

ORDINANCE 145

AN ORDINANCE REGULATING ANIMALS

This Ordinance shall replace Ordinance #141 “An Ordinance regulating dogs,” and also shall replace Ordinance #142 “An Ordinance relating to Barking Dogs.”

145.01 **Definitions.** For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Animal. Any mammal, reptile, amphibian, fish, bird (including fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

- (1) *Domestic Animals.* Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.
- (2) *Farm Animals.* Those animals commonly associated with a farm or performing work in an agriculture setting. Unless otherwise defined, farm animals shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch or stable.
- (3) *Non-Domestic Animals.* Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered inherently dangerous to the health, safety and welfare of people. Unless otherwise defined, non-domestic animals shall include:
 - (a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly domesticated house cats.
 - (b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
 - (c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
 - (d) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
 - (e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
 - (f) Any other animal which is not explicitly listed above but which can reasonably defined by the terms of this section including, but not limited to, bears, deer, monkeys and game fish.

At Large. Off the premises of the owner and not under the custody and control of the owner or other responsible person, either by leash, cord, chain or otherwise restrained or confined.

Dog. Both male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

Owner. Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

145.02 Dogs (Amended September 13, 2010).

(A) Running at Large Prohibited. It shall be unlawful for the dog of any person who owns, harbors, or keeps a dog to run at large. A person who owns, harbors, or keeps a dog which runs at large shall be guilty of a petty misdemeanor. Dogs on a leash and accompanied by a responsible person, so as to effectively restrain by command as by leash, shall be permitted in streets or on public land unless the City has posted an area with signs reading "Dogs Prohibited." Dogs leashed, chained or confined on the owner's private property must be so confined so that they cannot reach the adjoining property of another property owner or public property.

(B) License Required.

- (1) All dogs over the age of three (3) months kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog licenses shall be issued by the City Clerk upon payment of the license fee as established by the City Council, which may be amended from time to time. The owner shall state, at the time application is made for the license, his or her name and address and the name, breed, color and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidence by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.
- (2) It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk the license fee established by the city council.
- (3) The City Clerk shall issue to the owner a metal tag for each dog licensed. The tag shall have stamped on it the number corresponding with the number on the certificate. Every owner shall permanently affix the tag to the collar of the dog so licensed in such a manner that the tag may be easily seen. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk for a fee of \$1.00. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee because of death of a dog or the owner's leaving the City before the expiration of the license period.
- (4) The licensing provisions of this division (B) shall not apply to dogs whose owners are nonresidents temporarily within the City, nor to dogs brought into the City for the purpose of participating in any dog show. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for Seeing Eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, then no license shall be required.

- C. Vaccination. All dogs kept, harbored, maintained, or transported within the City shall be vaccinated at least once every two (2) years by a licensed veterinarian for rabies and distemper. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name, sex, description and weight, type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk or authorized City personnel, or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven (7) days in which to present the certificate(s) to the City Clerk or officer. Failure to do so shall be deemed a violation of this section.

145.03 Non-Domestic Animals. It shall be illegal for any person to own, possess, harbor or offer for sale, any non-domestic animal within the City. Any owner of a non-domestic animal at the time of adoption of this Code shall have 30 days in which to remove the animal from the City after which the City may impound the animal as provided for in this Ordinance. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

145.04 Farm Animals. Farm animals shall not be kept in any district within the City limits. An exception shall be made to this Ordinance for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

145.05 Impounding.

- (A) Running at Large. Any unlicensed animal running at large is hereby declared a public nuisance. Any City personnel authorized by the City Council or any police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog, if known. The provisions of this Ordinance may be enforced by City personnel authorized by the City Council or by a law enforcement officer. For the purpose of discharging the duties imposed by this section, the City personnel authorized by the City Council or a law enforcement officer is empowered to enter upon private property of another without permission.
- (B) Biting Animals. Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the county shelter for a period of not less than ten (10) days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.
- (C) Reclaiming. All animals conveyed to the shelter shall be kept, with humane treatment and sufficient food and water for their comfort, at least five (5) regular business days, unless the animal is a dangerous animal as defined under Section 145.11 in which case it shall be kept for seven (7) regular business days or the times specified in Section 145.11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten (10) regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In

case the owner or keeper shall desire to reclaim the animal from the shelter, the following shall be required, unless otherwise provided in this Ordinance or established from time to time by resolution of the City Council.

- (1) Payment of maintenance costs, as provided by the shelter, per day or any part of day while animal is in the shelter.
 - (2) If a dog is unlicensed, payment of a regular license fee and a valid certificate of vaccination for rabies and distemper shots is required.
- (D) Unclaimed Animals. At the expiration of the times established in division (C) of this Ordinance, if the animal has not been reclaimed in accordance with the provisions of this Ordinance, the person or officer appointed to enforce this section may let any person claim the animal by complying with all provisions of this Ordinance in this section, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof.

145.06 Kennels.

- (A) Definition of Kennel. The keeping of four (4) or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel” except that a fresh litter of pups may be kept for a period of three (3) months before that keeping shall be deemed a “kennel.”
- (B) Kennel as a Nuisance. Because the keeping of four (4) or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of four (4) or more dogs on the premises is hereby declared to be a nuisance and no person shall maintain a kennel within the City.

