

Chapter 6 - ANIMALS AND FOWL

FOOTNOTE(S):

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Cross reference— Pet control on airport premises, § 4-88; health and sanitation, Ch. 13; control of animals within mobile home parks, § 16-12; streets, sidewalks and other public places, Ch. 24

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

Animal means any and all types of animals and other nonhuman living creatures, whether a member of the animal kingdom or not, both domesticated and wild, male and female, singular and plural.

At large means off the premises of the owner or custodian of the animal and not under the control of the owner or custodian, a member of the immediate family of the owner or custodian, or a person expressly designated by the owner or custodian, either by means of a leash, cord, chain or other secure means. For multifamily residential structures, the premises of the owner of the animal shall be construed as only that area under the direct physical control of the owner and shall not include common areas such as, but not limited to, parking areas, common entry areas and driveways.

Cat means both the male and female sex of the feline species.

Dangerous animal means any animal as defined or determined to be vicious in nature according to article V of this chapter.

Dog means the male and female sex of the canine species.

Fowl means any and all fowl, domesticated and wild, male and female, singular and plural.

Livestock means any farm or tame animals owned, kept or raised for profit or pleasure, with the exception of domestic dogs and cats owned or kept as pets.

Owner means any person, partnership, association, firm or corporation owning, keeping or harboring an animal.

Residence means any dwelling utilized or capable of being utilized for residential purposes.

(Ord. of 7-19-88(1), Art. I, § 1; Ord. of 5-15-90, § 1)

Cross reference— Definitions and rules of construction generally, § 1-2

Sec. 6-2. - Applicability.

- (a) This chapter shall apply to all animals and persons owning animals or in control or possession of animals within the corporate limits of the city, regardless of when such animals were obtained, acquired or otherwise received.
- (b) Any person owning or in control or possession of animals of such a type or in such a manner so as to be in violation of this chapter must come into full compliance with all terms of this chapter within thirty (30) days of the ordinance from which this chapter was derived becoming effective. All violations continuing at the expiration of this thirty-day period will be prosecuted to the fullest extent of the law.

(Ord. of 7-19-88(1), Art. I, § 2)

Sec. 6-3. - Enforcement responsibility.

- (a) The police department and any other lawfully designated official or representative of the city shall have the primary duty and responsibility of enforcing the provisions of this chapter. Any officer of the city's police department and any such designated official or representative is fully authorized and empowered to enforce any and all of the provisions hereof.
- (b) Any official or representative of the city lawfully designated to enforce the provisions of this chapter shall have the power and authority to issue summonses returnable to the municipal court or to any other proper authority for violations of this chapter. Such summonses shall have the same full force and effect as if issued by the police department.
- (c) The police department or other designated official or representative of the city may develop and utilize such forms as may be required and necessary to implement these powers and actively enforce this chapter.

(Ord. of 7-19-88(1), Art. VI, § 1)

Sec. 6-4. - Penalties.

The failure or refusal of any person to comply with any of the provisions of this chapter and the violation of any provision of this chapter by any person shall constitute a misdemeanor. Any person guilty of any violation of any provision of this chapter shall, on conviction thereof, be subject to punishment allowed by law. The municipal court is hereby authorized to establish a schedule of penalties for various offenses, subject to review by the mayor and board of aldermen.

(Ord. of 7-19-88(1), Art. VI, § 2)

Sec. 6-5. - Places where animals kept to be clean.

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

(Ord. of 7-19-88(1), Art. II, § 3)

Sec. 6-6. - Promoting animal fights prohibited.

It shall be unlawful for any person to promote or allow or cause to be promoted or allowed any fight involving animals within the corporate limits of the city.

(Ord. of 7-19-88(1), Art. II, § 4)

State Law reference— Promoting or having interest in animal or cock fights prohibited, MCA 1972, § 97-41-11.

Sec. 6-7. - Animals making excessive noise.

(a) Definitions. As used in this section:

Excessive noise means and includes any noise made and produced by an animal which is so loud or continuous or untimely so as to disturb the sleep of a neighbor, interfere with the proper enjoyment of a neighbor's property, or create a material disturbance or discomfort to a neighbor.

Neighbor means an individual residing in a residential structure that is within three hundred (300) feet of the property on which the animal is kept or harbored and who does in writing state that he will testify under oath to such animal making excessive noise.

