

THE VILLAGE CITY CODE

CHAPTER 5

ANIMALS

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ARTICLE I. IN GENERAL

Sec. 5-1. Pound Master; Impoundment.

- a) The city manager shall appoint a Pound Master.
- b) The Pound Master along with the Chief of Police and all police officers shall impound all animals found within the city in violation of this chapter and shall be authorized to use and discharge firearms and tranquilizer guns within the corporate limits of the city, or on property owned by the city outside the corporate limits, for the purpose of enforcing the provisions of this chapter and in accordance with applicable state law.
- c) Any city officer or employee impounding an animal shall immediately report the same to the owner of such animals, if known.
- d) If an animal is vicious or dangerous as defined at Section 5-50 of this Code whether it pertains to dogs or other animals, or wild, that it cannot be safely taken up or impounded, it may be killed by the officer or Pound Master seeking to apprehend it.
- e) It is unlawful for any person to (1) resist or lend aid or assistance against any, person authorized and engaged in the discharge of his duty to take up and impound animals, or (2) obstruct or attempt to obstruct by threats or other acts of intimidation such authorized person.
- f) Any impounded animal shall be held for a minimum of seventy-two (72) hours. If, within that period, no owner appears to claim the animal, the animal may be either held out for adoption or otherwise humanely disposed of. Unless the impounded animal is being held for rabies observation, or being held for a judicial determination pursuant to the filing of a vicious animal complaint, the owner of an impounded animal may reclaim the animal by:
 - 1. Providing proof of ownership of the animal;

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2. Providing proof of rabies vaccination;
 3. Paying all impoundment fees and daily kennel fees established by resolution.
 4. Paying any penalties provided by this chapter.
- g) The Pound Master shall be authorized to place traps on private property in order to enforce the provisions of this chapter. Placement of said traps shall be only at the request of the property owner. Non-domesticated animals that are trapped by the Pound Master, including but not limited to, squirrels, opossums, skunks, or other wild animals, shall be relocated or otherwise disposed of in accordance with applicable state law.

(Ord. No. 591 §1, 02-03-2004; 2012 Code)

Cross references-- 12-77; 13-4; 15-25 (b) (7), (8), (10). State law reference--Authority to regulate animals, 11 O.S. 22-115

Sec. 5-2. Animals prohibited.

It shall be unlawful for any person:

- a) To keep, harbor, possess, or allow remaining on any premises under his control within the city any animal other than a cat or dog unless the animal is kept within the confines of the house, apartment, office, accessory building, accessory structure, clinic, kennel, or retail store and provided the animal is not specifically prohibited herein. For the purpose of this section any pen, cage or coop shall not be considered an accessory building or structure.
- b) To keep, harbor, possess or allow to remain on any premises under his or her control within the city any of the following animals:

Skunk;

Coyote, bear, fox, wolf, or similar carnivore;

Leopard, panther; tiger, lion, lynx, or other similar large cat;

Crocodile, alligator;

Any animal, bee, insect, or arachnid with a poisonous bite or sting;

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Constricting snake capable of posing a threat to domestic animals or humans;

Any vicious animal as defined by this Chapter;

Rooster

- c) To keep or harbor more than four (4) domestic cats or dogs in total.
- d) Except for subsection (c) above, to keep or harbor one (1) litter of pups or kittens, or any portion thereof, on any residential premises for a period not to exceed sixty (60) days from birth.
- e) The provisions of subsection (b) herein shall not apply to professionally operated animal exhibits. (Ord. No. 653, §1, 09-21-2010)

(Code 1976, 2-2-1; Ord. No. 423, 1, 6-6-89; Ord. No. 425, 1, 7-18-89; Ord. No. 498, 1, 3-1-94; Ord. No. 592, § 1, 04-06-2004; Ord. No. 607, §1, 08-02-2005)

Sec. 5-3. Mistreatment.

It is unlawful for any person to kill, maim, wound, disfigure, poison or cruelly and unmercifully treat or beat any animal or overdrive, overload or in any other manner mistreat such animal or fail to provide same with proper feed, drink or shelter, or drive or work or otherwise use such animal when the same is maimed, bruised or otherwise unfit for work, or willfully abandon any such animal to die or leave the same tied up or confined without proper feeding and caring for same. This section in no way affects the authority granted the Pound Master and the police officers of the city to kill animals when entitled to do so by law or ordinance.

