

Chapter 18 - ANIMALS AND FOWL^[1]

Footnotes:

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Cross reference— Police dogs treatment, § 50-2; pets in mobile/manufactured home parks, § 54-47.

State Law reference— Dogs generally, MCA 1972, § 41-53-1 et seq.; bee diseases, MCA 1972, § 69-25-101 et seq.

ARTICLE I. - IN GENERAL

Sec. 18-1. - Definitions.

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

Adult animal means any animal that is over six months of age.

Altered animal means any animal that has been operated on so as to prevent it from reproducing.

Animal means any living, vertebrate creature, domestic or wild, including both the male and female sex.

Animal control officer means any person employed by the police department to enforce the animal control ordinances of the city and statutes of the state.

Animal shelter (city) means a facility operated by the department of police, or otherwise directed by the council for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

At large or running at large means any animal which is off the premises of the owner or not on a leash, chain, behind a fence or enclosure or under the control of the owner or other person by leash or chain.

Breeder means any person who for compensation causes the breeding or selling of any dog or cat or makes any dog or cat available for breeding purposes.

Cat means a domesticated member of the Felidae (feline) family, other than a lion, tiger, bobcat, jaguar, panther, leopard, cougar or other prohibited animals.

Circus means a commercial variety show featuring animal acts for public entertainment.

Commercial animal establishment means any pet shop, grooming shop, auction, public animal sale, riding school or stable, zoological park, circus, performing animal exhibition or kennel.

Commercial animal exhibit means a display or show of wild or domestic animals in a shopping center, retail establishment, adjacent lot or elsewhere for the purpose of promoting sales.

Dangerous and vicious animal means an animal that attacks, bites, scratches or attempts to attack any person or other animal; chases or attempts to catch any person; constitutes a physical threat to human beings or other animals; or trespasses upon the premises of any person, doing damage to the premises.

Dog means a domesticated member of the Canidae (canine) family other than a wolf, jackal, fox, dingo, coyote or other prohibited animals.

Feral animal means an animal that has escaped from domestication and has become wild, dangerous or untamed.

Fowl means any live bird.

Grooming shop means a commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

Guide dog means a dog trained to assist the handicapped.

Impound means to take into custody or to place in the city animal shelter.

Inhumane treatment means any treatment to any animal that deprives the animal of necessary sustenance, including food, water and protection from weather, or any treatment of any animal, such as overloading, overworking, tormenting, beating, mutilating, teasing or poisoning, or other abnormal treatment as may be determined by an animal control officer or a law enforcement officer.

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

Licensed veterinarian means a veterinarian licensed by the state board of veterinary examiners.

Livestock means any domesticated farm animal, including but not limited to cattle, horses, goats, sheep, donkeys, ponies, mules, swine and burros, regardless of age, sex or breed, raised for home use or profit.

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

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

Pet means any animal kept for pleasure rather than utility.

Pet shop means any person whether operated separately or in connection with another business enterprise, except for a licensed cattery or kennel, who buys, boards, sells or offers for sale any species of animals.

Police dog means any canine species working for the police department.

Poultry means any species of domesticated birds commonly kept for eggs and/or meat.

Public nuisance means any animal which:

- (1) Molests a passerby or passing vehicles;
- (2) Attacks a human being or other animals;
- (3) Trespasses on school grounds, in city parking or in zoological parks;
- (4) Is repeatedly at large;
- (5) Damages private or public property;
- (6) Barks, whines, howls or makes other annoying noises in an excessive, continuous, untimely manner or at unreasonable hours;
- (7) Is allowed by its owner to become a nuisance to people or other animals; or
- (8) Any dog which is allowed by its owner to come within 100 feet of a parade, festival or any other public function, whether on a leash or unleashed, unless the public function is an animal-related function and the animal is participating in the function.

Rabies vaccination means the injection, by a licensed veterinarian or person approved by the state board of health, of a dog, cat or other animal with a rabies vaccine licensed by the U.S.D.A.

Restraint means any animal securely caged, or secured by a leash or lead of less than six feet and under the effective control of a responsible person and obedient to that person's commands or within the confines of the real property limits of its owner's home or yard which is fully enclosed by a good, secure and substantial fence.

Sanitary means any condition of a good order and cleanliness which precludes the possibility of disease transmission or the commission of malodorous smells and/or vapors.

