

Chapter 6 - ANIMALS AND FOWL¹

Footnotes:

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Cross reference— Health and sanitation, ch. 16; disposal of dead animals, § 16-34.

State Law reference— General stock law, Miss. Code Ann. 1972, §§ 69-13-1—69-13-27; general provisions regarding cruelty to animals, Miss. Code Ann. 1972, § 97-41-1 et seq.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Fowl at large.

It shall be a misdemeanor for any owner or person having in charge or control any chicken or other fowl to permit the same to run at large in the streets of the city or upon the premises of another.

(Ord. of 3-10-08)

Sec. 6-2. - Cruelty to animals.

It shall be unlawful for any person to inhumanly, unnecessarily or cruelly beat or injure by whip or any other instrument or otherwise abuse any dumb animal.

(Code 1905, § 466)

State Law reference— Cruelty to animals generally, Miss. Code Ann. 1972, §§ 97-41-1—97-41-17.

Sec. 6-3. - Reserved.

Sec. 6-4. - Protection of birds, game.

It shall be unlawful for any person to hunt with a firearm or slingshot, or to shoot, or kill in any manner or by any means any birds or game.

State Law reference— Birds generally, Miss. Code Ann. 1972, §§ 41-47-1—41-47-17.

Sec. 6-5. - Livestock at large.

It shall be unlawful for the owners or persons having in charge or control any animals of the cattle, horse, mule, sheep, swine or goat kind, to permit them to run at large in the city.

(Code 1905, § 332)

Sec. 6-6. - Reserved.

Editor's note— Former § 6-6, which pertained to dangerous animals at large and derived from § 497 of the city's 1905 Code, has been deleted at the discretion of the editor, treated as repealed by art. II, § 3 of an ordinance adopted December 13, 1988, codified herein as art. IV, dangerous animals, §§ 6-71—6-80.

Secs. 6-7—6-19. - Reserved.

ARTICLE II. - IMPOUNDMENT OF LIVESTOCK AND FOWL²

Footnotes:

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State Law reference— Municipal authority to provide for impoundment, Miss. Code Ann. 1972, § 21-19-9.

Sec. 6-20. - Authorized.

Any animal or fowl other than common household pets, found in the city in violation of any provision of this chapter shall be taken up by any authorized officer or employee of the city and impounded and dealt with as provided in this article.

(Code 1905, § 333)

Sec. 6-21. - Notice; sale.

Whenever any animal or fowl shall be impounded, it shall be the duty of the poundkeeper to, at once or as soon thereafter as practicable, advertise the same for sale by posting written notices thereof at the front door of the city hall for at least five days before said sale, stating in said notice the time and place of the sale and describing the property to be sold. The animal or fowl shall be sold at the pound by the poundkeeper on the day named in the notice, within legal hours, unless the same is redeemed or replevied prior thereto.

(Code 1905, § 334)

Sec. 6-22. - Redemption.

The owner of any impounded animal or fowl may redeem the same at any time before the sale thereof by paying the pound fees which have accrued. If the owner shall not redeem or replevy such impounded animal or fowl, the same shall be sold on the day named in the advertisement or notice.

(Code 1905, § 334)

Sec. 6-23. - Fees.

A fee of \$10.00 and the actual costs of caring for and feeding any animal or fowl impounded under the provisions of this article shall be levied against the same.

(Code 1905, § 335)

Sec. 6-24. - Proceeds of sale paid to clerk.

The poundkeeper shall keep a record of all fees collected for impounding, feeding, and the sale of any animal impounded under the provisions of this chapter, and shall pay to the city clerk such fees when collected and shall at the same time file with the city clerk a report as to the fees collected, from whom the same were collected and the amounts of the same.

(Code 1905, §§ 336, 337)

Sec. 6-25. - Disposition of proceeds.

The proceeds of all sales of impounded animals or fowl over and above the costs and expenses shall be paid into the city treasury, and shall be paid to the owner by the mayor and city council when satisfactory proof has been furnished that the claimant is entitled to such proceeds.

(Code 1905, § 338)

Secs. 6-26—6-36. - Reserved.

