

## CHAPTER 4

### ANIMALS AND FOWL

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\***Cross reference**-Health and sanitation, Ch. 66; Jackson Zoological Park 90-36 et seq.

**State law references**-Municipal authority to control running of animals at large, establish city pounds, MCA 1972, 21-19-9; livestock generally, MCA 69-13-1 et seq.; cruelty to animals MCA 1972, 97-41-1 et seq.

## Animals

### ARTICLE I. IN GENERAL

#### Sec. 4-1. Definitions.

The following words, terms and phrases, when used in this chapter, 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.

*Animal control, division of* means the review and enforcement authority under the supervision of the director of sanitation, and empowered to administer this chapter.

*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 the City of West Point, or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

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

*Kennel* means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats, or where there are regularly kept four or more adult dogs or cats, or any combination thereof.

*Owner* means any person, partnership, or corporation owning, keeping, or harboring one 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.

*Public nuisance* means any animal which:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Trespasses on school grounds, in city parks;
- (4) Is repeatedly at large;
- (5) Damages private or public property;

- (6) Barks, whines, or howls in an excessive, continuous, or untimely fashion; or
- (7) Is allowed by its owner to become a nuisance to people or other animal.
- (8) Pilfers or strews garbage placed for collection.

*Restraint* means any animal's being secured by a leash or lead of less than six feet, within the fenced real property limits of its owner, or tethered in such a way that the animal is within the real property limits of its owner.

*Running at large* means any animal's being 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 that constitutes a physical threat to human beings or other animals.

*Wild animal* means any live monkey (non-human primate), raccoon, bear, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal which can normally be found in the wild state and is not ordinarily domesticated by man, whether raised in captivity or in the wild.

*Zoological park* means any facility, other than a pet show, roadside zoo, or kennel, displaying or exhibiting one or more species of non-domesticated animal and operated by a person, partnership, corporation, or government agency.

#### **Sec. 4-2. Animal control officer to enforce chapter provisions; interfering with such officers.**

(a) The civil and criminal provisions of this chapter shall be enforced by the superintendent of animal control and the city police department.

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

#### **Sec. 4-3. Penalty for violation of chapter.**

Any person violating any provision of this chapter, except as provided for in sections 4-13 (C) and 4-26, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$25.00 nor more than \$500.00 or imprisonment in the city jail not to exceed 30 days, or by both fine and imprisonment. If any violation is continuing, each day's violation shall be deemed a separate violation.

**Sec. 4-4. Cropping dogs' ears or performing other surgical procedure.**

No person shall crop a dog's ear or perform any other major surgical procedures except a licensed veterinarian.

**Sec. 4-5. Leaving animals unattended inside motor vehicle; authority of animal control division to remove from vehicle.**

It shall be unlawful to leave an animal unattended inside a motor vehicle when such action is reasonably potentially harmful to the animal. The division of animal control shall have the authority to remove an animal from such a vehicle.

**Sec. 4-6. Operator of vehicle striking animal to report accident.**

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall at once report the accident to the police department and/or the division of animal control or to the local humane society within a reasonable time.

**Sec. 4-7. Keeping of livestock.**

(a) *Horses, cows, mules or cattle.* It shall be unlawful for any person to keep within the corporate limits of the city a cow, mule, horse, or any cattle in any barn, stable or on a lot, unless the owner of such animals shall have at least one acre of land per cow, mule or horse.

(b) *Swine.* The keeping of swine within any area of the city limits that is not zoned for industrial purposes is hereby prohibited.

**Section 4-8. Keeping of wild animals.**

(a) *Display or exhibition.* No person shall keep or permit to be kept on his premises, or in any roadside zoo or pet store, any wild animal for display or for exhibition purposes, whether gratuitously or for a fee. This subsection shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

(b) *Pets.* No person shall keep or permit to be kept any wild animal as a pet.

(c) *Enforcement of section.* The superintendent of animal control shall have the power to release, order the release, or seize any wild animal being kept in violation of this chapter, federal law, or state statute.

The following breeds of dogs have been declared vicious animals: (1) Rottweilers, (2) pit bulls, (3) any mixed cross-breed german shephards, and (4) chows.

(a) *Confining and muzzling required.* Every vicious animal, as determined by the superintendent of animal control, 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.

(b) *Displaying or exhibiting.* No person shall keep or permit to be kept on his premises, or in any roadside zoo or pet store, any vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This subsection shall not be construed to apply to zoological parks, performing animal exhibitions, or circuses.