- (b) Prohibited. No person shall own or keep any animal which by making excessive noise disturbs a neighbor or neighborhood.
- (c) Issuance of subpoena in contested proceedings. Should a charge of a violation under this section be contested, a subpoena shall be issued to the disturbed neighbor requiring his testimony in the matter.

(Ord. of 7-19-88(1), Art. II, § 5)

Cross reference— Noise generally, § 19-21 et seq.; noisy animals, § 19-35

Sec. 6-8. - Cruelty to animals.

It shall be unlawful for any person to overcrowd, overwork, willfully or maliciously torture, torment, beat, kick, mutilate, injure, disable or needlessly kill any animal or to carry in any vehicle or otherwise transport in a cruel or inhumane manner any animal or to cause any of these acts to be done. It shall be unlawful for any person having charge or custody of any animal to fail to provide it with proper food, drink and protection from the weather or to cause any of these acts to be done.

(Ord. of 5-15-90, § 2)

State Law reference— Injuring dogs prohibited, MCA 1972, § 97-41-16.

Secs. 6-9—6-20. - Reserved.

ARTICLE II. - LIVESTOCK

Sec. 6-21. - Restrictions on keeping in certain areas.

- (a) It shall be unlawful for any person to house, keep or confine any livestock in any area of the city zoned for residential or business purposes, unless the livestock is kept in an open area of at least one (1) acre per animal, with no part of the area lying within two hundred fifty (250) feet of any residence.
- (b) The following are exempt from the requirements of this section:
 - (1) Any duly authorized livestock or cattle barn permitted to lawfully operate within the city;
 - (2) Any lawfully operated animal hospital or animal shelter;
 - (3) Any hospital for humans or laboratory lawfully using animals for research or experimental purposes;
 - (4) Any lawfully operated livestock show, rodeo, carnival, charitable function or similar event at which the presence of animals is a part of the temporary event.

(Ord. of 7-19-88(1), Art. II, § 1)

Sec. 6-22. - Keeping swine within the city.

- (a) It shall be unlawful for any person to raise or keep hogs and pigs within the corporate limits of the city.
- (b) The following are exempt from the requirements of this section:
 - (1) Any duly authorized dealers in hogs or pigs permitted to lawfully maintain hog and pig pens within the city, provided that no such pens are located within areas of the city zoned for residential or

business purposes, and provided that all such pens meet all state and local health and sanitation requirements.

- (2) Any lawfully operated livestock show, rodeo, carnival, charitable function or similar event at which the presence of animals is a part of the temporary event.

(Ord. of 7-19-88(1), Art. II, § 2)

State Law reference— Authority to regulate or prohibit hog pens, MCA 1972, § 21-19-1.

Sec. 6-23. - Riding, driving animals on sidewalks.

It shall be unlawful for any person to ride or drive a horse or other like animal or to stop or stand any horse or like animal upon any sidewalk in the city.

(Ord. of 7-19-88(1), Art. II, § 6)

Sec. 6-24. - Horses, mules standing in streets.

It shall be unlawful for any horse or mule to be allowed to stand in any street unless the driver or rider is in charge of the same or unless the animal is securely hitched to a sufficient weight of not less than twenty (20) pounds.

(Ord. of 7-19-88(1), Art. II, § 7)

Sec. 6-25. - Running at large or allowing on streets or sidewalks.

It shall be unlawful for any person who may own or have in his possession or control, any horse, mule, ox, cow, yearling, sheep, goat, hog or other livestock to intentionally, knowingly, carelessly or negligently permit such animal to run or be at large at any time within the corporate limits of the city. It shall also be unlawful for any person who may own or have in his possession or control any such animal to permit such animal on any vacant property in the city adjacent to any street or sidewalk or be so near thereto so as to allow or permit such animal to be or go upon any sidewalk or street within the corporate limits of the city.

(Ord. of 7-19-88(1), Art. II, § 8)

State Law reference— Allowing livestock to run at large on lands of another person prohibited, MCA 1972, § 69-13-1; municipal authority to regulate animals running at large, MCA 1972, § 21-19-9.

Sec. 6-26. - Impoundment—Generally; registration.

It shall be the duty of any police officer or other official of the city designated by order or resolution to apprehend any and all livestock or other animals found in violation of this article and to impound such animals in a suitable place, public or private, to be selected by such official. Upon the impounding of such animals, the designated official shall make a complete registry thereof, entering the date, kind of animal, sex, color, brand, if any, and other identifying marks, place of apprehension and the name and address of the place where such animals are impounded.

(Ord. of 7-19-88(1), Art. II, § 9)

Sec. 6-27. - Same—Notice.