Stable means any place that has available for hire boarding and/or riding instruction of any horse, pony, donkey, mule or burro.

Vaccination certificate means the certificate issued by a licensed veterinarian on a form approved by the board of health for presentation to the animal control unit and showing on its face that, at the time of such presentation, the dog or cat covered by the certificate has been vaccinated for rabies.

Vertebrate means having a backbone or spinal column. A member of the subphylum Vertebrate, a primary division of the phylum Chordate that includes the fishes, amphibians, reptiles, birds and mammals, all of which are characterized by a segmented bony or cartilaginous spinal column.

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

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

(Code 1979, § 6-2; Ord. No. 697, § 1, 8-19-1997)

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

Sec. 18-2. - Penalties.

- (a) It shall be unlawful for any person to violate any provisions of this chapter. Such violation shall be a misdemeanor and shall be punishable by a fine of not less than \$25.00 nor more than \$500.00 and/or 90 days' imprisonment.
- (b) If any violation is continuing, each day's violation shall be deemed a separate offense.

(Code 1979, § 6-1)

Sec. 18-3. - Animal control unit.

- (a) The animal control unit shall be a subunit of the police department, and its personnel shall be staffed by animal control officers.
- (b) The animal control unit shall be responsible for the operation of the city's animal shelter.
- (c) Any animal control officer employed by the police department shall be invested with police powers to enforce the animal control ordinances and state laws and shall be authorized to issue tickets, summonses or other processes within the scope of their authority.

(Code 1979, § 6-3)

State Law reference— Authority to control animals at large and establish pound generally, MCA 1972, § 21-19-9.

Sec. 18-4. - Pursuit of animals.

For purposes of discharging the duties imposed by the provisions of this chapter, or other applicable laws, and to enforce the duties, the animal control unit and police department may enter upon private property to the full extent permitted by law, which shall include but is not limited to entry upon private property when in pursuit of any animal which he has reason to believe is subject to impoundment pursuant to the provisions of this chapter or other applicable laws.

(Code 1979, § 6-25)

Sec. 18-5. - Interference with animal control officers.

It shall be unlawful for any person to interfere with an animal control officer while engaged in the performance of his duties. Violations of this section shall be subject to section 1-5.

(Code 1979, § 6-4)

Sec. 18-6. - Compliance with chapter required for keeping animals.

It is unlawful and it shall be a misdemeanor for any person to do any act forbidden or fail to do any act required in this chapter. Unless specifically required, no mental element need to be present to constitute an offense under this chapter.

(Code 1979, § 6-5)

Sec. 18-7. - Compliance with sanitation standards required for keeping animals.

- (a) The owner of any animal within the city, as authorized in this chapter, shall comply with the standards of sanitation established by this chapter or any other regulations.
- (b) It shall be unlawful to keep or harbor any animal or fowl in such a manner as to constitute a public nuisance by reason of odor or unsanitary conditions to persons residing in the vicinity.

(Code 1979, § 6-6)

Sec. 18-8. - Compliance with chapter no relief from compliance with other regulations.

The keeping of any animal in accordance with the provisions of this chapter shall not be construed to authorize the keeping of an animal in violation of the zoning ordinance or any other ordinance of the city.

(Code 1979, § 6-7)

Sec. 18-9. - Inspection of animals and premises.

Animals and premises whereon animals are kept or maintained shall be subject to inspection by an animal control officer or police officer at any reasonable hour, or at any hour in cases of emergency, upon receiving a complaint from a citizen in which a violation of this chapter or any state law is being or believed to be violated or upon the observations or establishment of probable cause by any police officer or animal control officer.

(Code 1979, § 6-8)

Sec. 18-10. - Abatement of conditions not complying with chapter.

Whenever any premises where animals are kept are in an unsanitary condition, or the facilities are not in keeping with the provisions of this chapter, or any other regulations, or if any health ordinance or law is not observed, the animal control unit may, by written notice to the person responsible for the condition of the premises or the keeping of the animals or the person owning or in control of such premises, order the

abatement of the conditions that are not in accordance with this chapter or other regulations, or conditions that constitute a nuisance. Failure to comply with such order shall, in addition to any criminal proceedings, be grounds for and entitle the city to obtain relief by injunction.

(Code 1979, § 6-9)

Sec. 18-11. - Care of animals.