(Ord. No. 705 §1, 04-21-2015); (Code 1976, 2-2-4)

State law reference--Cruelty to animals, 21 O.S. 1682 et seq.

Sec. 5-4. Animals suspected of rabies, etc.

- a) Any dog or cat which is suspected of having rabies, or has been bitten by a rabid animal, or by an animal suspected of rabies, or any dog or cat which has bitten a person and has thereby caused an abrasion of the skin of such person, shall be impounded or placed in a veterinary hospital, for a period of ten (10) days; provided that where such animal has been properly vaccinated it may be confined by its owner, away from the public, for a like term, and no such animal shall be removed

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from the city limits until released from such confinement by authority of the Pound Master.

- b) If the act of impounding a dog or cat suspected of rabies constitutes danger to the officers charged with impounding such animal, such officers are authorized to kill such animal.

(Code 1976, 2-1-7; Ord. No. 227, 10, 1-18-77)

Sec. 5-5. Killing animals having contagious diseases.

- a) It shall be the duty of the Pound Master or other authorized official to seize and kill all animals diseased with contagious or communicable diseases in all cases where the owner or person in charge of said animal shall fail or refuse to immediately place and keep said animal in secure confinement, separate and apart from all other animals. In all cases where there are good reasons to believe that any animal has contracted or may contract any contagious or communicable disease, it shall be the duty of the Pound Master or other authorized official, upon refusal or failure of the owner to have the animal placed and kept in secure confinement separate and apart from all other animals, at the expense of the owner of said animal until the animal is thoroughly cured or declared incurable.
- b) For the purpose of determining whether an animal is diseased with a contagious or communicable disease, it shall be the duty of the Pound Master or other authorized official to employ a competent veterinarian to examine the animal at the expense of the owner.

(Code 1976, 2-2-5; Ord. No. 592, § 1, 04-06-2004)

Sec. 5-6. Reserved.

Sec. 5-7. Pens, enclosures; Proper sanitation required.

- a) Any person, owner, occupant, or tenant in control of or responsible for any structure, pen, enclosure, yard, or place wherein an animal is harbored shall maintain said structure, pen, enclosure, place, or yard in a secure, clean and sanitary condition, devoid of vermin and rodents, so as to prevent animals kept in such spaces from running at large, to prevent odors and unsightly appearance, and to minimize disease hazards.
- b) Any person, owner, occupant, or tenant in control of or responsible for any structure, pen, enclosure, yard, or place wherein an animal is harbored shall,

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insofar as practical, remove all fecal matter from said structure, pen, enclosure, yard, or place at least once every twenty-four (24) hours.

- c) It shall be unlawful for any person, owner, occupant, or tenant in control of or responsible for any structure, pen, enclosure, yard, or place wherein an animal is harbored, to allow the odor of animal feces originating from said structure, pen, enclosure, yard, or place, to emanate, drift, or otherwise be detected by any person situated on an adjacent or nearby property or to fail to comply with subsections (a) and (b) above.

(Ord. No. 250, 1(2-2-6), 12-19-78; Ord. No. 499, 1, 3-15-94; Ord. No. 607, §3, 08-02-2005)

Cross references--Dog defecation, urination, 5-27; Fences in disrepair, 15-25(6).

Sec. 5-8. Keeping of bees.

- a) It shall be unlawful to keep, maintain, or harbor any hive, stand, or box where bees are kept, or keep any bees in or upon any premises within the corporate limits of the city closer than fifteen (15) feet to the side or rear property line of any residential lot.
- b) Any beehive, stand, or box kept or maintained is hereby declared a public nuisance and it shall be unlawful to keep or maintain such beehive, stand or box after one year from the date of passage of this section (April 1, 1986).
- c) Nothing in this section shall be deemed or construed to prohibit the keeping of bees in a stand or box located within a school building for the purpose of study or observation.

(Ord. No. 363, 1, 4-1-86)

Sec. 5-9. Penalty.

Any person in violation of any provision of this Article shall be guilty of a Class A offense punishable by a fine not to exceed Seven Hundred and Fifty (\$750.00) Dollars.

(Ord. No. 499, 2, 3-15-94)

Secs. 5-10--5-20. Reserved.