Upon the apprehension and impounding of any livestock, the city shall cause notice to be given by one (1) publication in a newspaper published in or of general circulation within the city stating the fact of the apprehension and impounding of such livestock, a general description thereof, and setting a date for the sale of such livestock at public auction, at a place and time therein named, which date shall not be less than ten (10) and not more than twenty (20) days from the date of such publication; in addition, the city shall

cause copies of such notice to be posted at three (3) public places in the city on the date corresponding with the newspaper publication of notice. Such sale may be made at the place of impoundment of such livestock, or at the city hall or at the county courthouse.

(Ord. of 7-19-88(1), Art. II, § 10)

Sec. 6-28. - Same—Redemption prior to sale.

If any person admits the ownership of any livestock impounded pursuant to this article, such person shall be subject to punishment as prescribed herein for violations of this article and, in addition, shall pay all costs incurred in the apprehending and impounding of such livestock and all costs and expenses incurred in the publication of notice required and in the feeding, maintaining and housing of such livestock after apprehension and impoundment. All required fines, costs, and expenses shall be paid to the city before such impounded livestock may be released to such person.

(Ord. of 7-19-88(1), Art. II, § 11)

Sec. 6-29. - Same—Sale required if unredeemed; disposition of proceeds.

If no person admits the ownership of such livestock or, if admitting ownership, refuses or fails to pay all penalties, costs and expenses due against such impounded livestock as prescribed herein, then such impounded livestock may be sold at public outcry to the highest bidder for cash. After the deduction from the proceeds of such sale, all penalties due, the cost of impounding, the expense of feeding, maintaining and housing such livestock, and the expense of sale, the net proceeds becoming a part of the general funds of the city.

(Ord. of 7-19-88(1), Art. II, § 12)

Secs. 6-30—6-45. - Reserved.

ARTICLE III. - FOWL

Sec. 6-46. - Restrictions on keeping in certain areas.

- (a) It shall be unlawful for any person to house, keep or confine any chicken, duck, turkey, goose or other domestic fowl in any area of the city zoned for residential or business purposes, unless:
 - (1) The domestic fowl is kept in an open area of at least one (1) acre, with no part of the area lying within two hundred fifty (250) feet of any residence; or
 - (2) The domestic fowl is kept penned in such a manner as to restrict the movement of such fowl completely to the penned area. No such penned area shall exceed two hundred (200) square feet in size nor violate health regulations.
- (b) The following are exempt from the requirements of this section:
 - (1) Any duly authorized dealers in domestic fowl permitted to lawfully maintain pens for such fowl within the city, provided that no such pens are located within areas of the city zoned for residential or business purposes, and provided that all such pens meet all state and local health and sanitation requirements;
 - (2) Any lawfully operated animal hospital or animal shelter;
 - (3) Any hospital for humans or laboratory lawfully using animals for research or experimental purposes;

- (4) Any lawfully operated livestock show, rodeo, carnival, charitable function or similar event at which the presence of such fowl is a part of the temporary event.

(Ord. of 7-19-88(1), Art. III, § 1)

Sec. 6-47. - Places where fowl kept to be clean.

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

(Ord. of 7-19-88(1), Art. III, § 2)

Sec. 6-48. - Promoting fights between fowl prohibited.

It shall be unlawful for any person to promote or allow or cause to be promoted or allowed any fight involving fowl within the corporate limits of the city.

(Ord. of 7-19-88(1), Art. III, § 3)

State Law reference— Promoting or having interest in animal fights or cockfights prohibited, MCA 1972, § 97-41-11.

Sec. 6-49. - Domestic fowl running at large—Prohibited.

It shall be unlawful for any person who may own or have in his possession or control any chicken, duck, turkey, goose or other domestic fowl to intentionally, knowingly, carelessly or negligently permit any such domestic fowl to run or be at large at any time within the corporate limits of the city.

(Ord. of 7-19-88(1), Art. III § 4)

Sec. 6-50. - Same—Confiscation and destruction.

- (a) It shall be the duty of any police officer or other official of the city designated by order or resolution to apprehend any and all fowl found in violation of this article. Such officers or officials may, at their discretion:
- (1) Destroy such fowl at the location where they may be apprehended; or
 - (2) Impound such animals in a suitable place, private or public, to be selected by such officials, to be later destroyed at their convenience.
- (b) Should any such fowl enter the lands or premises of any person other than the owner or person having possession or control thereof, such person upon whose land or premises such fowl shall go, shall be and is hereby given the right to apprehend and hold such fowl for disposition by proper officials as indicated herein.