- (a) Chickens or ducklings younger than eight weeks of age may not be sold in quantities of less than ten to a single purchaser. It shall be unlawful to color, dye, stain or otherwise change the natural color of any animal or to possess any animal that has been colored.
- (b) No person shall give away any live animal, mammal, fish, reptile or bird as a prize for entering, or as an inducement to enter, any contest, game or other competition; or as an inducement to enter a place of amusement; or offer such vertebrate as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade.
- (c) It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob a bird nest or wild fowl nest.
- (d) No person shall carry or cause to be carried by hand or in or upon any vehicle or other conveyance any creature in a cruel or inhumane manner.

(Code 1979, § 6-41(h), (i), (o), (p))

Sec. 18-12. - Keeping fowl and rabbits regulated.

- (a) No person shall own chickens, ducks, turkeys, quail or other domestic fowl and/or rabbits in any combination over the age of eight weeks without first obtaining a permit from the animal control unit.
- (b) Fowl and rabbits in any combination thereof numbering four or more shall be kept in a secure pen or enclosure that is at least 150 feet from any inhabited dwelling other than that of the owner.

(Code 1979, § 6-43)

Sec. 18-13. - Exceptions to distance and number requirement regulations.

- (a) Laboratories and veterinarians. When keeping livestock or fowl in medical laboratories or educational institutions for medical research or in veterinarian hospitals for treatment or on the premises of any recognized humane society, such livestock or fowl shall be kept under conditions prescribed by the animal control unit for such limited purposes without the necessity of compliance with the distance and number requirements prescribed in this chapter.
- (b) Pet shops. Pet shops keeping all animals in completely enclosed and solidly walled facilities need not comply with the distance and number requirements prescribed in this chapter.

(Code 1979, § 6-46)

Secs. 18-14—18-45. - Reserved.

ARTICLE II. - ANIMAL AND RABIES CONTROL^[2]

Footnotes:

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State Law reference— Rabies inoculation required, MCA 1972, § 41-53-1; who may administer, MCA 1972, § 41-53-5.

Sec. 18-46. - Public nuisance.

- (a) Any animal that engages in any of the conduct defined in section 18-1 shall be deemed a public nuisance.
- (b) Any citizen may file an affidavit with the municipal court, charging the owner of such animal with the violation of this section.
- (c) Police officers and animal control officers may take appropriate action immediately upon personal observation of an animal creating a public nuisance, which shall include but is not limited to impoundment of the offending animal, issuance of a citation or swearing of an affidavit against the offending animal's owner, or the making of a physical arrest.
- (d) Any person keeping an animal that is determined to be a public nuisance by the municipal court shall have been guilty of committing a misdemeanor; and if the violation is continuing, each day violated shall be deemed a separate offense.

(Code 1979, § 6-21)

Sec. 18-47. - Licensing and registration.

- (a) Any person within the city owning, keeping, harboring or having custody of any dog or cat three months of age or older shall obtain a license as provided in this article. The burden of proof as to the age of any such animal shall be on the owner thereof.
- (b) Written application for licenses shall be submitted to the animal control unit, which shall include the name and address of the applicant, description of the animal, the appropriate fee and rabies vaccination certificate issued by a licensed veterinarian.
- (c) If not revoked, a license for the keeping of dogs and cats shall be for a period of one year.
- (d) Application for a license must be made within 30 days after obtaining a dog or cat three months of age or over. This requirement will not apply to a nonresident keeping a dog or cat within the city for less than 30 days.
- (e) License fees shall not be required for governmental police dogs belonging to the city police department.
- (f) Upon acceptance of the license application and fee, the animal control unit shall issue a tag, stamped with an identifying number and the year of issuance. Tags shall be designed so that they may be fastened to the animal's collar or harness.
- (g) Dogs and cats must wear identification tags at all times.
- (h) The animal control unit shall maintain a record of the identifying numbers of all tags issued.
- (i) The licensing period shall begin April 1 of each year and shall run for a period of one year. Applications for renewal licensing shall be made prior to March 31 of the current year.
- (j) Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a fine of \$25.00.
- (k) A license shall be issued after payment of the applicable fees are set by the mayor and council on file in the clerk's office.
- (l) A duplicate license may be obtained upon payment of a replacement fee set by the mayor and council on file in the clerk's office and upon showing proof of original receipt.

(m) No person may use any license for any animal other than the animal for which it was issued.

