

Chapter 4

ANIMALS*

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***Cross reference(s)**--Dog kennels, § 8-441 et seq.; environment and public health, ch. 12.

State law reference(s)--Animals, stray animals and companion animals, M.S.A. ch. 346.

ARTICLE I. IN GENERAL**Sec. 4-1. Regulating the keeping of domestic animals.**

No person shall keep or harbor any fowl, horses, cattle, sheep, goats or swine in the city, or permit the same to be done upon premises the person owns, occupies or controls without written permission from the city.

(Code 1976, § 11-310)

Sec. 4-2. Animal quarantine.

(a) Whenever any person owning, possessing or harboring any dog or cat within the city shall learn that the dog or cat has potentially exposed any human being to rabies, the person shall immediately impound the dog or cat in a place of confinement where it cannot escape or have access to any human beings or other animals and shall also immediately notify the chief of police. Whenever the chief of police shall learn that any human being has been potentially exposed to rabies by any dog or cat within the city, the chief of police shall ascertain the identity of the dog or cat, and of the person owning, possessing or harboring it, and shall direct that person immediately to impound the dog or cat as required in this section. The chief of police shall notify the health authority of the place where the animal is impounded. Any dog or cat so impounded under this section shall be kept continuously so confined for a period of ten days from the day the dog or cat potentially exposed a human being to rabies.

(b) The health authority shall have access at all reasonable times to the premises where a dog or cat is kept and may take possession of the dog or cat and confine it in the city pound or other suitable place at the expense of the animal's owner. The owner or person in possession or harboring the dog or cat shall immediately notify the health authority of any evidence of sickness or the death of the dog or cat during its period of confinement. If the dog or cat dies during that period, the owner or person possessing or harboring the dog or cat shall promptly deliver its carcass to the health authority.

(c) It shall be the duty of the health authority to determine by inspection or telephone call if such dog or cat is alive and in good health at the end of the ten-day confinement period.

(d) In lieu of quarantine, or at anytime during the quarantine period, the owner may voluntarily, in consultation with the health authority, release the dog or cat to a veterinarian to destroy the dog or cat and subject it to laboratory examination for evidence of the rabies virus. The owner shall be responsible for all veterinarian and laboratory costs. The veterinarian shall report the results of the laboratory examination to the health authority immediately upon receipt.

(e) The health authority, in agreement with an attending physician or the state department of health, may confiscate, destroy and subject to laboratory examination a dog or cat which has potentially exposed a human being to rabies if such dog or cat exhibits signs of illness indicating the presence of rabies during the quarantine period. The health authority, in consultation with the state department of health, may confiscate, destroy and subject to laboratory examination any animal other than a dog or cat if such animal has potentially exposed any human being to rabies. The owner or other person in possession of any animal confiscated by the health authority shall be notified prior to such action if the owner or other person is available.

(f) If one or more of the provisions contained in this section shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this section, and this chapter shall be construed as if such invalid, illegal or unenforceable provision had never been contained in this section.

(Code 1976, § 11-312)

Secs. 4-3--4-40. Reserved.

ARTICLE II. NONDOMESTICATED ANIMALS**Sec. 4-41. Purpose of article.**

The purpose of this article is to protect the public health from disease transmission, animal bites and public nuisances arising from the keeping or escape of nondomesticated animals.

(Code 1976, § 11-314)

Sec. 4-42. Definitions.

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

Nondomesticated animal means any wild animal, reptile or fowl, which is not naturally tame or gentle, but is of a wild nature or disposition and which, because of its size, vicious nature or other characteristics, would constitute a danger to human life or property.

(Code 1976, § 11-315)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 4-43. Prohibited animals.