ARTICLE II. DOGS AND CATS

Sec. 5-21. Vaccination against rabies.

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All dogs and cats four months of age and older that are owned, kept, possessed, or harbored within The Village shall be vaccinated against rabies by or under the direct supervision of a licensed veterinarian. Rabies vaccine shall be recognized for the duration of the vaccine used, i.e., vaccines with a labeled duration of one year, two years, or three years, will be recognized for one year, two years or three years respectively. A rabies vaccination need not be obtained for a nonresident dog or cat which is currently vaccinated for rabies by a licensed veterinarian or which is visiting in this City and is in the custody of its owner for a period of thirty (30) days or less, or when a veterinarian licensed in the State of Oklahoma certifies in writing that it would be detrimental to the animal's health to be vaccinated and places the animal on a health hold. If a veterinarian releases the animal from the health hold, the animal shall be vaccinated within ten (10) days of release. On demand of the Pound Master or other authorized official, the owner or keeper of any dog or cat must present a completed and signed vaccination certificate for the animal that includes the type and duration of the vaccine administered.

(Ord. No. 592, § 1, 04-06-2004)

Sec. 5-22. Type of vaccine required.

Except as otherwise provided by this chapter, all dogs and cats shall be vaccinated against rabies with one of the rabies vaccines listed in the most recent "Compendium of Animal Rabies Control" as published by the Centers for Disease Control.

(Ord. No. 592, § 1, 04-06-2004)

Sec. 5-23. Vaccine to be administered by a veterinarian; certificates.

The vaccination required by this division shall be administered by or under the direct supervision of a veterinarian duly licensed to practice in the State of Oklahoma. The rabies certificate required by this chapter must be signed by the veterinarian who either administers the vaccine or directly supervises its administration by another.

(Ord. No. 592, § 1, 04-06-2004)

Sec. 5-24. Running at large.

- a) It shall be unlawful for any person to fail to keep any dog in his custody physically confined on his property or confined by a leash at all times. Confinement shall be accomplished by means of a substantial fence or similar enclosure of sufficient strength and height to prevent the dog from escaping therefrom, or from extending its head through the enclosure so as to constitute a threat to any person or animal in the area adjoining the enclosure; or by keeping the dog inside a house or other building or, if a person is outdoors with the dog at all times, by a tether of at least ten (10) feet consisting of material of

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sufficient strength to prevent the dog from escaping; however, nothing shall prohibit an unattended dog from being tethered in an enclosed area or in a fenced yard as provided herein.

- b) If the City is called upon to capture a cat on private property, or if the City is called upon to collect a cat captured by a private citizen, the owner of the cat or the person harboring said cat shall be responsible for paying impoundment, boarding and vaccination fees, as established by Resolution of the City Council, prior to the release of the cat by the pound master. If no person claims ownership of the cat and/or fails to pay the required fees within seventy-two (72) hours, the cat shall be considered stray and handled in accordance with the policies adopted by the City Council. The city shall not be responsible for damage to a private trap when called upon to collect an animal captured by a private citizen.

(Code 1976, 2-1-5(a); Ord. No. 227, §6, 1-18-77, Ord. No. 752, §1, 07-06-2020)

Sec. 5-25. Muzzling.

If it shall appear to the best interest of the citizens of the city and necessary for their public health and safety, or when it is shown that a dog or cat suspected of rabies has been on the highways within the city, the Pound Master or other authorized official, by proper proclamation, shall notify the public that all dogs or cats at large must be securely muzzled until such time as shall be thought safe and proper to dispense with the muzzle. After such proclamation, it shall be unlawful for any person to knowingly, willfully, or negligently allow or permit any dog or cat owned or kept by such person, to be in any public place or upon private premises not under the control of the owner of same unless such dog is attended by some competent person who has the dog or cat muzzled and on a leash.

(Code 1976, 2-1-7; Ord. No. 227, 10, 1-18-77)

Sec. 5-26. Noisy dogs.

- a) It shall be unlawful for any person to own, possess, keep or harbor any dog which barks, howls or yelps continuously to the great discomfort of the peace of any person of ordinary and reasonable sensibilities except when said dog is temporarily disturbed by the presence of public utility workers, routine area solid waste collection or similar such circumstances.

(Code 1976, 2-1-5(b) Ord. No. 614, §1, 02-21-2006)

Sec. 5-27. Dog defecation, urination.