(Code 1979, § 6-22)

Sec. 18-48. - Permits.

- (a) No person, partnership or corporation shall operate a commercial animal establishment or animal shelter without first obtaining a permit in compliance with this section.
- (b) The police department shall promulgate regulations for the issuance of permits and shall include requirements for humane care of all animals and for compliance with the provisions of this chapter and other applicable laws. The police department may amend such regulations as deemed necessary for public health and welfare and for the protection of animals.
- (c) Applicants must show proof that they are able to comply with the regulations promulgated by the police department before a permit shall be issued.
- (d) The commercial animal establishments or animal shelters permit period shall begin January 1 and end December 31 of each calendar year. Renewal applications for permits must be made 30 days prior to the expiration date. Application for a permit to establish a new commercial animal establishment under the provisions of this chapter may be made at any time.
- (e) If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his name upon payment of a fee set by the mayor and council. The amount of such fee is on file in the clerk's office.
- (f) Annual permits shall be issued upon payment of the applicable fees set by the mayor and council. The amount of such fee is on file in the clerk's office.
- (g) Every facility regulated by this chapter shall be considered a separate enterprise and shall require an individual permit.
- (h) No fee may be required of any veterinary hospital, animal shelter, animal welfare organization or government-operated zoological park.
- (i) Failure to obtain a permit before opening any facility covered by this section shall result in a fine of not less than \$200.00 nor more than \$400.00.
- (j) Any person who has a change in the category under which a permit was issued shall be subject to reclassification, and the appropriate adjustment of the permit fee shall be made.

(Code 1979, § 6-23)

Sec. 18-49. - License and permit issuance and revocation.

- (a) The police department or animal control unit may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this chapter, the regulations promulgated by the police department, or any law governing the protection and keeping of animals.
- (b) Any person whose permit or license is revoked shall, within ten days thereafter, humanely dispose of all animals owned, kept or harbored; and no part of the permit or license fee shall be refunded.
- (c) It shall be a condition of the issuance of any permit or license that the police department or the animal control unit shall be permitted to inspect all animals and the premises where animals are kept at any reasonable time and shall, if permission for such inspections is refused, revoke the permit or license.
- (d) If the applicant has withheld or falsified any information on the application, the police department shall either refuse to issue a permit or license or shall revoke a permit or license.
- (e) No person who has been convicted of cruelty to animals shall be issued a permit to operate a commercial animal establishment within two years of conviction.

- (f) Any person having been denied a license or permit may not reapply for a period of 90 days. Each reapplication shall be accompanied by a fee set by the mayor and council. The amount of such fee is on file in the clerk's office.

(Code 1979, § 6-24)

Sec. 18-50. - Restraint.

- (a) It shall be unlawful for the owner of any animal to fail to keep such animal under restraint or permit it to run at large at any time within the corporate limits of the city.
- (b) Owners shall exercise proper care and control of their animals to prevent them from becoming public nuisances.
- (c) Every vicious/dangerous animal, as determined by the animal control unit, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.
- (d) All female dogs shall, during their mating season, be kept in confinement within pens so constructed as to bar access to any other dogs; and it shall be unlawful for an owner of any female dog to permit such dog to run at large under any circumstances during its mating season.

(Code 1979, § 6-26)

Sec. 18-51. - Impoundment.

- (a) Animals shall be impounded by an animal control officer or any police officer in any of the following circumstances:
 - (1) Any animal not kept under restraint as required by this chapter.
 - (2) Any dog or cat not having affixed to its collar a valid rabies tag.
 - (3) Any animal that constitutes a public nuisance.
 - (4) Any animal that a person could reasonably suspect as having any infectious or contagious disease other than rabies and being in the custody of a keeper who fails or refuses to make arrangements satisfactory to the animal control officer concerning the proper treatment of such dog or other animal.
 - (5) Every animal that has rabies or symptoms of rabies, or that a person could reasonably suspect as having rabies or symptoms of rabies, or every animal that has been bitten or scratched by another animal, or that bites, scratches or otherwise attacks another animal or other person within the city.
 - (6) Any animal not kept by the owner in conformity with this chapter or state law.
- (b) Impounded animals, other than those impounded for observation for rabies, shall be subject to immediate redemptions. Such animals may be redeemed by anyone entitled to possession while they are in the city animal shelter after paying the appropriate fees and making the required deposit set by the mayor and council. The amounts of such fees and deposits are on file in the clerk's office. All charges for rabies vaccination, if required, while in the care of the animal shelter shall be paid. These fees are exclusive of any fines, cost of court, etc., which may result from any violation of any section of this chapter.
- (c) If any animal impounded sought to be redeemed is suffering from any disease or ailment, it shall not be released until the animal control unit shall be satisfied that arrangements concerning its proper treatment are assured. Animals put under observation as described in section 18-55 shall become subject to redemption when found to be free from rabies.
- (d) If by a tag or other means the owner of an impounded animal can be identified, the animal control unit shall notify, immediately upon impoundment, the owner by telephone or other reasonable means.