(Ord. of 7-19-88(1), Art. III, § 5)

Secs. 6-51—6-65. - Reserved.

ARTICLE IV. - DOGS

FOOTNOTE(S):

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State Law reference— Authority to tax, regulate dogs, MCA 1972, § 21-19-9.

DIVISION 1. - GENERALLY

Sec. 6-66. - Maintenance of pens and yards.

- (a) All pens and other enclosed areas within which dogs may be enclosed shall be kept in a clean and sanitary manner and free from odor.
- (b) The number of dogs kept in all pens and other enclosed areas shall not be large enough to interfere with the proper enjoyment of nearby property or to create a material annoyance, disturbance or discomfort to adjoining property owners. Any dog or dogs, regardless of number or size, which, due to excessive barking or howling, cause such an interference, annoyance, disturbance or discomfort, shall be deemed, upon inspection and verification by any police officer or other designated city official, to be in violation of this section.
- (c) Neither the number of dogs nor the manner in which they are kept shall be such as to create a public or private nuisance.

(Ord. of 7-19-88(1), Art. IV, § 8)

Sec. 6-67. - Running at large—Generally.

It shall be unlawful for any person who owns or has in his possession or under his control or who keeps or harbors any dog within the corporate limits of the city to cause or permit any such dog to be at large within the city unless such dog is under the actual physical control of such person.

(Ord. of 7-19-88(1), Art. IV, § 2)

Sec. 6-68. - Same—Female dogs in heat.

It shall be unlawful for any person who owns or has in his possession or under his control or who keeps or harbors any female dog in heat within the corporate limits of the city to cause or permit any such female dog in heat to be at large within the city at any time. Every female dog in heat shall be kept confined in a building or other secure enclosure in such a manner that such female dog cannot come into contact with another animal except in the instances of planned breeding activities.

(Ord. of 7-19-88(1), Art. IV, § 3)

Sec. 6-69. - Same—Impoundment, redemption or disposition of dogs.

- (a) If any dog is caused or permitted or is found to be at large within the corporate limits of the city in violation of the provisions of this article, such dog may be apprehended and impounded by any police officer or other designated official of the city, to be held or disposed of as herein provided.
- (b) If any such dog is so impounded, the same shall be released to the owner thereof only if payment is made within five (5) working days to the city or its designee such sums as may be designated from time to time by the mayor and board of aldermen for compensation for catching or otherwise apprehending such dog and for harboring and caring for such dog on a daily basis during the time of impoundment.
- (c) In addition to or in lieu of impounding a dog found at large, any police officer or designated official of the city may issue to the person known to own or be in possession or control of such dog a citation for any violation of this article. Any fines imposed, as set from time to time by the mayor and board of aldermen, shall be paid within three (3) working days of such citation. If such fine is not paid within the

time prescribed, a criminal warrant shall be issued for such person who may, upon conviction of such offense before city court, be punished as provided in section 1-8 of this Code.

- (d) All fees and fines imposed pursuant to this section shall be paid by any violator before a dog impounded pursuant to this article shall be released. If such fees and fines are not paid within five (5) working days, then any such dog so impounded may be destroyed or otherwise disposed of.

(Ord. of 7-19-88(1), Art. IV, § 4)

Secs. 6-70—6-80. - Reserved.

DIVISION 2. - RABIES CONTROL

Sec. 6-81. - Rabies vaccination required; tags.

- (a) Every person who owns or has in his possession or who keeps or harbors any dog within the corporate limits of the city shall have and keep such dog inoculated (vaccinated) against rabies, as provided by the laws of the state and as provided by the rules and regulations prescribed and promulgated by the state board of health. It shall be unlawful for any person to own, possess, keep or harbor any dog within the corporate limits of the city unless such dog has been so inoculated against rabies.
- (b) Every dog so vaccinated must bear a suitable metal tag approved by the state board of health which shall be branded to the collar or harness of such dog, which tag shall have stamped thereon the serial number of the vaccination and the year in which such dog was vaccinated. If any dog should be without such tag at any time, such action shall be prima facie evidence that the owner has failed to have such dog vaccinated as provided by law, and such action shall be a violation of this article.

(Ord. of 7-19-88(1), Art. IV, § 1)

State Law reference— Rabies inoculation of dogs and cats required, MCA 1972, § 41-53-1.