**Sec. 4-10. Reserved.**

**Sec. 4-11. Responsibility of owner generally.**

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

**Sec. 4-12. Nuisances Animals.**

- (a) *Prohibited.* It shall be unlawful for any person to keep within the corporate limits of the City of West Point any animal that is determined to be a public nuisance as defined by Section 4.1 hereof.
- (b) *Determination.* Any animal may be declared to be a public nuisance by the Superintendent of Animal Control:
1. if said Superintendent personally witnesses the animal engaged in an activity classified as a public nuisance activity by Section 4.1 hereof; or
  2. upon written affidavit by any person that the animal engages in or has engaged in an activity classified as a public nuisance activity by Section 4.1 hereof.
- (c) *Impoundment.* Nuisance animals may be impounded as provided in sections 4-23 and 4-24, provided however, any impounded nuisance animal that is redeemed by the owner shall be permentantly removed forthwith to a location outside the corporate limits of the City of West Point.
- (d) *Subsequent Seizures.* Any nuisance animal that has been declared a Public Nuisance, and is seized and impounded by the City a second or subsequent time shall not be returned to the owner but shall be placed for adoption outside the corporate limits or otherwise disposed of in accordance of Section 4.23(c.) hereof.

**Sec. 4-13. Running at large.**

- (a) *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.
- (b) *Impoundment of animals at large.* Animals running at large may be impounded as provided in sections 4-23 and 4-24.
- (c) *Violation notice; penalty; failure to pay; warrant; penalty for violation of section.* In addition to, or in lieu of, impounding an animal found at large, the animal control officer or police officer may issue to the known owner of such animal a notice of ordinance violation. Such notice shall impose upon the owner a penalty of \$50.00 which may, at the discretion of the animal owner, be paid to the division of animal control within 72 hours in full satisfaction of the assessed penalty. If such penalty is not paid within the time period prescribed, a criminal warrant shall be initiated before a magistrate, and, upon conviction of a violation of this section, the owner shall be punished as provided in Section 4-3.

**Sec. 4-14. Removal of wastes.**

The owner of every animal shall be responsible for the removal of any excreta deposited by his animal on public walks, recreation areas, or private property. It shall be unlawful for the owner of any property to allow unsanitary, unsightly, or malodorous conditions to develop on his property due to the keeping, maintaining, owning, or harboring of animals.

**Sec. 4-15. Burial.**

Upon obtaining the written consent of the superintendent of animal control, a citizen may bury within his real property limits a deceased pet if such burial is to be a minimum depth of two feet.

**Sec. 4-16. Abandonment.**

No owner of an animal shall abandon such animal.

**Sec. 4-17. Giving away as prizes or inducements to trade.**

No person shall give away any live animal, fish, reptile, or bird as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

**Sec. 4-18. Selling chickens or ducklings less than eight weeks of age.**

Chickens or ducklings younger than eight weeks of age may not be sold in quantities of less than ten to a single purchaser, nor shall any such animals be dyed.

**Sec. 4-19. Pet Stores.**

Stores, which deal in live pets, may be subject to inspection on demand by an animal control officer.

**Sec. 4-20. Performing animal exhibitions or circuses.**

(a) *Devices causing suffering.* No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause, or is likely to cause, physical injury of suffering.

(b) *Equipment; inspection.* All equipment used on a performing animal shall fit properly and be in good working condition. An animal control officer shall be authorized to inspect the premises at any time on demand.

**Sec. 4-21. Elimination of animals-Authorized in certain cases.**

(a) *Vicious animals or feral dogs.* When an animal is determined by the superintendent of animal control to be a vicious animal or a feral dog, that animal may be destroyed by the superintendent of animal control or his designee providing each of the following requirements is met:

(1) The animal is running at large.

(2) Attempts to peacefully capture the animal have been made and proved unsuccessful.

(b) *Incurably injured or diseased animals.* It shall be the duty of the police and duly authorized animal control officer to discharge a firearm in order to mercifully end the life of an animal suffering from an incurable injury or disease or as the sole effective means of controlling a public nuisance or health hazard including, but not limited to: pigeons, rabbits, squirrels, snakes and feral dogs.

**Sec. 4-22. Same-Certification of personnel authorized to discharge firearms.**

Personnel empowered by this chapter or section to discharge firearms within the city limits shall qualify with the police range at least annually and may not discharge any firearms within the scope of their employment unless and until the range officer has issued or renewed the appropriate certification. Such certification shall be issued based on the following considerations:

- (1) Thorough instruction in the operation of the type of firearms issued to the division of animal control.
- (2) Thorough knowledge of all safety procedures.
- (3) Competent performance on the firing range.
- (4) Such other tests or qualifications of the police range officer in his discretion deems appropriate. In issuing the required certification, the police range officer is to take into consideration all the requirements in keeping with good police practice, and will at all times bear in mind the safety of the citizens of the city, and shall require the same degree of competence from authorized personnel as is required of police officers discharging firearms within the city limits.

**ARTICLE II. IMPOUNDMENT**

**Sec. 4-23. Generally.**

(a) *Authority to seize; confinement period.* An unrestrained dog or a nuisance animal 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 incurable injury or disease shall be kept for not less than five (5) working days.