Within three days, the rightful owner of any animal held under this section, provided the animal is properly vaccinated, licensed and tagged, may obtain the animal upon the payment of an impoundment fee as provided for in subsection (b) of this section. If any unvaccinated animal is claimed by the owner, the owner must make arrangements for the vaccination of the animal according to this chapter.

- (e) Any animal not reclaimed by its owner within three working days shall become the property of the city and shall be placed for adoption in a suitable home for a fee set by the mayor and council, or humanely euthanized with an injection of sodium phentobarbital or other recognized approved methods. The amount of the fee set by the mayor and council is on file in the clerk's office.
- (f) The three-day waiting period is waived for vicious, dangerous or feral animals, or for any animal suffering from disease or injury.
- (g) In addition to or in lieu of impounding an animal, an animal control officer or any police officer may issue to the owner of such animal a post arrest release citation, summoning the violator to appear before the municipal court judge to answer violations of this article or state law.
- (h) The animal control unit may review automatically all licenses issued to animal owners against whom three or more ordinance violations have been assessed in a 12-month period and revoke licenses.

(Code 1979, § 6-27(a)—(d), (f), (h)—(j); Ord. No. 697, §§ 2—4, 8-19-1997)

Sec. 18-52. - Elimination of animals.

- (a) When an animal is determined by the animal control unit to be a vicious, dangerous or feral animal, that animal may be destroyed by the animal control unit, provided each of the following requirements are met:
 - (1) The animal is running at large.
 - (2) There is no vaccination tag around the animal's neck.
 - (3) Attempts to peacefully capture the animal have been made and proved unsuccessful.
 - (4) Consent of owner, keeper or caretaker is obtained.
- (b) A police officer or animal control officer is authorized to discharge a firearm to mercifully end the life of an animal suffering from injury, disease or which is deemed to be a health hazard.

(Code 1979, § 6-28)

Sec. 18-53. - Vaccination of dogs and cats against rabies.

- (a) Any person owning, keeping, harboring or having custody of any dog or cat three months of age or older within the city shall have that animal vaccinated against rabies with the proper dosage of an approved antirabic virus (vaccine) approved by the state board and properly administered by a licensed veterinarian. It shall be unlawful for any person to own, keep, harbor or have in his possession any dog or cat not so vaccinated. Every dog or cat must be so vaccinated immediately upon attaining the age of three months and every year thereafter.
- (b) The owner of any dog or cat shall see that the animal wears a securely braided metal tag, approved by the state board of health, with the serial number of the vaccination and the year in which the animal was inoculated stamped on the tag and shall see that the collar and tag are worn by the animal at all times. Any such tag shall not be transferable to any dog or cat other than the animal to which it was issued.
- (c) Every owner of a dog or cat immunized against rabies as required in this article shall procure a rabies vaccination certificate from the veterinarian administering the vaccine not earlier than September 1 preceding each April license.

- (d) A veterinarian who vaccinates a dog or cat as required in this article shall furnish the owner with a metal tag bearing a number corresponding to the number placed on the certificate, and with lettering showing immunization, the date, and the sex, breed and description of the animal. This tag shall be attached to the collar of the dog or cat for which it is issued and shall be worn at all times in a conspicuous place on the collar.

(Code 1979, § 6-29)

Sec. 18-54. - Biting and attacking animals.

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

(Code 1979, § 6-30)

Sec. 18-55. - Animals exhibiting symptoms of rabies.