No person shall keep, maintain or harbor within the city the following animals:

- (1) Animal or species prohibited by state or federal law.
- (2) Any nondomesticated animal or species including, but not limited to, the following:
 - a. Any skunk, whether captured in the wild, domestically raised, descended or not descended, vaccinated against rabies or not vaccinated against rabies.
 - b. Any large cat of the family Felidae such as lions, tigers, jaguars, leopards, bobcats, lynx, cougars and ocelots, except commonly accepted domesticated house cats.
 - c. Any member of the family Canidae, such as wolves, fox, coyote, dingoes and jackals, except domesticated dogs.
 - d. Any hybrids such as wolf/dog and coyote/dog hybrids, but not including crossbred domesticated animals.
 - e. Venomous snakes of the Family Viperidae, such as adders, gabon vipers and pit vipers, venomous snakes of the Family Elapidae, such as cobras, coral snakes and sea snakes, three snakes of the Family Colubridae, the African twig snake (*Thelotornis kirtland*), the rear fanged boomslang (*Disphoiidus typus*) and the Asian tiger snake (*Rhabdophis forinus*); whether captured in the wild or domestically raised, defanged or not defanged, devenomed or not devenomed.
 - f. Any raccoon.
 - g. Any other animal which is not listed explicitly in subsections (2)a.--(2)f. of this section, but which can be reasonably defined by the terms in section 4-42, including bears, badgers, ostriches, llamas, alligators and crocodiles.

(Code 1976, § 11-316)

Sec. 4-44. Deer and raccoon.

Feeding deer, raccoon or Canada Goose is prohibited and declared a nuisance. Persons feeding deer, raccoon or Canada Goose shall be guilty of a misdemeanor.

(Code 1976, § 11-313, Ord. No. 2270-04, 5-17-04)

Sec. 4-45. Exceptions.

Any person desiring to keep animals prohibited under section 4-43 shall obtain a temporary permit from the city manager or designee. The permit shall be issued for a period not to exceed 30 days and shall specify further conditions under which such animals shall be kept. This permit shall be issued only when such prohibited animal is brought into the city for entertainment, exhibition, show or promotional purposes. Before issuance of any temporary permit, the applicant shall provide the city manager with proof of insurance, including public liability insurance. The following are exempt from the provisions of this section and do not require a permit:

- (1) A public zoo or other institution engaged in a permanent display of animals, provided that applicable zoning requirements are met.
- (2) Nonvenomous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, ferrets, chinchillas, lizards or similar animals capable of being maintained continuously in cages.
- (3) Persons keeping animals for a public zoo as volunteers, docents or otherwise, any bonafide research institutions and veterinary hospitals as long as protective devices adequate to prevent such animals from escaping or injuring the public are provided.
- (4) Persons with disabilities keeping monkeys trained as household helpers.

(Code 1976, § 11-317)

Sec. 4-46. Impounding.

The city may impound any nondomesticated animal kept in violation of this article. If any such animal is impounded for five days without being reclaimed by the owner, the city may sell the animal or may follow the procedures set forth in section 4-88 for the redemption of dogs or, in an appropriate case, section 4-84 for the destruction of certain dogs. Any person reclaiming any such impounded animal shall pay the cost of impounding.

(Code 1976, § 11-318)

Secs. 4-47--4-80. Reserved.

ARTICLE III. DOGS***Sec. 4-81. Purpose.**

The purpose of this Article is to enact regulations governing dogs, dangerous dogs, potentially dangerous dogs, and to provide for dog enforcement procedures.

(Ord. No. 2360-08, 10-31-08)

Sec. 4-82. Findings of the City Council.

The City Council of the City makes the following findings of fact regarding the need to regulate and license dogs:

(a) The regulation of dogs is found by the City Council to be necessary in order to protect the health and safety of the community. Dogs at large can expose human beings and other animals to danger; can cause damage to public and private property; can exacerbate the existing overpopulation of dogs; can disrupt the quiet enjoyment of residential areas and parks; and can expose human beings and other animals to unsanitary and unhealthy conditions.

(b) The improper impoundment or enclosure of dogs can constitute a public health nuisance. Nuisances can be created by site, odor, noise, and sanitation problems associated with improper dog enclosures and impound facilities.