(b) *Notice to owner; redemption; fees.* If by a tag or other means, the owner of an impounded animal can be identified, the animal control officer shall, immediately upon impoundment, notify the owner by telephone or by mail. Within five (5) days, the rightful owner of any animal held under this article may, provided the animal is properly vaccinated, licensed and tagged, obtain the animal upon payment of a pound fee as provided in this subsection; provided, however, that if an unvaccinated animal is claimed by the owner, the owner must make arrangements for the vaccination of the animal satisfactory to the superintendent of animal control. An owner reclaiming an impounded animal shall pay a fee as follows:

- (1) For cats.....\$10.00
- Plus, for each day of impoundment..... 3.00



(2) For dogs.....\$20.00

Plus, for each day of impoundment..... 4.00

(c) *Disposition if not reclaimed by owner; waiver of waiting period.* Any animal not reclaimed by its owner within five (5) working days shall become the property of the city and shall be placed for adoption in a suitable home for a fee of \$20.00 for each dog or \$10.00 for each cat, or humanely euthanized. If an unclaimed animal is adopted, the adoptive owner must make arrangements for the vaccination of the animal satisfactory to the superintendent of animal control. The five-day waiting period is waived for a vicious or feral animal, or for any animal suffering from an incurable disease. Pursuant to MCA 1972, 97-41-3, as amended, an injured or neglected animal may be humanely euthanized without any waiting period

(d) *Additional proceedings against owner authorized.* The owner of an impounded animal may also be proceeded against for violation of this chapter.

**Sec. 4-24. Livestock; redemption; fees.**

Any hog, cow, bull, sheep, goat, horse, or mule found straying or running at large shall be captured and impounded in an enclosure provided and maintained for such purpose by the division of animal control. Within five days of its capture, the rightful owner of any animal so impounded may claim and obtain the release of the same by payment of an impoundment fee in the amount of \$50.00 for the first offense, \$75.00 for the second offense, and \$100.00 for third or greater offense, and a boarding fee in the amount of \$5.00 per day for each day, or fraction thereof, during which the animal has remained impounded. If any such animal is not claimed and redeemed by its owner within the five-day period, the animal shall be sold upon sealed bids to the highest and best bidder in satisfaction of all fees and expenses therewith incurred.

**Sec. 4-25. Impoundment of animals attacking, injuring persons; destruction of rabid animals.**

In case of an attack by any animal resulting in injury to any person, such animal shall be impounded by the animal control department for observation for a period of ten days, or the owner of such animal may, upon notification to the animal control department, have such animal impounded for ten days with a private veterinarian licensed to practice veterinary medicine within the state. If at the end of such period of time, or any time prior thereto, it is determined that the animal has rabies, such animal shall be immediately destroyed.

**Sec. 4-26. Penalty for violation of article.**

The failure to comply with this article shall constitute a misdemeanor, and the offender shall, on conviction, be fined \$5.00 for the first offense, \$25.00 for the second offense, and \$50.00 for the third offense. It shall be the duty of the division of animal control to enforce this article.

**ARTICLE III. RABIES CONTROL****Sec. 4-27. Vaccination of dogs and cats against rabies required.**

Any person owning, keeping, harboring, or having custody of any dog or cat three months of age or older within the city shall have that animal vaccinated annually for rabies with an antirabies virus (vaccine) properly administered by a duly authorized veterinarian. It shall be unlawful for any person to own or have in possession any dog or cat not so vaccinated. Every dog or cat must be so vaccinated immediately upon attaining the age of three months and every year thereafter.

**Sec. 4-28. Metal and paper certificates thereof.**

A metal certificate of vaccination with the year of vaccination, a certificate number and the name, address and phone number of the vaccinating veterinarian must be securely attached to a collar or harness that must be worn by the dog at all times. In addition to the metal certificate, a paper certificate must be issued stating the name of the owner, the address of the owner, a description of the dog or cat, the date of the vaccination, the number of the metal certificate and the kind of vaccine used.

**ARTICLE IV. REGISTRATION****Sec. 4-29. Registration procedures and requirements.**

No owner shall have within the city any dog or cat three months of age or older unless such dog or cat is currently registered with animal control. A current metal registration certificate, issued by licensed, practicing veterinarian authorized by animal control to issue the certificate, must be affixed to a collar or harness that must be worn by the dog at all times. No dog or cat shall be registered until it has a current vaccination.

**Sec. 4-30. Application for registration.**

Application for issuance of registration must be made by the owner, in writing or in person, to a licensed, practicing veterinarian authorized by Animal Control and be accompanied by a fee of five dollars (\$5.00), unless the cat or dog being registered has been neutered or spayed and proof of such surgical sterilization can be shown to a veterinarian authorized to issue such registrations; then the fee will be three dollars (\$3.00). If the original current registration certificate is lost or destroyed, the owner may obtain a duplicate registration from the Supervisor of Animal Control by paying a fee of two dollars (\$2.00). Registration fees collected by veterinarians pursuant to this section shall be turned over to the City of West Point monthly or on some other periodic schedule approved by the City.

**Sec. 4-31. Validity of tags.**

A registration or vaccination certificate and tag shall be valid only for the animal for which it was issued.

**Sec. 4-32. Effective date.**

This ordinance shall be effective from and after its adoption by the Board of Mayor and Selectmen and publication as required by law.