ARTICLE III. - ANIMAL CONTROL^[3]

Footnotes:

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Editor's note—An ordinance of December 2, 2008, amended the Code by repealing former art. III, §§ 6-37, 6-40, 6-41, and 6-51—6-57, and adding a new art. III. Former art. III pertained to similar subject matter, and derived from ordinances of February 11, 1986 and August 4, 1987.

Sec. 6-37. - Definitions.

At large: Any animal is at large when off the premises of the owner or custodian and not under the control of a 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.

Control: Any animal shall be considered under control if it is on the premises of its owner or is secured by a leash or lead of sufficient strength to prevent it from escaping, or is confined in a motor vehicle when away from the premises of the owner.

Domesticated animal: Any domesticated dog, cat or other animal.

Excessive noise: 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.

Feral: Any domesticated animal that has escaped from domestication and become wild.

Humane manner: Care of an animal to include, but not be limited to, adequate heat, ventilation and sanitary shelter, and wholesome food and water, consistent with the normal requirements and proper feeding based upon the size, species and breed of an animal.

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

Nuisance animal: An animal shall be considered a nuisance if it damages, soils, defiles, or defecates on private property other than the owner's, or public walks and recreation areas; causes a disturbance by excessive barking or other noisemaking; molests, or interferes with persons in the public right-of-way.

Officer: Shall mean the sheriff or deputies, constables, county patrol, city police, humane society or any such designated official, acting within their statutory or lawful authority.

Owner or custodian: Any person having a right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person over which that person has substantial control.

Person: Any individual, corporation, partnership, association, organization or institution commonly recognized by law as a unit.

Vicious animal or dangerous animal: Any animal that attacks or bites humans or other domestic animals, or otherwise jeopardizes the well-being of humans or other domestic animals shall be a vicious or dangerous animal. Vicious or dangerous animals shall also include the following:

- (1) When the official records of the animal control officer, city clerk, police department, or clerk of the municipal court indicate that an animal has bitten or attacked any person or animal, it shall be prima facie evidence that said animal is a dangerous animal.
- (2) Any animal owned or kept primarily or in part for the purpose of fighting or any animal trained or bred for fighting.
- (3) Any animal which is urged by its owner or keeper to attack, or whose owner or keeper threatens to cause such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty and when such animal has the apparent ability to cause injury or harm to such officer.
- (4) **Any pit bull dog. "Pit bull dog" means any one of the following dogs:**
 - a. **The Staffordshire Bull Terrier breed of dogs;**
 - b. **The American Staffordshire Terrier breed of dogs;**
 - c. **The American Pit Bull Terrier breed of dog;**
 - d. **Any other breed commonly known as Pit Bull, Pit Bull Dog or Pit Bull Terrier; or**
 - e. **Dogs which have the appearance and characteristics of being predominately of the breeds of dogs known as the Staffordshire Bull Terrier, the American Staffordshire Terrier, or the American Pit Bull Terrier.**

The registration of a dog at any time in any jurisdiction or with any kennel club as any of the dogs listed above shall constitute prima facie evidence the animal is a pit bull dog.

(Ord. of 12-2-08)

Sec. 6-38. - Applicability.

- (a) This article 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 as to be in violation of this chapter must come into full compliance with all terms of this chapter within 30 days after this chapter becomes effective. All violations thereafter continuing will be prosecuted to the fullest extent allowable in law.

(Ord. of 12-2-08)

Sec. 6-39. - Enforcement responsibility.

- (a) The city police department, the county sheriff and any other lawfully designated official or representative of the city shall have the primary duty of enforcing the provisions of this chapter. Any

officer of the city's police department or deputy of the county sheriff's department and any such lawfully 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 and county 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, sheriff's 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 12-2-08)

Sec. 6-40. - Confinement to premises or secured by leash or enclosure.

- (a) Except as specifically allowed in this article, an owner of a domestic animal, whether vaccinated or unvaccinated, shall confine such animal to his/her private property. Whenever an owner of a domestic animal shall have a domestic animal off the premises of the owner, then said owner shall maintain said animal under his or her immediate control by use of a leash or suitable portable pen. It shall further be the duty of any owner or keeper to keep such animal under control so as to:
 - (1) Prevent such animal from becoming a nuisance or danger to persons or property, or entering into or trespassing upon another person's property without that person's permission; and
 - (2) Prevent such animal from running at large upon the roads, parks, or other public places in the city.
- (b) An owner of a dangerous/vicious animal shall confine such animal(s) as specified in this article.