Sec. 6-82. - Confinement and disposition of rabid and suspected rabid animals.

If any dog within the city shall at any time have rabies or be suspected by the county health officer or his representative of having rabies or shall have been exposed to rabies, such dog shall be safely confined and in all respects dealt with in accordance with the direction of such officer or representative.

(Ord. of 7-19-88(1), Art. IV, § 7)

Sec. 6-83. - Killing of rabid or suspected rabid dogs at large.

It shall be the lawful duty of any police officer or other lawfully designated official of the city to kill any dog suffering from rabies or any dog reasonably and in good faith suspected of suffering from rabies found at large within the corporate limits of the city, without requiring such officer or official to catch or impound such dog.

(Ord. of 7-19-88(1), Art. IV, § 5)

Sec. 6-84. - Rabies quarantine proclamation authorized; effect.

Whenever the mayor and board of aldermen find and adjudge, by order or resolution duly passed by them and entered upon their minutes, that it has become necessary to further safeguard the public from the dangers of hydrophobia, they may, in the exercise of their sound discretion, issue a proclamation directing every person owning or possessing a dog in the city to securely confine such dog on the premises of the owner thereof. Any dog caused or permitted to be at large in violation of the terms of any such proclamation may be impounded and dealt with as provided in this article. Before issuing any such proclamation, the

mayor and board of aldermen may, in their discretion, seek and abide by the advice of the health officer of the county or other representative of the state board of health.

(Ord. of 7-19-88(1), Art. IV, § 6)

Secs. 6-85—6-95. - Reserved.

ARTICLE V. - DANGEROUS ANIMALS

FOOTNOTE(S):

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State Law reference— Importation, sale and possession of inherently dangerous wild animals, MCA 1972, § 49-8-1 et seq.

Sec. 6-96. - Definition.

- (a) The following animals are hereby found and determined to be dangerous animals and as such are subject to all requirements and provisions of this article:
- (1) Any animals, other than domestic dogs and cats, which in a wild state are carnivorous or poisonous or which, due to their physical makeup or capabilities, are capable of inflicting serious physical harm or death to human beings. This includes, but is not limited to, animals belonging to the cat or snake family, including all constrictors, bears, wolverines, badgers, lions, tigers and such other animals as the board of aldermen may from time to time determine by order or resolution to be vicious animals. The city clerk is authorized to compile and maintain a list of such animals as may be determined to be regulated by this article.
 - (2) Any pit bull terrier, which shall be herein defined as any Staffordshire bull terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire bull terrier or American Staffordshire bull terrier so as to be identifiable as partially of the breed of Staffordshire bull terrier or American Staffordshire bull terrier by any qualified veterinarian duly licensed as such by the state.
 - (3) Any domestic dog or cat or any other animal that exhibits any of the following characteristics:
 - a. Without provocation approaches, in a threatening or terrorizing manner, any person in an apparent attitude of attack or exhibits any behavior that constitutes a physical threat of bodily harm to a person upon the streets, sidewalks, any public or common grounds or places, or in any place where such person is conducting himself peaceably and lawfully;
 - b. Without provocation bites, inflicts injury, assaults or otherwise attacks a person, in any place where such person is conducting himself peaceably and lawfully, or animal when such animal is not on the property of the owner of the attacking animal;
 - c. A known propensity, tendency or disposition to attack without provocation, to cause injury, or to otherwise endanger the safety of human beings or other domestic animals;
 - d. Owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.
- (b) For the purposes of this article, a person shall be considered to be peaceably and lawfully upon the private property of an owner of an animal when he is on such property in the performance of any duty imposed upon him by any laws or postal regulations of the United States or any political subdivision thereof or when he is on such property upon invitation, expressed or implied.

- (c) The provisions of this section notwithstanding, no animal may be determined to be dangerous due to the fact that it:
- (1) Inflicts injury or damage on a person who is committing a willful trespass or other tort upon the premises occupied by the person owning or in possession of the animal or who is teasing, tormenting, abusing or assaulting the animal or who is committing or attempting to commit a crime;
 - (2) Inflicts injury or damage on another domestic animal that is or was teasing, tormenting, abusing or assaulting the animal;
 - (3) Takes any action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault.
- (d) Unless specifically stated to the contrary, the following are exempt from the requirements of this article:
- (1) Any duly authorized and lawfully operating dealers in animals within the city;
 - (2) Any lawfully operated circus, carnival, performing act or similar functions and events of a temporary nature as may be authorized by the city;
 - (3) Dogs or other animals lawfully used to guard private property;
 - (4) Dogs or other animals assisting a peace officer engaged in law enforcement duties;
 - (5) Animals in a licensed veterinary, animal or small animal hospital for treatment or kept in a bona fide educational, medical or other research institution or in zoos, museums or similar places where such animals are kept as live exhibits or for study.

