

CHAPTER 90: ANIMALS

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ANIMAL CONTROL CODE

§ 90.01 LICENSING.

Any person owning, keeping, harboring or having in custody of any dog or cat over three months of age within this municipality must obtain a license as herein provided.

(A) Written application for licenses shall be made to the City Manager which shall include name and address of applicant, description of the animal, the application fee which shall be set by resolution of the City Commission and rabies certificate.

(B) If not revoked, licenses for the keeping of dogs shall be for a period of two years, licenses for the keeping of cats shall be for a period of one year, commencing on the date the license is issued.

(C) Application for a license must be made after obtaining a dog or cat over three months of age, except for nonresidents keeping a dog or cat within the municipality for no longer than 60 days.

(D) Upon acceptance of the license application and fee, the City Manager shall issue a durable tag with an identifying number and the year of issuance.

(E) Dogs and cats must wear identification tags at all times when off the premises of the owner.

(F) The City Manager shall maintain a record of identifying number of all tags issued and shall make this record available to the public.

(G) Persons who fail to obtain a license as required within the time period specified, will be subjected to a penalty of \$10 to be paid in addition to any license fee.

(H) Licenses shall be issued after payment of the applicable fee as established by action of the City Commission.

(I) A duplicate tag to replace a lost or destroyed tag may be obtained by paying a fee set by resolution of the City Commission.

(J) No person may use any license for any animal other than the animal for which it was issued.
(Prior Code, § 6.04.010) Penalty, see § 90.99

§ 90.02 PERMITS.

(A) No person, partnership or corporation shall operate a commercial animal establishment or shelter without first obtaining a permit in compliance with this subchapter.

(B) The City Commission shall promulgate regulations for the issuance of permits in keeping with the provisions of this subchapter and other applicable laws.

(C) Upon showing by the applicant for a permit that he or she is willing and able to comply with the regulations promulgated by the City Commission, a permit shall be issued upon payment of the application fee.

(D) The permit period shall begin with the fiscal year and shall run for one year.

(E) If there is a change in ownership of a commercial animal establishment, the new owner may have the current permit transferred to his or her name upon payment of a \$100 transfer fee.

(F) Annual permits shall be issued after payment of the applicable fee as established by the City Commission.

(G) Persons operating kennels for the breeding of dogs or cats which handle less than ten animals may elect to license such animals individually.

(H) Failure to obtain a permit before opening any facility covered in this section shall constitute a violation of this section and shall be subject to a penalty of \$10 to be paid in addition to any permit fee.

(I) The City Manager or his or her designated representative, shall be permitted to inspect all animals and the premises where animals are kept at any time.

(J) If such inspection shows failure to comply with this section or any other sections of this subchapter, the City Manager may revoke any permit.

(K) Any person having had his or her permit revoked may not reapply for a period of 30 days. Each reapplication shall be accompanied by a \$10 fee.
(Prior Code, § 6.04.020) Penalty, see § 90.99

§ 90.03 RUNNING AT LARGE.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

AT LARGE.

(a) An animal when off or away from the premises and not under the control of the owner, possessor, keeper, agent, servant, or a member of its immediate family by a leash.

(b) An animal when on the premises of the owner, possessor, keeper, agent, or servant if not attended by a competent person unless that animal is chained, restrained, enclosed, or confined in a manner preventing it from leaving the premises.

(B) *Generally.* It is unlawful for any person to have an animal, which is owned, kept, harbored or under his, her or their control to be at large and to go in or upon the private property or premises of others or upon any public property.

(Prior Code, § 6.04.030) Penalty, see § 90.99

§ 90.04 NUISANCE.

The following acts or omissions by an owner or custodian of an animal shall constitute a nuisance:

(A) Allowing an animal to bark, whine, howl or make loud noises excessively so as to annoy, injure or endanger the comfort, repose, health or safety of others;

(B) Allowing an animal to interfere with, obstruct or make it dangerous for persons or vehicles to travel on public rights-of-way; and

(C) Failing to keep a female animal that is in heat confined in a building, secure enclosure, veterinary hospital or boarding kennel so that it cannot attract or come into contact with another animal on public or private property except for controlled breeding purposes.

(Prior Code, § 6.04.040) Penalty, see § 90.99

§ 90.05 ANIMAL CARE.

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

(B) No person shall beat, cruelly ill treat, torment, overload, 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.

(C) No owner of an animal shall abandon such animal.

(D) No person shall crop a dog's ears, except when a veterinarian issue a signed certificate that the operation is necessary for the dog's health and comfort, and in no event shall any person except a veterinarian perform such an operation.

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

(F) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the Police Department.

(G) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to expose on his or her own property common rat poison mixed only with vegetable substances.