(Ord. of 12-2-08)

Sec. 6-41. - Places where animals kept to be clean.

An owner of an animal shall maintain his premises in such a manner as not to constitute either a private nuisance to adjoining property owners or a nuisance to the public generally. Pens in which animals are confined or maintained shall be cleaned regularly so that they are kept free from offensive odors, which would disturb any person residing within a reasonable distance of said premises. Further any and all lots, stalls and other places where any 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 and owning or controlling such places.

(Ord. of 12-2-08)

Sec. 6-42. - Excessive noise prohibited.

- (a) Animals shall be kept in such a fashion that noises emanating there from shall not be excessive so as to disturb neighbors.
- (b) Issuance of a subpoena in a contested proceeding shall be required to compel the attendance of the neighbor affected by excessive noise of an animal in order for the owner or custodian of animal to be found guilty.

(Ord. of 12-2-08)

Cross reference— Noise, ch. 19.

Sec. 6-43. - Female animals 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 animal in heat within the corporate limits of the city to cause or permit any such female animal in heat to be at large within the city at any time. Every female animal in heat shall be kept confined in a building or other secure enclosure in such a manner that such female animal in heat cannot come into contact with another animal except in the instances of breeding activities planned by the owner or possessor of such animal.

(Ord. of 12-2-08)

Sec. 6-44. - Prohibited treatment.

(a) It shall be unlawful for any person to:

- (1) Carry or confine in a vehicle in an inhumane manner, or otherwise mistreat any animal, which such mistreatment shall include, but not be limited to torturing, tormenting, beating, kicking, mutilating, disabling or needlessly killing of an animal;
- (2) Fail to provide any animal with proper food, drink, protection from the weather and veterinary care;
- (3) Abandon any animal;
- (4) Intentionally poison any animal;
- (5) Allow or promote any fight between animals, or allow or permit any such fight in or upon any premises in his possession or under his control;
- (6) Allow an animal to be kept in unsanitary conditions;
- (7) Keep or confine an animal in other than a humane manner; or
- (8) Any activity described as unlawful cruelty in title 97, chapter 41 of the Mississippi Code of 1972 as may be amended or reenacted.
- (9) Further, except as may otherwise be permitted, it shall be unlawful for any person to hunt with a firearm or slingshot, or to shoot, or kill in any manner of by any means birds or game within the corporate limits of the city.

(Ord. of 12-2-08)

Sec. 6-45. - Seizure of mistreated animal.

- (a) The municipal court, or any other court authorized by law, may order the seizure of an animal by a law enforcement agency, for its care and protection upon a finding of probable cause to believe said animal is being cruelly treated, neglected or abandoned as set forth in section 97-41-2 et seq. of the Mississippi Code as may be amended from time to time.
- (b) Except as set forth herein, chaining or tethering animals to pens or other stationary objects is prohibited. However, when an owner or possessor of an animal is at a point where he or she is within 20 feet of said animal and at a location where he or she may constantly observe said animal then he or she may temporarily chain or tether his or her animal. Notwithstanding the aforementioned prohibition, attaching animals to a running line or trolley is not prohibited, provided the line have a minimum of ten feet in length and a minimum of 150 square feet to move. However, when animals are attached to such a running line or trolley, they shall not be attached in a group which is unsafe, unsanitary or overcrowded.

(Ord. of 12-2-08)

Sec. 6-46. - Vaccination for rabies required, rabies tag required.

