control director and then pay the relevant fee. An owner reclaiming an impounded animal (or quarantined animal as noted below) shall pay a fee as follows:

- For cats and dogs \$20.00
- Plus, for each day of impoundment \$5.00

Disposition if not reclaimed by owner; waiver of waiting period. Any animal not reclaimed by its owner within five (5) days shall become the property of the city and shall be placed in process for adoption to a suitable home for a fee established by the city for a cat or dog or humanely euthanized with an injection under conditions deemed necessary by the animal control director. The five-day waiting period shall be waived for a vicious or feral dog, or for any animal suffering from an infectious disease. Pursuant to MCA 1972, 97-41-3, an injured or neglected animal may be humanely euthanized without any waiting period.

Additional proceedings against owner authorized. The owner of an impounded animal may also be proceeded against for any violation of this title.

Section Nine: Place for keeping impounded dogs.

All impounded dogs shall be kept in the city dog pound, or such other place as directed by the animal control officer, for five (5) days, unless earlier claimed, as provided in this ordinance. If an impounded dog has not been claimed within the five (5) days, however, the dog shall be disposed of by execution in any humane manner or by sale upon a buyer meeting the vaccination requirement set forth in this ordinance and paying the fees hereinabove set forth. Any such sale shall be in the discretion of the animal control officer.

Section Ten: Dangerous, fierce or vicious dogs at large.

Any dangerous, fierce or vicious dog found at large that cannot be safely taken up and impounded may be slain by any police officer.

Section Eleven: Elimination of animals, when authorized.

Vicious animals or feral or vicious dogs. When an animal is determined by the supervisor of animal control to be a vicious animal or a feral or vicious dog, that animal may be destroyed by the supervisor of animal control or his designee, provided two (2) of the following requirements are met:

1. The animal is running at large or not properly confined or muzzled as described herein.
2. There is no vaccination tag around the animal's neck.
3. Attempts to peacefully capture the animal have been made and proven unsuccessful.

Any dog that aggressively attacks and causes severe injury or death of any humans shall be immediately confiscated by animal control, placed in quarantine for ten (10) days, and thereafter destroyed in an expeditious and humane manner. "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.

Incurably injured or diseased animals, etc. It shall be the duty of the police and/or a duly authorized animal control officer to see that any animal suffering from an incurable injury or disease is humanely euthanized with an injection at the animal shelter under the direction of a qualified individual (as defined by the state). In such cases of humane euthanization, reasonable efforts not to exceed forty-eight (48) hours shall first be made to locate the owner of any such injured or diseased animal unless the animal cannot be made comfortable for that period. If the animal is in a continual state of suffering, the euthanization shall be performed immediately. Furthermore, it shall be the sole duty of the police (on behalf of the city) as the sole effective means of controlling a public nuisance or health hazard to mercifully end the life of an animal by the discharging of a firearm. An individual may discharge a legal firearm to mercifully end the life of an animal perceived as a threat to them or others (when time will not allow for the individual to contact the police to handle the matter); after such incident, the individual shall be required to contact the police to report the incident and the incident will be subject to investigation by the police as warranted. In the event of an injured or diseased animal, no individual may discharge a firearm to mercifully end the life of the animal in question but rather, they shall contact the police to handle the matter as stated above.

Section Twelve: Registration, requirements and fees for vicious dogs.

It shall be unlawful for any person to own, keep or harbor a vicious dog unless the dog is registered as provided by this section:

The city clerk shall issue a certificate of registration to the owner, keeper or harborer of such animal for one (1) year upon such person paying a fee to the city of dollars (\$25.00) and demonstrating to the clerk:

1. A proper enclosure to confine the dog, as described in Section Seven and the posting of the premises with clearly visible warning signs that there is a dangerous dog on the premises in accordance with this ordinance.
2. The dog has been vaccinated by a person granted a permit to administer virus (vaccine) by the state board of health, as defined in section 41-53-5, Mississippi State Code Annotated 1972, as amended, with anti-rabies vaccination within four (4) months of the date of such application;
3. A surety bond issued by a surety to be approved by the city court clerk in the sum of at least One Hundred Thousand Dollars (\$100,000.00), payable to any person injured by such dog; and

4. A policy of liability insurance, such as a homeowner policy, in the amount of at least One Hundred Thousand Dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by such dog.
Such insurance shall contain a provision that the same may not be cancelled until fifteen (15) days notice of cancellation has been given to the animal control division; this extends to owners moving outside the city as they would be required to notify the animal control division of the date and the physical location of the new address to which they are moving. "Serious injury" means any physical injury resulting in two (2) or more sutures or hospitalization.
5. If the person owning, keeping or harboring a vicious dog does not own the property at which the animal is kept, a letter from the property owner authorizing such person to keep a vicious animal on the leased property

Section Thirteen: Leaving unattended animals inside motor vehicle.

It shall be unlawful to leave an animal unattended inside a motor vehicle when such action offers reasonable potential for harm to the animal. An animal control officer or any police officer shall have the authority to make such a determination of potential harm and shall have the authority to remove an animal from such a vehicle if force is not required to gain entry. If force is required to gain entry to a locked vehicle, such force shall only be used by a police officer according to the applicable police department policy.

Section Fourteen: Cruelty, abuse, fighting.

No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate, promote or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans, unless otherwise permitted by law. The animal control officer shall have the authority to take an abused animal into protective custody pending disposition of charges of cruelty or abuse against the owner.

Section Fifteen: Abandonment.

It shall be unlawful for anyone to knowingly abandon any domesticated animal within the city. Each person knowingly abandons, or willingly permits such abandonment, or aids in the abandonment of any domesticated animal shall be guilty of a misdemeanor.

Section Sixteen: Tethering and chaining of dogs to stationary objects.

No person shall, at any time, fasten, chain, tether or tie any dog or cause such dog to be fastened, chained, tethered or tied to a stationary object while such dog is on the dog owner's property, on the property of the dog owner's landlord or on the property of the person having possession, charge, custody or control of such dog unless the dog is on a chain or tether that is at least ten feet in length and attached to a pulley or trolley mounted on a cable which is at least ten feet in length and mounted no more than seven feet above ground level.

Section Seventeen: Keeping wild animals and reptiles prohibited.

No person shall keep any wild animal(s) or reptile(s) within the corporate limits of the city.

No person shall keep or cause to be kept on his premises or in any roadside zoo or pet store any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee.

The animal control officer is hereby granted the authority to seize any wild animal(s) or reptile(s) kept in violation of this section, federal law or state statutes. Upon conviction of the owner for such offenses and, if seized, the animal control officer shall deliver such wild animal(s) or reptile(s) to the department of wildlife conservation or equivalent state agency. In his discretion, the animal control officer may grant the owner of such animals 24 hours to remove them from the boundaries of the city to a lawful place if the public safety and welfare will not be jeopardized thereby.

Section Eighteen: Penalty for violation.

Any person who violates this ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars (\$200.00) or to serve not more than ten (10) days in jail, or both.

In addition to the above, if the dog is a vicious dog, the court may order the dog impounded until such time as the violator complies with this ordinance for vicious dogs. The costs of such impoundment shall be assessed in the same manner as court costs.

If a license for a vicious dog is required by Section Twelve and is not obtained within ten (10) days of any such conviction, the court may order the dog to be humanely destroyed.