- a) Removal of dog defecation. An owner or person having custody or control of any dog shall not permit such dog to defecate on any public street or grounds or any private property within the city other than the premises of the owner or person having

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custody or control of such dog, unless such defecation is removed immediately and disposed of in an appropriate facility.

- b) Prohibition of dog urination. An owner or person having custody or control of any dog shall not permit such dog to urinate on the private property, real or personal, of a person other than the owner or person having custody of such dog.

(Ord. No. 364, 1, 5-6-86)

Sec. 5-28. Penalty.

Any person in violation of any provision of this Article shall be guilty of a Class B offense punishable by a fine not to exceed two hundred (\$200.00) dollars.

(Ord. No. 499, 3, 3-15-94)

Cross reference--removal of feces, 5-7.

5-28--5-49 Reserved.

Article III

Division 1. Reserved

Sec. 5-50—Sec. 5-74 Reserved.

Division 2. Division 2. Potentially Dangerous Animals.

Sec. 5-75. Definition of potentially dangerous animal.

- a) A potentially dangerous animal is defined as any animal, when unprovoked:
1. Acts as if intends to bite a human, dog, or cat whether on public or private property;
 2. Chases or approaches a human upon a public way in a threatening fashion as if to inflict injury or serious harm;
 3. Demonstrates aggressive behavior, which requires a human to take defensive or evasive action to avoid physical contact with the animal.

(Ord. No. 607, §4, 08-02-2005)

Sec. 5-76. Pound Master - Judge to make determination; notification.

a) **Determination by Pound Master/Police Officer.** The Pound Master or investigating Police Officer shall investigate complaints of potentially dangerous animals and make a determination of the facts. If the Pound Master or investigating Police Officer observes an animal, which is the subject of the complaint, and is witness to life-threatening or aggressive behavior as set forth in Section 5-75 above, the Pound Master or investigating Police Officer shall notify the owner of the potentially dangerous animal of said determination in writing. Said notification shall provide the owner of said animal written notification to register the animal with the Pound Master and to comply with all the provisions of this article within thirty (30) days. The Pound Master shall also provide a copy of the written notice to the owner of the property, if other than the owner of the animal.

1. **Appeal.** Any person whose animal is determined to be potentially dangerous by the Pound Master or investigating Police Officer, may appeal the determination by filing a written appeal to the Municipal Judge within fifteen (15) days of receipt of notice that said person's animal has been declared potentially dangerous.

2. **Hearing.** The Municipal Judge shall hold a hearing within thirty (30) days of the date of appeal to determine if the animal is potentially dangerous as defined by this code.

(Ord. No. 613, §2, 02-21-2006)

3. **Determination.** The Municipal Judge shall be empowered to make one of the following determinations at the conclusion of said hearing:

a) That the animal is in fact not potentially dangerous in which event the Pound Master or investigating Police Officer shall notify the appellant in writing of the decision.

b) That the animal is, in fact, potentially dangerous.

4. **Judicial Order.** Upon a ruling that the animal is potentially dangerous, the Judge shall order the animal to be regulated in accordance with this article and may order the imposition of one or more of the requirements listed in Section 5-77 of this article within thirty (30) days. The Judge may also provide an exemption from one

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or more of those requirements, based on the facts and circumstances of each case. The Judge's decision shall be final.

b) Determination by Judicial Hearing. If the Pound Master or investigating Police Officer is unable to make a determination that the animal is potentially dangerous as defined by this article, the complainant is authorized to request a hearing before the Municipal Judge.

1. Hearing. Upon the receipt of written statement of the complainant that an animal should be deemed potentially dangerous, the Municipal Judge shall hold a hearing within thirty (30) days of the date of said statement to determine if the animal is potentially dangerous as defined by this article.

(Ord. No. 613, §3, 02-21-2006)

2. Determination. The Municipal Judge shall be empowered to make one of the following determinations at the conclusion of said hearing:

a. That the animal is in fact not potentially dangerous in which event the Pound Master or investigating Police Officer shall notify the appellant in writing of the decision.

b. That the animal is in fact potentially dangerous and should be regulated in accordance with this article.