- (a) All dogs and cats within the corporate limits of the city shall be vaccinated for rabies at the age of three months, as required by state law, including title 41, chapter 53 of the Mississippi Code of 1972 as may

be amended or reenacted. Owners and possessors of dogs and cats shall ensure that their dogs and cats shall wear at all times a metal tag provided by the vaccinating veterinarian or other competent person granted a permit to administer virus (vaccine) by the state board of health indicating such vaccination. Said owners and possessors shall, at all times after their dogs and cats reach the age of three months, have a collar secured around the neck of their dogs and cats. Such collars shall, at all times have a current rabies tag, securely bradded thereto. It shall be a misdemeanor for any person to own, possess, keep or harbor any dog or cat within the corporate limits of the city unless such animal has been vaccinated for rabies and wears the said collar and tag as set forth hereinabove. The fact that any such animal fails at any time to bear such metal tag, shall be prima facie evidence that the owner of such animal has failed to have such animal vaccinated for rabies.

- (b) In the event that a dog or cat is found running at large or is otherwise brought to the city's animal shelter, if said animal is not wearing a collar with a current rabies tag as required herein, then the animal may not be reclaimed by the owner of the animal unless he or she shall produce proof that the animal was vaccinated for rabies within the time necessary to have a current rabies tag. In the event the owner of the animal cannot produce proof of such vaccination, then the animal shall not be reclaimed by its owner until the animal is vaccinated at the city's animal shelter and the shelter is reimbursed by the animal's owner for the costs and fees incurred by the city's animal shelter in giving vaccination to the animal.

(Ord. of 12-2-08)

Sec. 6-47. - Identification tags required.

Owners and possessors of dogs and cats shall, at all times after their dogs and cats reach the age of three months, have a collar secured around the neck of their dogs and cats. Such collars shall, at all times have a metal identification tag, securely bradded thereto. Upon said identification tag shall be, in clearly legible marking or etching, the name and address of the owner of the animal and a telephone number, if applicable to the owner. If a dog or cat shall be found running at large within the corporate limits of the city and said animal is not wearing a collar around its neck with an identification tag as required herein, the owner or possessor of said dog or cat shall be guilty of a misdemeanor.

(Ord. of 12-2-08)

Sec. 6-48. - Impoundment for animal bite.

Any person owning or having charge of any animal which has bitten an adult or child shall immediately surrender such animal to the city or its designee, to be kept by the city or its designee for the period of time in which the symptoms of rabies will or will not become evident, provided however, that the owner of said animal may, upon permission of the city or designee, place said animal within a veterinarians clinic for the specific period of time. The owner shall be responsible for the cost of internment of the animal.

(Ord. of 12-2-08)

Sec. 6-49. - Dangerous, vicious, feral animals at large prohibited.

- (a) It shall be unlawful for any person owning, keeping or harboring any animal that exhibits dangerous, vicious, feral propensities or tendencies to cause or permit any such animal to be at large.
- (1) If any animal bites or attempts to bite any person, chases or attempts to chase any person while such animal is at large, then such animal shall be presumed to be dangerous and vicious. If such an animal attacks or attempts to attack any animal while such animal is at large, then such animal shall be presumed to be vicious and dangerous and to have vicious propensities and tendencies.
 - (2) When an animal is determined by the enforcing officer to be a dangerous, vicious, feral animal, as that term is defined herein, that dog or cat may be destroyed, provided any of the following circumstances exist:

- a. The dog or cat is running at large.
 - b. Attempts to peacefully capture and impound the dog or cat have been made and proved unsuccessful.
 - c. The animal poses a serious and immediate threat of serious harm to other domestic animals or human life.
- (b) 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 committing a willful trespass or other tort upon the premises occupied by the person owning or in possession of the animal, or teasing, tormenting, abusing or assaulting the animal, or 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.

(Ord. of 12-2-08)

Sec. 6-50. - Determination of status; impoundment redemption or disposition of dangerous/vicious animals.