(c) The regulation of dangerous and potentially dangerous dogs is deemed necessary by the City in light of the threat such dogs pose to the safety of human beings and other animals in the community. Dogs deemed to be dangerous or potentially dangerous pose a serious risk to the health and safety of the community.

(d) Procedures for determining whether a dog is dangerous or potentially dangerous to the community are warranted. The procedures prescribed herein balance the interest in immediate public protection from dangerous and potentially dangerous dogs with reasonable due process rights of dog owners.

(Ord. No. 2360-08, 10-31-08)

Sec. 4-83. Definitions.

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

Animal Control Authority means the city police officers, community service officers, and the animal control officer.

Dangerous dog means any dog that has:

- (1) without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (2) killed a domestic animal without provocation while off the owner's property; or
- (3) been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

Dog means any male or female of any breed of a domesticated dog.

Great bodily harm has the meaning given to it under Minn. Stat. § 609.02, subd. 8.

Own means to keep, harbor, or have control, charge, or custody of a dog.

Owner means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.

Potentially dangerous dog means any dog that:

- (1) when unprovoked, inflicts bites on a human or domestic animal on public or private property;
- (2) when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack;
- (3) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Proper enclosure means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

Provocation means an act that an adult could reasonably expect may cause a dog to attack or bite.

Substantial bodily harm means bodily injury that involves a temporary or permanent but substantial disfigurement, or which causes temporary or permanent but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

(Ord. No. 2360-08, 10-31-08)

Sec. 4-84. General dog regulations.

(a) *License*. All dogs shall be licensed in compliance with section 8-626. The license tag must be displayed on the dog at all times.

(b) *Dogs running at large*.

- (1) No person who owns, harbors or keeps a dog shall allow the dog to run at large within the corporate limits of the city except in a designated off-leash dog area after obtaining a permit in accordance with section 20-6 of this ordinance.
- (2) A dog shall be deemed to be running at large if the dog is off the premises of the person who owns, harbors or keeps the dog, and not under the control of that person or a designee. "Under control" means the dog is controlled by a leash no more than twenty (20) feet long, which is shortened to six (6) feet when another person or animal is within twenty (20) feet.
- (3) The term "premises," when used in this chapter, means the usual place of residence, including a building, structure or shelter and any land appurtenant thereto, of a person who owns, harbors or keeps a dog, whether domesticated or non-domesticated; or the dog owned, harbored or kept by such a person.

(c) *Barking dogs*. No person shall own, harbor, keep or possess any dog that by loud and frequent barking, howling or yelping, causes noise, disturbance or annoyance to persons residing in the vicinity of the dog.

(d) *Certain dogs declared a public nuisance.* Every dog that runs at large or barks or causes disturbance, annoyance or noise in violation of any provision of subsections (b) or (c) of this section is hereby declared a public nuisance, and it is unlawful to own, harbor or keep such a dog.

(e) *Removal of excrement.*

- (1) It is unlawful for any person to cause or permit a dog to be on any property, public or private, not owned or possessed by that person, unless that person is carrying at the time a device for the removal of excrement and a depository for the transmission of excrement to a proper receptacle located upon property owned or possessed by that person.
- (2) It is unlawful for any person who causes or permits any dog to be on any property, public or private, not owned or possessed by that person, to fail to remove excrement left by that dog to a proper receptacle located on property owned or possessed by that person.
- (3) The provisions of this section do not apply to dogs when used by the city in connection with police activities, or tracking dogs when used by or with the permission of the city.

(f) *General duty of owners.* Every owner of a dog must exercise reasonable care and take all necessary steps and precautions to protect other people, property and animals from injuries or damage that might result from the dog's behavior, regardless of whether such behavior is motivated by playfulness or ferocity.

(Ord. No. 2360-08, 10-31-08)

Sec. 4-85. Animal boarding facility.