- (a) Every animal that has rabies or symptoms of rabies, or every animal that a person could reasonably suspect of having rabies, or that bites, scratches or otherwise attacks another animal or any person within the city shall be impounded at once and held for observation and quarantine at the city animal shelter or other place designated by the animal control unit for such period of time as the animal control officer may deem necessary; however, such period of time shall not be fewer than ten days and not more than 14 days.
- (b) No animal that has rabies shall be allowed at any time on the street or public ways of the city. No animal that has been suspected of having rabies shall be allowed at any time in public places, except as expressly provided in this article, until the animal has been released from observation by the animal control unit.
- (c) The owner of any animal that is reported to have rabies or its symptoms, or to have been exposed to rabies, or to have bitten, scratched or otherwise attacked any person within the city, or that the owner knows or suspects to be rabid or to have attacked an individual, shall submit such animal for quarantine to the animal control unit. If the owner of such animal refuses to surrender such animal on demand, such action shall constitute a misdemeanor and upon conviction shall be punished by a fine of not less than \$250.00 and not more than \$500.00 and/or 90 days imprisonment.
- (d) Any person having knowledge of any animal exhibiting any symptoms of or having been exposed to rabies, or that has bitten or otherwise attacked any human being, shall immediately report the incident or animal to the animal control unit. The report shall include the name and address of any victim and the owner of the animal, if known, and any other information relating to the incident or animal.
- (e) In case of an epidemic, every veterinarian or other person who is called to examine or professionally attend any dog or any other animal within the city having glanders or farcy, rabies, tuberculosis or any other communicable disease shall, within 24 hours thereafter, report in writing to the animal control unit the following:
 - (1) The location of such animal.
 - (2) The name and address of the owner of the animal.
 - (3) The type and character of the disease.
 - (4) Any precautions that should be taken.
- (f) Every veterinarian practicing within the city limits shall keep detailed records of animal rabies vaccinations and, upon request of the animal control unit or the police department, shall acknowledge

to city officers whether an animal at a particular location or owned by a named person has been vaccinated within the last 12 months.

- (g) The animal control unit or police department shall investigate and record all cases of rabies and suspected rabies.
- (h) The body of any animal that has died of rabies or that dies or is destroyed while in quarantine shall not be disposed of except as directed by the animal control unit.

(Code 1979, § 6-31)

Secs. 18-56—18-85. - Reserved.

ARTICLE III. - CARE AND KEEPING OF ANIMALS

Sec. 18-86. - Animal care generally.

It shall be unlawful to violate the following provisions for animal care:

- (1) No owner shall fail to provide his animals with a sufficient quality of good and wholesome food and water, proper and necessary shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care, supervision and treatment.
- (2) No person shall confine or allow his animal to remain outside without access to appropriate shelter from the elements.
- (3) No person shall beat, cruelly treat, torment, overload, seriously overwork or otherwise abuse an animal, or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.
- (4) Animals that must be tied or hitched to restrain them must wear a properly fitted collar or harness. The tying device shall be attached to the animal's collar or harness. The length of the tying device shall be not less than five times the length of the animal, as measured from the tip of its nose to the base of its tail.
- (5) No owner of an animal shall abandon or neglect such animal.
- (6) No person, except a licensed veterinarian, shall crop a dog's ears or perform any other major or minor surgical procedures.
- (7) Enclosures used to confine animals shall be maintained in a clean and sanitary condition at all times. Owners shall make certain that no offensive odors emanate from areas where animals are confined.
- (8) Any person who, as the operator of a motor vehicle, strikes a domestic animal within the corporate limits of the city shall at once report the accident to the police department and/or the animal control unit.
- (9) No person shall expose any known poisonous substance, whether mixed with food or not, so that the substance shall be liable to be eaten by any animal; but it shall not be unlawful for a person to expose on his own property common pest-control poison mixed only with vegetable substances.
- (10) No animal may be induced or encouraged to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause physical injury or suffering.
- (11) All equipment used on a performing animal shall fit properly and be in good working condition.

- (12) It shall be unlawful to leave an animal unattended inside a motor vehicle when such action is reasonably potentially harmful to such animal. The animal control unit or any police officer shall have the authority to remove an animal from such a vehicle.

(Code 1979, § 6-41(a)—(g), (j)—(n))

Sec. 18-87. - Keeping of certain animals prohibited.