- (a) Any officer or any other lawfully designated official or representative of the city and county shall have the right, with probable cause and, absent exigent circumstances, a warrant, to enter any private property for the purpose of inspecting for the presence of dangerous/vicious animals or for performance of other duties in the enforcement of this ordinance. Any officer or lawfully designated official or representative of the city having probable cause to believe that an animal is dangerous, vicious or feral, 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, vicious or feral. The results of the investigation with respect to a particular animal shall not bar the city or county from investigating any subsequent actions of the animal.
- (b) Should any officer or lawfully designated official or representative of the city or county have reason to believe that an animal is dangerous, vicious or feral and may pose an immediate threat of serious harm to persons or other domestic animals, said officer or official may immediately seize and impound the animal pending an investigation as described herein.
- (c) Any officer or lawfully designated official or representative of the city or county, upon complaint by any citizen or on his own initiative, may make inquires 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 specific limits of the city and in violation of the provisions of this article, such animal may be apprehended and impounded by any officer or officials of the city or county, to be held or disposed of as herein provided.
- (e) If any such animal is so impounded, the same shall be released to the owner upon proof of ownership and registration thereof only if payment is made, within five (5) days to the city or its designee.
- (f) In addition to or in lieu of impounding an animal found in violation of this article, any 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 violation of this ordinance. If such citation 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 court, be punished as allowed by law.

- (g) All fees imposed pursuant to this ordinance shall be paid by any violator, and all other requirements of this ordinance with respect to a dangerous, vicious or feral animal shall be met before an animal impounded pursuant to this article shall be released. If such fees are not paid within five days, then such animal so impounded may be destroyed or otherwise disposed of.

(Ord. of 12-2-08)

Sec. 6-51. - Licensing, registration and permits for dangerous animals.

- (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's animal control officer. 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. Such owners shall, at the time of submission of the application, present said animal for the city's animal control officer to examine and to digitally photograph the animal for the city's records. The animal control officer shall first accept the application and examine and photograph the animal before he shall issue any permit. If, after accepting the application and performing his inspection and photography of the animal, the city's animal control officer, in the exercise of his discretion, reasonably believes that the animal is so vicious as to be an immediate risk to the welfare general public, the city's animal control officer shall refuse to issue a permit for the possession of the same. In such case, the owner or possessor of said animal may not keep it within the corporate limits of the city.
- (b) Persons owning or in possession or control of dangerous animals shall, upon the birth, death or transfer of such animals, report said 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's animal control officer 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 permit must be signed and dated by the owner of the dangerous animal. The owner must sign a statement attesting to the fact that all provisions of this article 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 article by such animal in his possession or control.
- (d) The mayor and city council may establish from time to time fees for the issuance of said license or permit. Said fees may apply to the initial issuance of such license or permit and any required renewals, at the discretion of the mayor and city council.
- (e) Any license or permit issued pursuant to this article shall be revocable upon any noncompliance with any of the terms of this article by any person owning or in possession or control of any dangerous animal.

(Ord. of 12-2-08)

Sec. 6-52. - Dangerous animals—posting of premise, confinement required.

- (a) All premises upon which a dangerous/vicious 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 inches in height and a message sufficient to warn the general public of the presence of dangerous/vicious dog(s). 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/vicious animal(s) 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) Guard dogs shall remain on the owner's property and warning signs shall be posted as specified in paragraph an above.
- (d) All dangerous/vicious 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 dogs or within an enclosure as herein defined.
- (e) All dangerous/vicious 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 feet in height forming a confined area sufficient to prevent the entry of young children. Such enclosure shall be securely closed and locked and equipped with secure sides, top and bottom and shall be designed to prevent such animals from escaping the enclosure. The bottom of such enclosure shall be concrete, and the sides and top shall be constructed of steel wire of sufficient gauge or other materials sufficient to prevent the dog 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 dogs or to prevent such dogs from coming into contact with people adjacent to such enclosures.
- (f) Such enclosures, fence or structure must be at least five feet from any property line of the owner or person in control or possession of such animals.
- (g) No dangerous/vicious animal shall be allowed outside of the residence or required enclosure, unless it is securely muzzled and under the direct control and supervision the adult owner/keeper.
- (h) In lieu of the requirement that the fence or structures are to have a concrete bottom, the fence or sides of each structure area must be embedded in the ground to a depth of two feet.

(Ord. of 12-2-08)

Sec. 6-53. - Impounded animals, disposition of same.