(H) Cruelty to animals; right of entry: no person shall maltreat or abuse or neglect any animal or fowl. Any animal control officer finding an animal or fowl mistreated as described in this section shall have the power to lawfully enter the premises where the animal is kept and demand to examine such animal and to take possession of such animal when in his or her opinion requires humane treatment.
(Prior Code, § 6.04.050) Penalty, see § 90.99

§ 90.06 ANIMAL WASTE.

The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal(s) on public walks, recreation areas or on private property.
(Prior Code, § 6.04.060) Penalty, see § 90.99

§ 90.07 ENFORCEMENT.

(A) The animal control officer or police officer may impound any animal found within the city in violation of any provision of this chapter. Once the owner of the animal is ascertained, the owner shall be notified of the impoundment within 24 hours.

(1) Animal control officers and police officers shall not be responsible for any injury or disease of any animal resulting from the enforcement of this chapter.

(2) Any impounded animal not claimed by the owner within five days after receiving notice shall become the property of the city and shall be placed for adoption in a suitable home or humanely euthanized.

(3) An owner reclaiming an impounded animal shall pay an impound fee, boarding fee and examination fee as set by resolution of the City Commission.

(4) Any person removing an animal from impound shall provide proof of current rabies vaccination and license before the animal will be released. In the event the animal is not vaccinated and licensed, proof of the vaccination and license must be provided to the city within 24 hours of release. If the proof is not brought in within 24 hours, the animal control officer or police officer may enter the premises where the animal is being kept and impound the animal until the above conditions are complied with.

(B) An owner of an animal who has violated a provision of this chapter shall pay a fine/fee to be set by resolution of the City Commission.

(C) Notice of impoundment, warning ticket or complaint may be served personally by a police officer or animal control officer, by prepaid first class mail, certified mail or by hand delivering it to the owner or custodian who was violating the provisions of this chapter, and such notice is deemed given at the time it is personally served or mailed.
(Prior Code, § 6.04.070) Penalty, see § 90.99

§ 90.08 HORSES.

No person shall allow, bring, keep, harbor, maintain or ride any horse in or upon the city park or

swimming pool area in the city, or upon any other person's lawn or parkway other than his or her own, within the city.
(Prior Code, § 6.04.080) Penalty, see § 90.99

VICIOUS ANIMALS

§ 90.20 DECLARING A VICIOUS ANIMAL.

An animal may be declared to be vicious by the City Manager or his or her designated agent, under the following guidelines:

(A) An animal which, in a vicious or terrorizing manner approaches in an apparent attitude of attack, or bites, inflicts injury, assaults or otherwise attacks a person or other animal upon the streets, sidewalks or any public grounds or places; or

(B) An animal which, on private property, in a vicious or terrifying manner, approaches in an apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mail carrier, meter reader, serviceman, journeyman, delivery man or other employed person, or any person or animal who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property.
(Prior Code, § 6.05.01)

§ 90.21 EXCEPTIONS TO DECLARATION.

No animal may be declared vicious if the injury or damage is sustained to any person or animal who is committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.
(Prior Code, § 6.05.02)

§ 90.22 NOTICE TO OWNER.

When an animal is declared to be vicious, the City Manager or his or her designated agent shall notify the owner of such declaration in writing. Said notice shall be served either in person or by mailing such notice by certified mail.
(Prior Code, § 6.05.03)

§ 90.23 AUTOMATIC DECLARATION.

Any mammal, reptile or fowl which is not naturally found in a domestic setting, and because of its size or other characteristic would constitute danger to human life or property shall automatically be deemed vicious.
(Prior Code, § 6.04.04) Penalty, see § 90.99

§ 90.24 REQUIREMENT BY OWNER.

The owner of a vicious animal shall comply with the following:

(A) Register the animal as vicious with the city and present proof of rabies vaccination within five days of receiving the notice and presenting proof of rabies vaccination on or before March 1 of each and every year thereafter;

(B) Whenever the animal is outdoors and attended, the animal shall be muzzled, on a leash no longer than six feet, and under the control of a person over 18 years of age;

(C) When the animal will be outdoors and unattended, the animal must be locked in an escape-proof kennel approved by the animal control officer. Minimum standards shall include the following:

(1) Fencing materials shall not have openings with a diameter of more than two inches;

(2) Any gates within such pen or structure shall be lockable or of such design to prevent the entry of children or the escape of the animal;

(3) The required pen or structure shall have secure sides and a secure top. If the pen or structure has no permanent bottom secured to the sides, the sides shall be imbedded into the ground or concrete; and

(4) The pen or structure may be required to have double exterior walls to prevent the insertion of fingers, hands or other objects.

(D) A universal sign denoting a vicious animal shall be displayed on the kennel or enclosure and on a place visible from the sidewalk or road adjacent to the property where the animal is kept.
(Prior Code, § 6.04.05) Penalty, see § 90.99

§ 90.25 IMPOUNDMENT.