(Ord. of 7-19-88(1), Art. V, § 1)

Cross reference— Definitions and rules of construction generally, § 1-2

Sec. 6-97. - Licensing, registration and permits.

- (a) No dangerous animal may be owned, kept, possessed or harbored within the city without the owner or person in possession or control of such animal first obtaining a license or permit from the city. An application for such license or permit shall include the name and address of the owner, the address at which the animal will be located or confined, a description of measures to be taken to secure the animal, a complete description of the animal, including type of animal, sex, color and other distinguishing marks, and, at the city's discretion, a photograph of the animal.
- (b) Persons owning or in possession or control of dangerous animals shall, upon the birth, death or transfer of such animals, report such fact to the city. A separate license or permit shall be issued for each dangerous animal. Upon the transfer of any dangerous animal, a statement shall be filed with the city stating the name and address of the person to whom the animal is sold or transferred and the address at which the animal is to be located, if known.
- (c) The application for such license or permit must be signed and dated by the owner or the person in possession or control of the dangerous animal. The owner or person in possession or control must sign a statement attesting to the fact that all provisions of this chapter have been and will be complied with in their entirety, and that the city shall be notified immediately of any attack or other violation of this chapter by such animal in his possession or control.
- (d) A one-time fifty dollar (\$50.00) fee per dangerous animal shall be required for the issuance of a license or permit. The fee amount may be adjusted from time to time by the Tupelo City Council.
- (e) Any owner or person in possession or control of a dangerous animal who fails to obtain a license or permit from the city shall be fined one hundred fifty dollars (\$150.00) per dangerous animal. The owner or person in possession or control shall have ten (10) days from the date the city provides written notice of such failure to obtain a license or permit. Failure to obtain a license or permit within the ten (10) day

time period shall subject the owner to an additional fine of one hundred fifty dollars (\$150.00) per day for each dangerous animal until such permit or license is obtained.

- (f) Any license or permit issued pursuant to this section shall be revocable upon any non-compliance with any of the terms of this chapter by any person owning or in possession or control of any dangerous animal.

(Ord. of 7-19-88(1), Art. V, § 2; Ord. of 5-21-02, § 2)

Cross reference— Licenses and miscellaneous business regulations, Ch. 15

State Law reference— Authority for municipal regulation of wild animals, MCA 1972, § 49-8-17.

Sec. 6-98. - Posting of premises.

- (a) All premises upon which a dangerous animal is kept, possessed or harbored shall be posted with signs that are conspicuously visible to the public and legible from property, public or private, adjacent to such premises. Such signs or notices shall contain letters of not less than two (2) inches in height and a message sufficient to warn the general public of the presence of the dangerous animal. Such signs shall be placed at all locations where entry to the owner's property is common and expected and upon all enclosures within which dangerous animals are confined, including residences and other structures.
- (b) The absence of any required signs shall be considered prima facie evidence of a violation of this section. Signs shall be constructed and maintained in a manner to withstand the elements.
- (c) Notwithstanding the exemptions granted in section 6-96(d) of this article, the requirements of this section shall apply to all duly authorized and lawfully operated dealers in animals within the city any lawfully operated circus, carnival, performing acts or similar functions and events of a temporary nature as may be authorized by the city and to any premises utilizing dogs or other animals lawfully for guard purposes.

(Ord. of 7-19-88(1), Art. V, § 3)

Sec. 6-99. - Confinement required.

- (a) All dangerous animals shall be kept confined within the residence or other permanent structure on the premises of the owner or other person in possession or control of such animals or within an enclosure as defined in this section.
- (b) All dangerous animals to be kept on the premises of the owner or person having possession or control of such animals and not within the residence or other permanent structure shall be confined within a fence or structure area of at least four (4) feet in height, forming a confined area sufficient to prevent the entry of young children and, in conjunction with tethering or other measures, effective in containing a dangerous animal. Such enclosure shall be securely closed and locked and equipped with secure sides, top and bottom, and shall be designed to prevent the animal from escaping the enclosure. The bottom of such enclosure shall be concrete, and the sides and top shall be constructed of steel wire or other materials sufficient to prevent the animal from escaping the enclosure. The city reserves the right to issue more specific confinement requirements in instances where enclosures prove to be insufficient to prevent escape of such animals or to prevent such animals from coming into contact with people adjacent to such enclosures.
- (c) Such enclosure, fence or structure must be at least five (5) feet from any fenced property line of the owner or person in control or possession of such animals, provided that such enclosure, fence or structure is within a separately and totally enclosed fenced area. In the event that the area of the property of the owner or person in control or possession of such animals devoted to the confinement or enclosure of such animals is not within a separately and totally enclosed fenced area, any animals