- (a) All animals may be disposed of after five days of impoundment, unless the animal is diseased, seriously injured or feral, in which case it may be humanely destroyed immediately if the owner cannot be located. Animals held on court orders or for animal bites will be held for the time specified by the court and/or health department.
- (b) Any animal not claimed by the owner within the five-day period will be put up for adoption. The person that adopts the animal after the five-day limit will become the legal owner of the animal.
- (c) The owner of an animal impounded in the animal shelter may reclaim the animal upon payment of fees for impoundment. The fees shall not be in lieu of any fine or penalty otherwise provided by law.
- (d) The owner of an animal impounded in the animal shelter shall be liable for the foregoing fees and charges, notwithstanding the destruction/adoption of the animal.

Boarding: \$10.00 per day/\$20.00 if vicious.

(Ord. of 12-2-08)

Sec. 6-54. - Penalties.

- (a) 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, upon conviction thereof, be subject to punishment allowed by law. The mayor and city council is hereby authorized to establish a schedule of penalties for various offenses. Unless otherwise modified by the mayor and city council, the following fines and fees shall be paid by the owner or custodian before animals found running at large shall be released to the owner:

	1 st Off.	2 nd Off	3 rd Off
At large with no pet I.D.	\$ 5 0.0 0	\$ 7 5.0 0	\$10 0.0 0
Rec lai min g	1 0.0 0	3 0.0 0	6 0.0 0
No vac cina tion	5 0.0 0	7 5.0 0	10 0.0 0
Un- per mit ted dan ger ous ani mal	10 0.0 0	20 0.0 0	50 0.0 0

The fee for boarding such animals shall be collected by the city's animal shelter and paid to the shelter before the animal may be reclaimed.

Also, the municipal court may, on the first offense, order the owner of an un-permitted dangerous animal to forfeit same to the city for disposal. A finding by the court that the owner or possessor was turned down for a permit by the city's animal control officer, shall be given significant weight in favor of the issuance of a forfeiture order.

- (b) Interference. No person shall interfere with, hinder, or molest the animal control officers or authorized officers of the city in the performance of their duties or seek to release any animal in the custody of the animal control officer, except as herein provided.

- (c) Citations. Animal control officers and authorized officers of city are hereby authorized to issue citations to any person for violation of any provision of this article. The citation shall designate the offense charged and shall require person so charged to pay the violation or appear before the court on a certain date to answer the charges therein contained.
- (d) Equipment. Animal control officers are authorized to employ any equipment it deems necessary to enforce the provisions of this article, including, without limitation, humane wire box traps, and the animal control officer may, subject to conditions it may determine lend such traps or other equipment to private persons for the purpose of preventing nuisances resulting from animals at large.

(Ord. of 12-2-08)

Sec. 6-55. - 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 the 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 rebuttable presumed in such case 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) In addition to any damages awarded pursuant to this section, a civil penalty of \$5,000.00 per incident or attack may be imposed by any court of competent jurisdiction.
- (c) Nothing in this article shall be construed so as to restrict any other remedies at law available to persons aggrieved by any attack of a vicious or dangerous animal, or so as to prohibit criminal prosecution of persons owning or in possession of such animals as may be allowed by law.

(Ord. of 12-2-08)

Secs. 6-56—6-70. - Reserved.

ARTICLE IV. - DANGEROUS ANIMALS⁽⁴⁾

Footnotes:

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Editor's note—Art. I, §§ 1—8, and art. II, §§ 1 and 2, of an ordinance adopted December 13, 1988, being not expressly amendatory of this Code, have been included as art. IV, §§ 6-71—6-80, at the discretion of the editor. See also the editor's notes to §§ 6-6 and 6-38, 6-39 herein.

Sec. 6-71. - Definitions.

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 mayor and city council may from time to time determine by order or resolution to be vicious animals. The secretary-treasurer 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 other 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 attacks another 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 their domestic animals.
 - d. Owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.
- (4) 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.
- (5) The provisions of this section notwithstanding, no animal may be determined to be dangerous due to the fact that it:
 - a. Inflicts injury or damage on a person committing a willful trespass or other tort upon the premises occupied by the person owning or in possession of the animal, or teasing, tormenting, abusing or assaulting the animal, or committing or attempting to commit a crime.
 - b. Inflicts injury or damage on another domestic animal that is or was teasing, tormenting, abusing or assaulting the animal.
 - c. Takes any action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault.
- (6) Unless specifically stated to the contrary, the following are exempt from the requirements of this article:
 - a. Any duly authorized and lawfully operated dealers in animals within the city.
 - b. Any lawfully operated circus, carnival, performing act or similar functions and events of a temporary nature as may be authorized by the city.
 - c. Dogs or other animals lawfully used to guard private property.
 - d. Dogs or other animals assisting a peace officer engaged in law enforcement duties.