The city council shall from time to time designate a place as the city animal boarding facility where suitable arrangements are made for keeping and maintaining any domesticated animals that may be seized or taken into custody by any officer of the city pursuant to this article.

(Ord. No. 2360-08, 10-31-08)

Sec. 4-86. Dog impoundment procedures.

(a) *Impoundment of dogs.* The Animal Control Authority may impound any dogs found in the city without a tag or found running at large, harbored or kept contrary to any provisions of this article.

(b) *Notice.* The Animal Control Authority shall, without delay, notify the owner, personally or through the United States mail, if the owner is known to the Animal Control Authority or can be ascertained with reasonable effort.

(c) *Redemption of impounded dogs.* Any impounded dog shall be kept for five (5) regular business days by the city. For the purpose of this section, "regular business day" means a day during which the Animal Control Authority having custody of the dog is open to the public at least four consecutive hours between 8:00 a.m. and 7:00 p.m. The owner may redeem the dog by payment to the city treasurer of the current dog license fee, plus a penalty of an amount set from time to time by the city by resolution or ordinance, and an impounding fee according to the following schedule:

- (1) When any one person has had a dog picked up and impounded one or more times during any consecutive 12-month period, the impounding charges shall be as set from time to time by the city by resolution or ordinance.

- (2) In addition to the charges required under subsection (1) of this section, a sum for each day, as set from time to time by the city by resolution or ordinance, will be charged for board for each day or part thereof during the time the dog is impounded. The boarding fees may be paid on authorization of the city council to its agent, pursuant to any contract currently in effect providing for the impounding of dogs within the city and its kennels.

(d) *Impounded dogs not reclaimed.* If the owner does not reclaim the dog impounded under this section within five (5) regular business days after impounding, the dog will be disposed of pursuant to Minn. Stat. § 35.71, subd. 3. The owner will be responsible for the costs of confiscation, boarding, and destruction.

(e) *Records.* The Animal Control Authority must maintain the following records of the dogs in custody and preserve the records for at least six (6) months:

- (1) the description of the breed, sex, approximate age, and other distinguishing traits;
- (2) the location at which the animal was seized;
- (3) the date of seizure;
- (4) the name and address of the person from whom any animal three months of age or over was received; and
- (5) the name and address of the person to whom any animal three months of age or over was transferred.

(Ord. No. 2360-08, 10-31-08)

Sec. 4-87. Destruction of Dogs in Certain Circumstances.

(a) *Certain dogs may be destroyed.* Upon notice to the owner and an opportunity for a hearing, a dog may be seized and destroyed in a proper and humane manner upon a finding of any of the following:

- (1) the dog has destroyed property or habitually trespassed in a damaging manner on property of persons other than the owner;
- (2) the dog is a public nuisance as defined by section 4-84(d); or
- (3) if the owner is in violation of quarantine under section 4-2, the dog may be seized and impounded, and destroyed at the end of the quarantine period.

(b) *Request for hearing.* Within fourteen (14) days of the notice that the Animal Control Authority seeks to destroy the dog, the owner of the dog may request a hearing on the destruction. Failure to do so within fourteen (14) days of the date of the notice will terminate the owner's right to a hearing under this section.

(c) *Hearing procedure.*

- (1) A hearing must be held fourteen (14) days after receipt of the request.
- (2) The hearing officer shall be the City Manager or other impartial city employee or person designated by the City Manager to conduct the hearing. "Impartial" means that the hearing officer did not have any direct involvement in the original determination that the dog is a dangerous dog or that the dog should be destroyed.
- (3) At the hearing, the parties shall have the opportunity to present evidence in the form of exhibits and testimony. Each party may question the other party's witnesses. The strict rules of evidence do not apply and the records of the Animal Control Authority officer are admissible without further foundation.
- (4) The City Manager or designee shall make a determination whether the dog shall be destroyed. The decision is final and there is no right to further administrative appeal.