confined in such enclosure must be securely tethered or otherwise restrained so that they cannot come within five (5) feet of the walls of the enclosure or area within which they are confined.

- (d) No dangerous animal shall be allowed outside of the residence or required enclosure unless it is securely muzzled and restrained with a chain, having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length, and under the direct control and supervision of the owner.

(Ord. of 7-19-88(1), Art. V, § 4)

Sec. 6-100. - Determination of status, impoundment, redemption or disposition of dangerous animals.

- (a) Any police officer or any other lawfully designated official or representative of the city shall have the right to enter any private property for the purpose of inspecting the property for the presence of dangerous animals or for the performance of other duties in the enforcement of this article. Any police officer or other lawfully designated official or representative of the city having probable cause to believe that an animal is dangerous shall conduct or cause to be conducted an investigation into the facts of each such case. The owner of the animal shall be notified of the investigation and shall have the opportunity to present evidence as to why the animal should not be determined to be dangerous. The results of this investigation and any such determination shall be made in writing and shall constitute an administrative action of the city, appealable according to law. The results of any investigation with respect to a particular animal shall not bar the city from investigating any subsequent actions of the animal.
- (b) Should any police officer or other designated official or representative of the city have reason to believe that an animal is vicious and may pose a threat of serious harm to persons or other domestic animals, the officer or official may immediately seize and impound the animal, pending an investigation as described in this section.
- (c) Any police officer or other lawfully designated official or representative of the city, upon complaint by any citizen or on his own initiative, may make inquiries to determine compliance with this article and may seize and impound any animal found in violation of any of its provisions.
- (d) If any animal is caused or permitted or is found to be within the corporate limits of the city and in violation of the provisions of this article, such animal may be apprehended and impounded by any police officer or other designated official of the city, to be held or disposed of as provided in this section.
- (e) If any such animal is so impounded, the animal shall be released to the owner thereof only if payment is made within five (5) working days to the city or its designee of such sums as may be designated from time to time by the mayor and board of aldermen for compensation for catching or otherwise apprehending such animal and for harboring and caring for such animal on a daily basis during the time of impoundment.
- (f) In addition to or in lieu of impounding an animal found in violation of this article, any police officer or designated official of the city may issue to the person known to own or be in possession or control of such animal a citation for any violations of this article. Any fines imposed, as set from time to time by the mayor and board of aldermen, shall be paid within three (3) working days of such citation. If such fine is not paid within the time prescribed, a criminal warrant shall be issued for such person who may, upon conviction of such offense before the city court, be punished as provided in section 1-8 of this Code.
- (g) All fees and fines imposed pursuant to this section shall be paid by any violator, and all other requirements of this chapter with respect to a dangerous animal shall be met before an animal impounded pursuant to this article shall be released. If such fees and fines are not paid within five (5) working days, then any such animal so impounded may be destroyed or otherwise disposed of.

(Ord. of 7-19-88(1), Art. V, § 5)

Sec. 6-101. - Killing of dangerous animals.

When any dangerous animal, in the judgment of any police officer or other designated official or representative of the city, poses a serious and immediate threat of serious harm or injury to human life, it shall be the lawful duty of such officer or official to kill such animal, without requiring such officer or official to catch, restrain or impound such animal.

(Ord. of 7-19-88(1), Art. V, § 6)

Sec. 6-102. - Additional remedies for violations.