- e. 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 12-13-88, art. I, § 1)

Sec. 6-72. - Enforcement responsibility.

- (a) The police department of the city and any other lawfully designated official or representative of the city shall have the primary duty and responsibility of enforcing the provisions of this article. 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 article, shall have the power and authority to issue summonses returnable to the municipal court or to any other proper authority for violations of this article. Such summonses shall have the same full force and effect as if issued by the police department of the city.
- (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 article.

(Ord. of 12-13-88, art. II, § 1)

Sec. 6-73. - 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 said 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 permit must be signed and dated by the owner of the dangerous animal. The owner must sign a statement attesting to the fact that all provisions of this article 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 article by such animal in his possession or control.
- (d) The mayor and city council may establish from time to time fees for the issuance of said license or permit. Said fees may apply to the initial issuance of such license or permit and any required renewals, at the discretion of the mayor and city council.
- (e) Any license or permit issued pursuant to this article shall be revocable upon any noncompliance with any of the terms of this article by any person owning or in possession or control of any dangerous animal.

(Ord. of 12-13-88, art. I, § 2)

Sec. 6-74. - 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 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 6-71(6) 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 act 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 12-13-88, art. I, § 3)

Sec. 6-75. - 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 herein defined.
- (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 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 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 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 300 pounds and not exceeding three feet in length, and under the direct control and supervision of the owner.
- (e) In lieu of the requirement that the fence or structure area have a concrete bottom, the fence or sides of each structure area must be embedded in the ground to a depth of two feet, provided such animal to be confined is not a burrowing animal.

(Ord. of 12-13-88, art. I, § 4)

Sec. 6-76. - 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 said property for the presence of dangerous animals or for 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 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, said officer or official may immediately seize and impound the animal pending an investigation as described herein.
- (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(s) of the city, to be held or disposed of as herein provided.
- (e) If any such animal is so impounded, the same shall be released to the owner thereof only if payment is made, within five working days to the city or its designee, of such sums as may be designated from time to time by the mayor and city council 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(s) 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 city council, shall be paid within three 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 municipal court, be punished as allowed by law.
- (g) All fees and fines imposed pursuant to this section shall be paid by any violator, and all other requirements of this article 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 working days, then any such animal so impounded may be destroyed or otherwise disposed of.

(Ord. of 12-13-88, art. I, § 5)

Sec. 6-77. - Killing of dangerous animals; when authorized.

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 to kill such animal, without requiring such officer or official to catch, restrain or impound such animal.

(Ord. of 12-13-88, art. I, § 6)

Sec. 6-78. - Penalties.

- (a) The failure or refusal of any person to comply with any of the provisions of this article and the violation of any provision of this article by any person shall constitute a misdemeanor. Any person deemed guilty of any violation of any provision of this article 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 city council of the city.
- (b) Continuance of a specific violation for each separate day shall constitute a separate offense.

(Ord. of 12-13-88, art. II, § 2)

Sec. 6-79. - 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 harbouring 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) In addition to any damages awarded pursuant to this section, a civil penalty of \$5,000.00 per incident or attack may be imposed by any court of competent jurisdiction.
- (c) Nothing in this article 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.
- (d) Should any employee of or person carrying out contractual responsibilities for the city be attacked by any dangerous animal or other animal, while 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, revocation of building permits or privilege licenses.

(Ord. of 12-13-88, art. I, § 7)

Sec. 6-80. - Insurance requirement (optional).

Any person owning or having control or possession of any dangerous animal within the corporate limits of the city shall obtain and maintain liability insurance, covering any damage or injury that may be caused by such vicious animal, in the amount of \$100,000.00 for any single incident. Such policy shall contain a provision that the city be named as additional insured, for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the insurance policy.

(Ord. of 12-13-88, art. I, § 8)