3. Judicial Order. Upon a ruling that the animal is potentially dangerous, the Judge shall order the animal to be regulated in accordance with this article and may order the imposition of one or more of the requirements listed in Section 5-77 of this article within thirty (30) days. The Judge may also provide an exemption from one or more of those requirements, based on the facts and circumstances of each case. The Judge's decision shall be final.

(Ord. No. 607, §4, 08-02-2005)

Sec. 5-77. Requirements for keeping a potentially dangerous animal.

1. Confinement. All potentially dangerous animals shall be securely confined in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in Subsection 2 below. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides. All structures used to confine potentially dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures

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erected to house potentially dangerous animals must comply with all zoning and building regulations of the city. All such structures must be adequately lighted, ventilated, and kept in a clean and sanitary condition.

2. **Leash and muzzle.** No person shall permit a potentially dangerous animal to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than four (4) feet in length. No person shall permit a potentially dangerous animal to be kept on a leash or tether outside its kennel or pen, unless a person is in physical control of the leash or tether. Such animals may not be leashed or tethered to inanimate objects such as trees, posts, buildings, etc. In addition, all potentially dangerous animals on a leash or tether outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons, dogs, or cats.
3. **Sight proof fencing.** The yard where a potentially dangerous animal is kept shall be enclosed with a six-foot high sight proof fence. Said fence shall be maintained in a strong and sturdy condition at all times so that said potentially dangerous animal cannot escape from the property. Said fence shall be maintained free of holes and shall not contain any gap between the fence and the ground large enough for a human limb or other animal to go through. Said fence shall also be maintained to prevent another animal from entering the property where the potentially dangerous animal is kept. Electric fences, if installed, shall be installed in accordance with applicable building and safety codes. Electric fences shall not be installed on the top of the fence or be installed in such a way as to be likely to shock humans on the opposite side of the fence.
4. **Signs.** Owners, keepers, or harborers of potentially dangerous animals within the city shall within thirty (30) days of notification display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Potentially Dangerous Animal." In addition, a similar sign is required to be posted on the kennel or pen of such animal. Signs pursuant to this section shall be purchased from the City of The Village. The cost of said signs shall be established by resolution of the Council.
5. **Insurance.** Owners, keepers, or harborers of potentially dangerous animals must, within thirty (30) days of notification, provide proof to the Pound Master of public liability insurance in a single incident amount of one-hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall

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provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the City of The Village.

6. **Identification photographs.** Owners, keepers, or harborers of potentially dangerous animals must, within thirty (30) days of notification, provide to the Pound Master two (2) color photographs of the potentially dangerous animal clearly showing the color and approximate size of the animal. Said photographs shall be no smaller than 3" by 5" in size.
7. **Electronic Identification Tag.** Owners, keepers, or harborers of potentially dangerous animals must, within thirty (30) days of notification, have an electronic identification chip installed on the animal's ear. The chip shall be installed by a Veterinarian licensed in the state of Oklahoma and shall be readable with the use of an industry standard universal reader.
8. **Reporting requirements.** Owners, keepers or harborers of potentially dangerous animals must within thirty (30) days of the incident, report the following information in writing to the Pound Master as required hereinafter:
 - a) The removal from the city or death of a potentially dangerous animal;
 - b) The birth of offspring of a potentially dangerous animal;
 - c) The new address of a potentially dangerous animal owner should the owner move within the corporate city limits.
9. **Sale or transfer of ownership prohibited.** No person shall sell, barter or in any other way dispose of a potentially dangerous animal within the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the owner of such animal; provided that the registered owner of a potentially dangerous animal may sell or otherwise dispose of a potentially dangerous animal or the offspring of such animal to persons who do not reside within the city.
10. **Breeding of potentially dangerous animals:** It shall be unlawful to breed any potentially dangerous animal within the city.
11. **Animals born of registered dogs.** Offspring born of potentially dangerous animals registered with the city must be removed from the city within six (6) weeks of the birth of such animal.
12. **Neutering.** Owners, keepers, or harborers of potentially dangerous animals must, within thirty (30) days of notification, have the potentially dangerous

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animal neutered. Neutering shall be performed by a Veterinarian licensed in the State of Oklahoma.