- (a) Should any dangerous animal, when unprovoked, kill or wound or assist in killing or wounding any livestock, fowl or other domestic animal belonging to or in possession of any person or attack, bite or otherwise assault or injure any human being or assist in doing so, whether out of or within any required enclosure of the owner or person in possession or control or whether on or off the property of the owner, whether or not such animal is leashed or muzzled, and whether or not such animal escaped without the fault of the owner, the owner of the animal shall be liable to the person aggrieved for all damages sustained, to be recovered in a civil action, with costs of suit. It is rebuttably presumed as a matter of law that the owning, keeping or harboring of a dangerous animal in violation of this article is a nuisance. It shall not be necessary, in order to sustain such action, to prove that the owner of such dangerous animal knew that the animal possessed the propensity to cause such damage or that the animal had a dangerous nature.
- (b) Nothing in this chapter shall be construed so as to restrict any other remedies at law available to persons aggrieved by any attack of a vicious animal, nor so as to prohibit criminal prosecution of persons owning or in possession of such animals as may be allowed by law.
- (c) Should any employee of or person carrying out contractual responsibilities for the city be attacked by any dangerous animal or other animal while such employee or person is engaged in the lawful performance of his official duties, any rights, privileges or services enjoyed by the residents of property on which the attack occurs or by the owner of such animal, at the discretion of the city, may be immediately terminated without further notice. This includes, but is not limited to, termination of water, sewer and electrical service, termination of garbage pickup service, and revocation of building permits or privilege licenses.

(Ord. of 7-19-88(1), Art. V, § 7)

Secs. 6-103—6-120. - Reserved.

ARTICLE VI. - CATS

Sec. 6-121. - Rabies vaccination; tags for cats.

- (a) Every person who owns or has in his possession or who keeps or harbors any cat within the corporate limits of the city shall have and keep such cat inoculated (vaccinated) against rabies, as provided by the laws of the state and as provided by the rules and regulations prescribed and promulgated by the state board of health. It shall be unlawful for any person to own, possess, keep or harbor any cat within the corporate limits of the city unless such cat has been so inoculated against rabies.
- (b) Every cat so vaccinated must bear a suitable metal tag approved by the state board of health, which shall be braided to the collar or harness of such cat and shall have stamped thereon the serial number of the vaccination and the year in which such cat was vaccinated. If any such cat should be without such tag at any time, such action shall be prima facie evidence that the owner has failed to have such cat vaccinated as provided by law and such action shall be a violation of this article.

(Ord. of 5-15-90, § 3)

State Law reference— Rabies inoculation for dogs and cats required, MCA 1972, § 41-53-1.

Sec. 6-122. - Nuisances.

It shall be unlawful for any person to own, or allow to be in or upon any premises occupied by him or under his charge or control, any cat that in any manner injures or destroys any real or personal property of any description belonging to another. In addition to any fine imposed, the person so offending shall make restitution to the party injured in an amount equal to the value of the property so injured or destroyed.

(Ord. of 5-15-90, § 3)

Sec. 6-123. - Impoundment, redemption or disposition of cats in violation.

- (a) If any cat within the corporate limits of the city is found to be in violation of the provisions of this article, such cat may be apprehended and impounded by any police officer or other designated official(s) of the city, to be held or disposed of as herein provided.
- (b) If any such cat is so impounded, the same shall be released to the owner thereof only if payment is made within five (5) working days to the city or its designee such sums as may be designated from time to time by the mayor and board of alderman for compensation for catching or otherwise apprehending such cat and for harboring and caring for such cat on a daily basis during the time of impoundment.

In addition to or in lieu of impounding a cat in violation of this article, any police officer or designated official(s) of the city may issue to the person known to own or be in possession or control of such cat a citation for any violations of this article. Any fines imposed, as set from time to time by the mayor and board of aldermen, shall be paid within three (3) working days of such citation. If such fine is not paid within the time prescribed, a criminal warrant shall be issued for such person, who may, upon conviction of such offense before city court, be punished as allowed by law.

- (c) All fees and fines imposed pursuant to this section shall be paid by any violator before a cat impounded pursuant to this article shall be released. If such fees and fines are not paid within five (5) working days, then any such cat so impounded may be destroyed or otherwise disposed of.

(Ord. of 5-15-90, § 3)

Sec. 6-124. - Maintenance of pens and yards.

- (a) All pens and other enclosed areas within which cats may be enclosed shall be kept in a clean and sanitary manner and free from odor.
- (b) The number of cats kept in all pens and other enclosed areas shall not be large enough to interfere with the proper enjoyment of nearby property or to create a material annoyance, disturbance or discomfort to adjoining property owners. Any cat or cats, regardless of number or size, which, due to excessive noise, cause such an interference, annoyance, disturbance or discomfort shall be deemed, upon inspection and verification by any police officer or other designated city official, to be in violation of this section.
- (c) Neither the number of cats nor the manner in which they are kept shall be such as to create a public or private nuisance.

(Ord. of 5-15-90, § 3)