(Ord. No. 2360-08, 10-31-08)

Sec. 4-88. Regulations regarding dangerous dogs.

(a) *Determination of dangerous dog by city.* An Animal Control Authority officer shall determine that a dog is a dangerous dog if the officer believes, based upon the officer's professional judgment that the dog has:

- (1) without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (2) killed a domestic animal without provocation while off the owner's property; or
- (3) been determined to be a potentially dangerous dog, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(b) *Exemption.* Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:

- (1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;
- (2) who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
- (3) who was committing or attempting to commit a crime.

(c) *Destruction of dangerous dog.* Upon a declaration by an Animal Control Authority officer that a dog is dangerous pursuant to Minnesota Statutes, chapter 347, the dog shall be impounded immediately if the Authority intends to seek the dog's destruction pursuant to this subsection and Minn. Stat. § 347.56.

- (1) *Circumstances.* A dog may be destroyed in a proper and humane manner by the Animal Control Authority if the dog:
 - (a) inflicted substantial or great bodily harm on a human on public or private property without provocation;
 - (b) inflicted multiple bites on a human on public or private property in the same attack without provocation;
 - (c) bit multiple human victims on public or private property in the same attack without provocation; or
 - (d) bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.
- (2) *Notice.* The Animal Control Authority must provide notice of its intention to destroy a dangerous dog pursuant to subsection (d) of this section.
- (3) *Appeal and hearing procedure.* The appeal and hearing procedure shall be as set forth in subsections (f) and (g) of this section.

(d) *Notice of dangerous dog.* Upon a determination by an Animal Control Authority officer that a dog is dangerous pursuant to this chapter, the Animal Control Authority shall provide a notice of this section by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

- (1) a description of the dog deemed to be dangerous; the authority for and purpose of the dangerous dog declaration and seizure, if applicable; the time, place, and circumstances under which the dog was declared dangerous; and if seized, the telephone number and contact person where the dog is kept, if seized;
- (2) the name of the officer making the determination;

- (3) a statement as to whether the dog's destruction is being sought by the City pursuant to subsection (c) of this section and Minn. Stat. § 347.56;
- (4) a description of the requirements with which the owner must comply under subsection (e) of this section;
- (5) a statement of the criminal penalties for violating requirements pertaining to dangerous dogs;
- (6) a statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations for the dog, and that failure to do so within fourteen (14) days of the date of the notice will terminate the owner's right to a hearing under this subsection;
- (7) a statement that if an appeal request is made within fourteen (14) days of the notice, the owners must immediately comply with the requirements of subsections (e) (3) and (8) and until such time as the hearing officer issues an opinion;
- (8) a statement that if the hearing officer affirms the dangerous dog declaration, the owner will have fourteen (14) days from receipt of that decision to comply with subsection (e) and all other requirements of Minnesota Statutes, sections 347.51, 347.515, and 347.52;
- (9) a form to request a hearing under this section; and
- (10) a statement that all actual costs of the care, keeping, and disposition of the seized dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

(e) *Dangerous dog requirements.* If an Animal Control Authority officer does not order the destruction of the dog pursuant to subsection (c), within fourteen (14) days of receipt of the notice that the dog has been declared dangerous, the owner must:

- (1) register the dog as a dangerous dog, pursuant to Minn. Stat. § 347.51 in the city and renew the registration annually until the dog is deceased. The owner shall pay the fee set from time to time by the city by resolution or ordinance;
- (2) license the dog as a dangerous dog and photograph the dog on an annual basis;
- (3) keep the dog at all times, while on the owner's property, in a proper enclosure;
- (4) secure surety coverage or liability insurance as required by Minn. Stat. § 347.51, subd. 2(2), insuring the owner for any personal injuries inflicted by the dangerous dog;
- (5) if the dog is outside the proper enclosure, keep the dog muzzled and restrained by a substantial leash or chain and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal, but that will not cause injury to the dog or interfere with its vision or respiration;
- (6) have a microchip implanted in the dog for identification and provide the City with the name of the microchip manufacturer and the serial identification number;
- (7) have the dog sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the Animal Control Authority shall seize the dog and have it sterilized at the owner's expense;
- (8) notify the Animal Control Authority in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer and execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated;