13. **Annual Registration.** Potentially dangerous animals shall be registered by the owner with the Pound Master of the City within thirty (30) days of notification by the Pound Master that the animal has been declared potentially dangerous. A potentially dangerous animal shall not be registered by the Pound Master if the requirements of this chapter are not complied with at the time of application. The annual registration fee shall initially be established at One Hundred Dollars (\$100.00) Said registration fee shall thereafter be established by resolution of the City Council.
14. **Obedience/behavioral training.** By judicial order, owners, keepers, and harborers of potentially dangerous animals may be required to enroll the potentially dangerous animal in an obedience or behavioral training program led by a professionally certified dog trainer or behavioral consultant. All expenses associated with such program shall be borne by the owner of the potentially dangerous animal.
15. **Other.** By judicial order, owners, keepers, and harborers of potentially dangerous animals may have imposed on them other remedies or relief as determined by the Judge to be reasonable and appropriate, based on the facts and circumstances.
16. **Failure to comply.** It shall be unlawful for the owner, keeper, or harbinger of a potentially dangerous animal in the city to fail to comply with requirements and conditions set forth in this article, unless exempted by judicial order. Any potentially dangerous animal found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. All expenses associated with the impounding including shelter, food, handling and veterinary care shall be borne by the owner of such animal during the period of impoundment. Failure to comply with all the requirements and conditions set forth in this article within fifteen (15) days of impoundment will result in the destruction of the animal.

(Ord. No. 607, §4, 08-02-2005)

Sec. 5-78. Responsibility and liability of property owner.

- a) **Insurance.** A landowner or property owner that leases, rents, or otherwise allows an owner of a potentially dangerous animal to keep or harbor said animal on the landowner's or property owner's premises must, within thirty (30) days of notification, provide proof to the Pound Master of public liability insurance in

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a single incident amount of One-Hundred Thousand Dollars (\$100,000.00) for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the City of The Village.

- b) **Sight proof fencing.** A landowner or property owner that leases, rents, or otherwise allows an owner of a potentially dangerous animal to keep or harbor said animal on the landowner's or property owner's premises shall, within thirty (30) days of notification, enclose the yard where a potentially dangerous animal is kept with a six-foot high sight proof fence. Said fence shall be maintained in a strong and sturdy condition at all times so that said potentially dangerous animal cannot escape from the property. Said fence shall be maintained free of holes and shall not contain any gap between the fence and the ground large enough for a human limb or other animal to go through. Said fence shall also be maintained to prevent another animal from entering the property where the potentially dangerous animal is kept. Electric fences, if installed, shall be installed in accordance with applicable building and safety codes. Electric fences shall not be installed on the top of the fence or be installed in such a way as to be likely to shock humans on the opposite side of the fence.
- c) **Compliance.** A landowner or property owner that leases, rents, or otherwise allows an owner of a potentially dangerous animal to keep or harbor said animal on the landowner's or property owner's premises shall be responsible for ensuring that the lessee, renter, or occupier of said property complies with the provisions of this article.

(Ord. No. 607, §4, 08-02-2005)

Secs. 5-79—5-99 Reserved.

Division 3. Dangerous Animals, Attacks.

Sec. 5-100. Attacks prohibited.

- a) **On Premises.** It shall be unlawful for any person, owner, or possessor of an animal to permit said animal to attack any person, dog, or cat upon the premises of the person, owner, or possessor. It shall be an affirmative defense to this subsection when the premises where an attack occurs are previously posted at each entrance to the same with prominent and conspicuous signs warning all persons in lettering not less than two (2) inches in height, of such animal. It is also an affirmative defense to this

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subsection that the use of such animal to attack any person was necessary to prevent or apprehend a person engaged in committing an act of violence, robbery, or theft upon said property.

- b) **Off Premises.** It shall be unlawful for any person, owner, or possessor of an animal to permit said animal to attack any person, dog, or cat not upon the premises of such person, owner, or possessor.
- c) **Attack Defined.** For the purposes of this section, the word attack shall mean violent or aggressive physical contact with a person, dog, or cat with the intent to cause harm or the infliction of serious injury.
- d) **Exclusions.** The provisions of this section shall not apply to any law enforcement officer who uses or employs an animal while engaged in law enforcement activities, nor to any owner, possessor or keeper whose animal attacks a person engaged in physically attacking or striking said owner, possessor or keeper.

Sec. 5-101. Summons and complaint.