- (a) No person shall keep or permit to be kept on his premises, or in any roadside zoo or pet store, any wild or exotic animal for display or for exhibition purposes, whether gratuitously or for a fee, without the necessary city, state and/or federal permits. This subsection shall not be construed to apply to zoological parks or circuses.
- (b) No person shall keep or permit to be kept any wild or exotic animals as a pet.
- (c) The animal control unit or police officer shall have the power to release, order the release, or seizure of any wild or exotic animal being kept in violation of this chapter or federal law or statute.
- (d) No person shall keep, own, maintain, use or have in such person's possession or on his premises within the city any vicious animal unless such animal is within a securely fenced area, secured building or under immediate control of the owner. Such animals shall be muzzled when outside the premises of the owner and shall be accompanied by the owner at all times.

(Code 1979, § 6-42)

Sec. 18-88. - Keeping of livestock.

- (a) The keeping on any premises in the city of any livestock is prohibited unless the pens, stalls or other facilities for keeping the livestock shall be so located that the livestock cannot come within 300 feet of any dwelling or business building owned, used or maintained by any person other than the keeper or 500 feet of any food service establishment, regardless of ownership or occupancy of such establishment.
- (b) It shall be unlawful for any person to keep within the corporate limits of the city a cow, mule, horse, goat, sheep or any cattle in any barn, stable or on a lot unless the owner of such animal shall obtain a permit from the police department.
- (c) Before any cattle, horses, mules, goats, sheep, etc., can be kept in the city limits, all adjoining landowners to the property must give notarized, written permission to the police department that they approve of the applicant keeping livestock. If the property is leased or rented by the applicant, the applicant must have notarized approval from the property owner also.
- (d) Property must have at least one acre of land (43,550 square feet). Maximum livestock permitted per acre is two.
- (e) The keeping of swine within the city limits is prohibited.
- (f) It shall be unlawful for any person to permit any livestock owned or kept by him to run at large within the city limits.
- (g) Any livestock, such as swine, bulls, sheep, goats, horses or mules, found straying or running at large shall be captured and impounded in an enclosure provided and maintained for such purpose by the animal control unit. Within five working days of the livestock's capture, the rightful owner or owners of any animal so impounded may claim and obtain the release of the same by payment of an impoundment fee during which the animal has remained impounded. If any such animal is not claimed and redeemed by its owner within the five-day period, the animal shall be sold upon sealed bids to the highest and best bidder in satisfaction of all fees and expenses incurred.

(Code 1979, § 6-44)

Sec. 18-89. - Keeping of more than six pets.

The keeping on any premises in the city of any pets in any number exceeding six in aggregate is prohibited unless the pens, stalls or other enclosure facilities for keeping the pets shall be so located that the pets cannot come within 300 feet of any dwelling or business building owned, used or maintained by any person other than the keeper or 500 feet of any food service establishment or food processing establishment, regardless of ownership or occupancy of such establishments.

(Code 1979, § 6-45)

Sec. 18-90. - Animal waste.

- (a) The owner of every animal shall be responsible for the removal of any feces deposited by such owner's animal on public walks, public property, recreation areas or private property.
- (b) Feces deposited by an animal upon public property or upon the private property of any person other than such animal's owner shall be collected and removed at once by such animal's owner. Animal feces deposited upon any other property shall be collected and removed daily.
- (c) Collection and removal of animal feces shall be in a container of such type, when closed, that is ratproof, not malodorous, and flytight. Such container shall be kept closed after each collection. At least once a week each such animal owner shall cause all feces so collected to be disposed of in such a way as not to permit fly breeding.
- (d) It shall be unlawful for the owner of any property to allow unsanitary, unsightly or malodorous conditions to develop on his property due to keeping, maintaining, owning or harboring of animals.

(Code 1979, § 6-47)

Sec. 18-91. - Burial of animals.

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

(Code 1979, § 6-48)

Secs. 18-92—18-126. - Reserved.

ARTICLE IV. - VICIOUS OR DANGEROUS ANIMALS

Sec. 18-127. - Declaration.

- (a) An animal may be declared vicious or dangerous by an animal control officer or law enforcement officer if the animal, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack.
- (b) An animal may be declared vicious or dangerous if that animal has a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise threaten the safety of human beings or domestic animals.
- (c) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting will be considered vicious or dangerous.
- (d) The council may, by order or resolution, declare a pure breed and/or mixed breed of animal vicious or dangerous if such pure breed and/or mixed breed of animal has a known propensity, tendency or

disposition to attack unprovoked, to cause an injury, to exhibit a menacing or apparent attitude of attack, and/or to otherwise threaten the safety of human beings or animals.