- (9) for a person who transfers ownership of a dangerous dog, notify the new owner that the Animal Control Authority has identified the dog as dangerous. The current owner must also notify the Animal Control Authority in writing of the transfer or ownership and provide the Animal Control Authority with the new owner's name, address, and telephone number;
- (10) for a person who owns a dangerous dog and who rents property from another where the dog will reside, disclose to the property owner prior to entering a lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property;
- (11) post a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children; and
- (12) affix to the dog's collar at all times, a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol.

(f) *Appeal of the dangerous dog designation or destruction of dog.* The owner of any dog declared dangerous has the right to a hearing by an impartial hearing officer. The owner of the dog may request in writing a hearing on the designation or on the destruction within fourteen (14) days of the date of the notice. Failure to timely appeal the determination will terminate the owner's right to a hearing under subsection (g).

The owner's request for a hearing must be submitted on a form to the City Clerk. The form will be provided by the City Clerk. The form must contain the following information:

- (1) the full name, address, daytime and evening telephone numbers of the person requesting an appeal;
- (2) the full name and address of all of the dog's owners;
- (3) the ownership interest of the person requesting the appeal;
- (4) the names of any witnesses to be called at the hearing;
- (5) a list and copies of all exhibits to be presented at the hearing; and
- (6) a summary statement as to why the dog should not be declared dangerous.

(g) *Hearing procedure.*

- (1) Any hearing must be held within fourteen (14) days of the request to determine the validity of the dangerous dog declaration or destruction of a dangerous dog. The city shall mail written notice of the hearing to the owner requesting the hearing to the address provided on the request and to any person who was in the past a victim of the actions of the dog that is the subject of the hearing.
- (2) The hearing officer shall be the City Manager or designee or other impartial city employee or an impartial person designated by the City Manager to conduct the hearing. "Impartial" means that the hearing officer did not have any direct involvement in the original determination that the dog is a dangerous dog or that the dog should be destroyed.
- (3) At the hearing, the parties shall have the opportunity to present evidence in the form of exhibits and testimony. Each party may question the other party's witnesses. The strict rules of evidence do not apply and the records of the Animal Control Authority officer are admissible without further foundation.
- (4) The City Manager or designee shall make written findings of fact and reach a written conclusion as to whether the dog is a dangerous dog pursuant to subsection (a) of this section or whether the dog is subject to destruction under subsection (c) and Minn. Stat. § 347.56 within ten (10) days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the Animal Control Authority.

- (5) The decision of the City Manager or designee is final without any further right of administrative appeal. An aggrieved party may obtain review thereof by petitioning the Minnesota Court of Appeals for a Writ of Certiorari not more than thirty (30) days after service of the City Manager or designee's written decision.
- (6) In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 will be the responsibility of the dog's owner.

(h) *Annual review of dangerous dog designation.*

- (1) Beginning six months after a dog is declared dangerous, the owner may request annually that the city review the designation by serving upon the city a written request for review that includes the full name, address and telephone numbers of the requestor, a list of the names and addresses of all owners of the dog, and a summary of the basis for the claimed change in the dog's behavior. The owner must submit the fee as set from time to time by the city by resolution or ordinance along with the request for review.
- (2) If the Animal Control Authority finds sufficient evidence that the dog's behavior has changed, the Authority may rescind the dangerous dog designation.