The vicious animal shall be impounded by the City Manager or his or her designated agents at the owner's expense until all requirements of § 90.24 are complied with. If the requirements are not complied with within ten days after giving notice to the owner as provided in this subchapter, the animal shall be euthanized in a humane manner and proof of euthanasia filed with the city office.
(Prior Code, § 6.04.06)

§ 90.26 VIOLATION REQUIREMENTS.

If a vicious animal has been running at large, or bites a person or bites another animal, the animal shall be seized by the city or its agents using such means as are necessary and summon the owner to appear in court to show cause why this animal shall not be destroyed. If the animal cannot be captured, it may be killed.
(Prior Code, § 6.04.07)

§ 90.27 EXCEPTIONS TO REQUIREMENTS.

This subchapter shall not be construed to apply to zoological parks, performing animal exhibitions or circuses.
(Prior Code, § 6.04.08)

RABIES CONTROL

§ 90.40 VACCINATION REQUIRED.

(A) Any dog, cat or other animal susceptible to rabies, held as a pet in this city, that is six months of age or older, is required to be vaccinated against rabies by a licensed veterinarian or other qualified individual approved by the health authority. All subsequent rabies vaccinations as required by the health authority shall also be given at the appropriate intervals.

(B) Any owner of a dog, cat or other animal susceptible to rabies that is acquired by birth, purchase or adoption shall have that animal vaccinated within one month of such acquisition or when that animal reaches the age of six months.

§ 90.41 REPORT OF RABIES.

Any person who knows of an animal infected with rabies shall report the same to the animal control officer with a description of the animal and the name and address of the owner, if known.

§ 90.42 IMPOUNDMENT OF ANIMAL THAT HAS BITTEN OR ATTACKED.

(A) When an owner of an animal has been notified that animal has bitten or attacked any person, within 24 hours, that owner shall place the animal under the care and control of the animal control officer for a period of not less than ten days.

(B) At the end of the ten-day period, the animal control officer shall examine that confined animal and if cleared, the animal may be reclaimed by the owner. The owner is to pay all expenses incident to the confinement and examination.

(C) If, during confinement, the animal shows signs of rabies or it is known that animal has been exposed to rabies, then that animal may be confined in excess of the ten-day period and for as long a period as is necessary to determine a diagnosis.

(D) Any animal that has bitten or attacked and cannot be captured, may be destroyed in such a way as not to destroy the head so that it may be submitted to a laboratory for a rabies examination.

(E) (1) Within 24 hours of the bite, if an owner of the animal that has bitten or attacked can provide proof of a current rabies vaccination given within 30 days prior to the date of the bite or attack, then he or she may prevent the euthanization of the animal by order of the health authority or a veterinarian from the Board of Health.

(2) Any animal that has bitten any person may be euthanized by order or the health authority, if in its opinion and based on sound medical judgements, a greater risk is present if the animal is not euthanized.

The health authority shall take into consideration the following factors:

- (a) History of the animal, including its exposure to rabies;
- (b) Vaccination record of the animal;
- (c) Health of animal;
- (d) Nature, seriousness and location of bite;
- (e) Circumstances surrounding the bite, including whether or not the bitten animal provoked it;
- (f) Tolerance of person bitten to vaccination treatments.

§ 90.43 CONFINEMENT OF PET AFTER ATTACK UPON PERSON.

The department may serve written notice upon the owner of any dog or cat which has attacked or bitten a person to confine the animal at the owner's expense upon his or her premises or at a municipal pound or other place designated in the notice for a period of at least ten days after the animal has attacked or bitten any person. The department may examine the animal at any time within the ten-day period of confinement to determine whether such animal shows symptoms of rabies. In the case of any pet other than a dog or cat, which has attacked or bitten a person, the department may serve written notice upon the owner of such animal that the owner shall have the animal euthanized immediately and submit the brain to an approved laboratory for rabies examination.

(SDCL § 40-12-5)

§ 90.44 CONFINEMENT OF PET BITTEN BY ANIMAL SUSPECTED OF HAVING RABIES.

The department may serve written notice upon the owner of a dog or cat known to have been bitten by an animal known or suspected of being affected by rabies, requiring the owner to confine such dog or cat for a period of not less than six months. However, if such dog or cat had been properly treated with an antirabic vaccine, confinement shall be for a period of not less than three months. In the case of any pet other than a dog or cat, the department may serve written notice upon the owner of such animal that the owner shall have the animal euthanized immediately.

(SDCL § 40-12-6)

§ 90.45 DESTRUCTION OF ANIMAL REQUIRED.

If the animal control officer determines that rabies exists in any animal, the board may kill such animal

and any animal there is reason to believe an animal or person has been bitten by any animal affected with rabies.

§ 90.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any person or persons, firms or corporations violating § 90.08 shall be punished by a fine of the maximum amount permitted by law or by imprisonment in the city jail for a period not to exceed 30 days, or by both fine and imprisonment.
(Prior Code, § 6.04.080)