- (e) Any dog owned or harbored primarily or in part for the purpose of pursuing or catching livestock, feral animal and/or wild animal shall be considered vicious or dangerous.

(Ord. No. 716, 11-3-1998; Ord. No. 809, § 1, 7-18-2006)

Sec. 18-128. - Exemptions.

Exemptions for animals that are provoked are as follows: No animal may be declared vicious or dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the animal or was teasing, tormenting, abusing or assaulting the animal, or if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

(Ord. No. 716, 11-3-1998)

Sec. 18-129. - Confinement.

- (a) Any animal that has been declared vicious or dangerous must be securely confined on the owner's property by being confined indoors or in a securely enclosed and locked pen or structure at least six feet in height, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure must have minimum dimension of ten feet by ten feet and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be embedded into the ground no less than two feet. The enclosure gate must be secured by a lock, and the enclosure must also provide protection from the elements for the animal.
- (b) No animal that has been declared vicious or dangerous may be kept on a chain or in any manner kept tethered or tied out.
- (c) No pure breed and/or mixed breed of animal that has been declared vicious or dangerous can be kept on a chain or in any manner be kept tethered or tied out. Such pure breed and/or mixed breed of animal declared vicious or dangerous shall be confined as set forth in this chapter. No pure breed and/or mixed breed of animal that has been declared vicious or dangerous may be walked and/or exercised outside the pen or structure constructed to confine such pure breed and/or mixed breed of animal declared vicious or dangerous by the council.
- (d) The owner and/or custodian of any pure breed and/or mixed breed of animal declared vicious or dangerous by the council shall register each animal with the animal control officer/division of the City of Picayune Police Department within 15 days after the council makes such declaration and/or when said animal(s) are brought within the jurisdiction of the City of Picayune.
- (e) The owner and/or custodian of any pure breed and/or mixed breed of animal declared vicious or dangerous by the council shall procure and maintain sufficient liability insurance policy covering losses and/or damages caused by said vicious or dangerous animal(s) in the minimum amount(s) of \$20,000.00 for property damage, \$500,000.00 for personal injury, and \$1,000,000.00 for wrongful death. That such liability insurance policy shall be prepaid for a period of 12 continuous months and renewed annually the owner and/or custodian of such vicious or dangerous animal(s). That written proof of the existence of such coverage shall be provided unto the animal control officer/division of the City of Picayune Police Department which shall include at a minimum, a copy of the declarations page reflecting the amounts and expiration of coverage(s), a specimen copy of the policy(ies) that is/are in effect, and a copy of the paid receipt from the insurance company issuing such policy(ies). That such written proof shall be provided to the City of Picayune Police Department within 15 days after the council makes the declaration that any pure breed and/or mixed breed of animal is vicious or dangerous.

(Ord. No. 716, 11-3-1998; Ord. No. 809, § 1, 7-18-2006)

Sec. 18-130. - Seizure, destruction.

- (a) An animal control officer or law enforcement officer may seize or cause to have seized any animal declared vicious or dangerous or whose owner has violated any part of this chapter and have the animal impounded.
- (b) When an animal is determined by the animal control officer or law enforcement officer to be a vicious or dangerous animal or feral animal, that animal may be destroyed by the animal control officer or his designee providing each of the following requirements are met:
 - (1) The animal is running at large.
 - (2) There is no vaccination tag around the animal's neck.
 - (3) Attempts to peacefully capture the animal have been made and proved unsuccessful.

If the animal is in the process of attacking and is a threat to human or animal life, these requirements will be waived.

- (c) An animal control officer or law enforcement officer may seize or cause to have seized any pure breed and/or mixed breed of animal declared vicious or dangerous by the council or whose owner has violated any part of this chapter and have the animal impounded.
- (d) Any pure breed and/or mixed breed of animal declared vicious or dangerous by the council, which is subsequently impounded by the animal control officer or law enforcement officer, may be destroyed by the animal control officer upon 15 days' notice by way of first-class United States mail transmitted to the last known owner of such animal. If the owner of the animal cannot be reasonably ascertained, then said notice may be published one time in the newspaper having a circulation in Pearl River County, Mississippi. If the animal is in the process of attacking and is a threat to human or animal life, these requirements are deemed waived.

(Ord. No. 716, 11-3-1998; Ord. No. 809, § 1, 7-18-2006)