(i) *Violation of dangerous dog requirements.*

- (1) The Animal Control Authority shall immediately seize any dangerous dog if:
 - (a) after fourteen (14) days the owner has notice that the dog is dangerous, the dog is not validly registered pursuant to subsection (e)(1) and Minn. Stat. § 347.51;
 - (b) after fourteen (14) days after the owner has notice the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage pursuant to subsection (e)(4) and Minn. Stat. § 347.51, subd. 2;
 - (c) the dog is not maintained in a proper enclosure pursuant to subsection (e)(3) and Minn. Stat. § 347.52;
 - (d) the dog is outside the proper enclosure and not under physical restraint of a responsible person pursuant to subsection (e)(5) and Minn. Stat. § 347.52; or
 - (e) the dog is not sterilized within thirty (30) days pursuant to subsection (e)(7) and Minn. Stat. § 347.52(d)
- (2) If the owner of the dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner and the owner pay the costs incurred in confiscating, confining, and destroying the dog.
- (3) The dangerous dog may be reclaimed by the owner upon payment of impounding and boarding fees as set from time to time by the city by resolution or ordinance and presenting proof to the Animal Control Authority that the dangerous dog requirements will be met. A dangerous dog not reclaimed within seven (7) days may be disposed of pursuant to Minn. Stat. § 35.71, subd. 3, and the owner is liable for all costs incurred in confining and disposing of the dog.
- (4) If the owner has been convicted for violating dangerous dog requirements and the owner is charged with a subsequent violation relating to the same dog, the dog must be seized by the Animal Control Authority. If the owner is convicted for the crime for which the dog was seized, the court shall order that the dog be destroyed in a proper and humane manner and the owner pay the costs of confining and destroying the dog. If the owner is not convicted and the dog is not reclaimed within seven (7) days after the owner has been notified that the dog may be reclaimed, the dog may be disposed of pursuant to Minn. Stat. § 35.71, subd. 3.

- (j) *Ownership restrictions.*
- (1) Dog ownership prohibited. Except as provided for in subsection (3), no person may own a dog if the person has:
 - (a) been convicted of a third or subsequent violation of Minnesota Statutes, sections 347.51, 347.515, or 347.52;
 - (b) been convicted of a violation under Minn. Stat. § 609.205(4);
 - (c) been convicted of a gross misdemeanor under Minn. Stat. § 609.226, subd. 1;
 - (d) been convicted of a violation under Minn. Stat. § 609.226, subd. 2; or
 - (e) had a dog ordered destroyed under Minn. Stat. § 347.56 and been convicted of one or more violations of Minnesota Statutes, sections 347.51, 347.515, 347.52, or 609.226, subd. 2
 - (2) Household members. If any member of a household is prohibited from owning a dog in subsection (1), unless specifically approved with or without restrictions by an Animal Control Authority, no person in the household is permitted to own a dog. For purposes of this section, a “household” means any group of persons living together as one housekeeping unit.
 - (3) Dog ownership prohibition review. Beginning three (3) years after a conviction under subsection (1) that prohibits a person from owning a dog, and annually thereafter, the person may request that the animal control authority review the prohibition. The Animal Control Authority may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the Animal Control Authority deems appropriate. The Animal Control Authority may rescind the prohibition entirely or rescind it with limitations. The Animal Control Authority also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the Animal Control Authority rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the Animal Control Authority or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the Animal Control Authority may permanently prohibit the person from owning a dog in this state.

(Ord. No. 2360-08, 10-31-08)

Sec. 4-89. Regulations regarding potentially dangerous dogs.

(a) *Determination of potentially dangerous dog by city.* An Animal Control Authority officer shall determine that a dog is a potentially dangerous dog if the officer believes, based upon the officer's professional judgment that a dog has:

- (1) when unprovoked, inflicted bites on a human or domestic animal on public or private property;
- (2) when unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
- (3) a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(b) *Notice of potentially dangerous dog.* Upon a determination by an Animal Control Authority officer that a dog is potentially dangerous pursuant to this chapter, the Authority shall provide a notice of this section by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice must include:

- (1) a description of the dog deemed to be potentially dangerous; the authority for and purpose of the potentially dangerous dog declaration; the time, place, and circumstances under which the dog was declared potentially dangerous;
- (2) the identity of officer who has made the determination;
- (3) a description of the requirements with which the owner must comply under subsection (c) of this section;
- (4) a notice that if the dog endangers the safety of humans or domestic animals again, it will be considered a dangerous dog;
- (5) the criminal penalties for violation of the requirements pertaining to potentially dangerous dogs; and
- (6) a statement the owner of the dog may request a hearing concerning the potentially dangerous dog declaration and that failure to do so within fourteen (14) days of the date of the notice will terminate the owner's right to a hearing under this subsection.

(c) *Potentially dangerous dog requirements.* Within fourteen (14) days of receipt of the notice that the dog has been declared potentially dangerous, the owner must:

- (1) have a microchip implanted in the dog for identification, and the name of the manufacturer and identification number of the microchip must be provided to the Animal Control Authority within fourteen (14) days of the designation; and
- (2) register and license the dog as a potentially dangerous dog and photograph the dog on an annual basis.

(d) *Appeal and Hearing Procedure.* The appeal and hearing procedure for a potentially dangerous dog shall be as set forth in section 4-88(f) and (g) relating to dangerous dogs.

(Ord. No. 2360-08, 10-31-08)

Sec. 4-90. Complaint procedures.

Any person may file a complaint of a dangerous dog or potentially dangerous dog as defined in this chapter with the Animal Control Authority.

(Ord. No. 2360-08, 10-31-08)

Secs. 4-91--4-130. Reserved.

ARTICLE IV. CATS**Sec. 4-131. Certain cats declared a nuisance.**

No person shall own or possess any cat that runs at large or destroys, damages or defiles property, or that creates an offense by way of noise, odor or otherwise or molests other animals or human beings, or is unconfined while in heat, after receiving notice from the city of such prior behavior by the cat. A cat shall be deemed to be running at large if the cat is off the premises and not under the immediate control of the person who owns, harbors or keeps the cat, or a designee. Cats that run at large or otherwise behave as described in this section are declared to be a public nuisance.

(Code 1976, § 11-307)

Cross reference(s)--Nuisances, § 12-31 et seq.

Sec. 4-132. Notice to owner.

Any person seeking city action against a cat believed to be a nuisance, as defined in section 4-131, or a person who owns, harbors or keeps such a cat, must file a written complaint stating the following:

- (1) That any cat has behaved as described in section 4-131 with a brief description of the behavior that forms the basis of the complaint;
- (2) The name and address of the person owning or harboring the cat; and
- (3) The name and the address of the person making the complaint.

Upon receiving a complete written complaint from any person, the city shall notify the person owning or harboring the cat of the behavior complained of and shall direct that person to restrain the cat from such behavior in the future. The city shall withhold the name of the complaining person from the public as private property complaint data under the Minnesota Government Data Practices Act, M.S.A. § 13.01 et seq.

(Code 1976, § 11-308)

Sec. 4-133. Abatement of nuisance when owner is unknown.

In the case of any cat constituting a nuisance under section 4-131 where no owner or responsible party is ascertainable, the city may follow the procedures set forth in section 4-88 for the redemption of dogs or, in an appropriate case, section 4-84 for the destruction of certain dogs.

(Code 1976, § 11-309)

Cross reference(s)--Nuisances, § 12-31 et seq.

Sec. 4-134. Impounding, redemption and disposal of unredeemed cats.

The provisions of sections 4-87--4-89 apply to cats found to be running at large or otherwise violating sections 4-131--4-133, except that under no circumstance is a cat required to be licensed under city ordinances, nor must a cat owner be required to pay a license fee or a penalty for failing to license a cat as provided in section 4-87. An owner of an impounded cat is required to pay all impounding and boarding charges according to the schedule set forth in section 4-88.

(Code 1976, § 13-508)

Chapter 5

RESERVED