- a) Any person who witnesses or has personal knowledge that an act or acts made unlawful by this article have been committed may sign a complaint against the alleged violator.
- b) The complainant must provide a sworn complaint to the officer receiving the complaint containing the following information:
 - 1. Name, address, and telephone number of the complainant and other witnesses to the incident.
 - 2. Date, time, and location of the incident or incidents.
 - 3. Description of the animal.
 - 4. Name, address, and telephone number (if known) of the animal owner.
 - 5. If applicable, a statement that the animal attacked the complainant, or some other person or animal as witnessed by the complainant.
 - 6. Other facts and circumstances of the incident.
- c) Any police officer, animal welfare officer, or code enforcement officer who is employed by the City is authorized to issue a summons and complaint when said officer personally observes a violation of this chapter.

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(Ord. No. 607, §4, 08-02-2005)

Sec. 5-102. Definition of dangerous animal; harboring unlawful: Impoundment.

- a) **Dangerous Animal Defined.** Dangerous animal is defined as an animal, which, without provocation, attacks and makes physical contact with a person, dog, or cat with the intent to cause harm or the infliction of serious injury.
- b) **Unlawful to Harbor Dangerous Animal.** It shall be unlawful for any person to harbor, keep, possess, or allow remaining on any premises under his control within the city any dangerous animal as defined herein.
- c) **Impoundment.** It shall be the duty of the Pound Master or Police Officer, upon receipt of a verified complaint or allegation of an attack as outlined in Section 5-100 and Section 5-101, to declare the animal dangerous and, whereupon, the Pound Master or Police Officer shall cause the animal involved to be impounded and destroyed after five (5) days. If deemed necessary for rabies observation, the destruction of the animal may be delayed until the required observation period is complete. All expenses associated with the impoundment including shelter, food, handling, and veterinary care shall be borne by the owner of the animal. It shall be unlawful for any person in possession, custody, or control of a dangerous animal to refuse to relinquish said animal to the custody of the Pound Master or Police Officer as required herein.
- d) **Appeal.** Within five (5) days of impoundment, the owner of the animal may request a hearing before the Municipal Judge appealing the impoundment and determination that the animal is dangerous.
- e) **Hearing.** If a hearing is requested as provided herein, the Municipal Judge, in addition to any hearings, which may be required on criminal charges, shall hold a hearing within thirty (30) days of the date of appeal to determine if the animal is dangerous as defined by this article. Said hearing may be held in conjunction with any criminal proceedings, if so, ordered by the judge, but in no event shall this delay the hearing on determination of dangerousness.
- f) **Determination.** The Municipal Judge shall be empowered to make one of the following determinations at the conclusion of said hearing:
 1. That the animal is in fact not dangerous in which event the Pound Master shall cause the animal to be released to the owner of the animal, upon payment by the owner of the expenses outlined in Section 5-102.
 2. That the animal is or remains potentially dangerous, in which event the judge shall order the animal to be regulated in accordance the requirements listed in Section 5-77.
 3. That the animal is in fact dangerous and ordering it destroyed.

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4. That the animal is dangerous but should not be destroyed, in which event the judge shall order:

a) That the owner pay all fees required by Section 5-102, and

b) That the animal to be immediately removed from the corporate limits of the city and not to ever be again allowed within the corporate limits of the city.

g) Appeal to District Court. Owners whose animal is adjudged to be dangerous at the hearing, and sentence imposed by the Municipal Judge pursuant to this section, upon written demand, may appeal the judge's decision within ten (10) days to the district court of the county where a trial in the district court shall be accorded them de novo.

(Ord. No. 607, §4, 08-02-2005; Ord. No. 613, §4, 02-21-2006)

Sec. 5-103. Penalty and remedies.

a) Any person violating or permitting the violation of any provision of this Chapter shall, upon conviction in municipal court, be fined a sum of not more than Seven Hundred and Fifty Dollars (\$750.00) plus court costs. In addition to the fine and costs imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed sixty (60) days.

b) In the event the violation involves a potentially dangerous animal, the court shall order the registration of the subject potentially dangerous animal revoked and the animal removed from the city. Should the defendant owners refuse to remove the animal from the city; the Municipal Judge shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. If the owner shall continue to refuse to remove the animal from the city, the Municipal Judge shall issue any other orders necessary to carry out the intent of this article. Each day that a violation of this article continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this chapter.

(Ord. No. 607, §4, 08-02-2005)