145.07 Nuisances.

- (A) Habitual Barking. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five (5) minutes with less than one (1) minute of interruption. The barking must also be audible off of the owner’s or caretaker’s premises.
- (B) Damage to Property. It shall be unlawful for any person’s dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.
- (C) Cleaning Up Litter. The owner of any animal or any person having the custody or control of any animal shall be responsible for cleaning up any feces in a sanitary manner whether on their own property, on the property of others or on public property.

145.08 **Seizure of Animals**. Any person authorized by the City Council or any law enforcement officer is empowered to enter upon private property without permission, if that person is also the owner of any dog or animal, provided the following exists:

- (A) There is an identified complainant making a contemporaneous complaint about the animal;
- (B) The person authorized by the City Council or law enforcement officer reasonably believes that the animal meets either the barking dog criteria set out in Section 145.07(A); the

criteria for cruelty set out in Section 145.13; or the criteria for an at large animal set out in Section 145.02(A);

- (C) The person authorized by the City Council or law enforcement officer can demonstrate that there has been at least one previous complaint of a barking dog: inhumane treatment of an animal; or that the animal was at large at this address on a prior date;
- (D) The officer has made a reasonable attempt to contact the owner of the animal and that attempt has either failed or been ignored;
- (E) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

145.09 Animals Presenting a Danger to Health and Safety of City. If, in the reasonable belief of any person or authorized City employee or law enforcement officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person, authorized City employee or law enforcement officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of the owner. Otherwise, the person, authorized City employee or law enforcement officer may apprehend the animal and deliver it to the shelter for confinement under Section 145.05. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the City for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with Section 145.05(C).

145.10 Diseased Animals.

- (A) Running at Large. No person shall keep or allow to be kept on his or her premises, or on the premises occupied by them, nor permit to run at large in the City, any animal which is diseased so as to be a danger to the health and safety of the City, even though the animal be properly licensed under this section.
- (B) Confinement. Any animal reasonable suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in a shelter by any person, authorized City personnel or law enforcement officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the City, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the City for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.
- (C) Release. If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

145.11 Dangerous Animals.

- (A) Attack by an Animal. It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

- (B) Destruction of Dangerous Animal. The law enforcement officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.
- (C) Definitions. For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
- (1) *Dangerous Animal.* An animal which has:
- (a) Caused bodily injury or disfigurement to any person on public or private property;
 - (b) Engaged in any attack on any person under circumstances that would indicate danger to personal safety;
 - (c) Exhibited unusually aggressive behavior, such as an attack on another animal;
 - (d) Bitten one or more persons on two or more occasions; or
 - (e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- (2) *Potentially Dangerous Animal.* An animal which has:
- (a) Bitten a human or a domestic animal on public or private property;
 - (b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
 - (c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.
- (3) *Proper Enclosure.* Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal 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 barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:
- (a) Have a minimum overall floor size of 32 square feet.
 - (b) Sidewalls shall have a minimum height of five (5) feet and be constructed of 11 gauge or heavier wire. Openings in the wire shall not exceed two (2) inches, support posts shall be 13-inch or larger steel pipe buried in the ground eighteen (18) inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen (18) inches in the ground.

- (c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall have no openings in the wire greater than two (2) inches.
 - (d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall have no openings in the wire greater than two (2) inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.
- (4) *Unprovoked.* The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.
- (D) Designation as Potentially Dangerous Animal. The law enforcement officer or persons authorized by the City Council shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked or threatened the safety of a person or a domestic animals as stated in division (C)(2). When an animal is declared potentially dangerous, the law enforcement officer or persons authorized by the City Council shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.
- (E) Evidence Justifying Designation. The law enforcement officer or persons authorized by the City Council shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:
 - (1) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).
 - (2) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).
- (F) Authority to Order Destruction. The law enforcement officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:
 - (1) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks: or
 - (2) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.
- (G) Procedure. The law enforcement officer, after having determined that an animal is dangerous, shall proceed in the following manner: The law enforcement officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall give fourteen (14) days to appeal this order by requesting a hearing before the City Council for a review of this determination.
 - (1) If no appeal is filed, the law enforcement officer may order the animal destroyed.

- (2) If the owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three (3) weeks after demand for the hearing. The records of the law enforcement officer or City Clerk's office shall be admissible for consideration by the law enforcement officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order the law enforcement officer to take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the law enforcement officer.
 - (3) No person shall harbor an animal after is has been found to be dangerous and ordered into custody for destruction.
- (H) Stopping an Attack. If any law enforcement officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.
- (I) Notification of New Address. The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the law enforcement officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

145.12 **Dangerous Animal Requirements.**

- (A) Requirements. If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:
- (1) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in Section 145(C)(3);
 - (2) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in M.S. 347.51 as may be amended from time to time;
 - (3) Provide and show proof annually of public liability insurance in the minimum amount of \$100,000;
 - (4) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
 - (5) All animals deemed dangerous by the law enforcement officer shall be registered with the county in which this City is located within fourteen (14) days after the date the animal was so deemed and provide satisfactory proof thereof to the law enforcement officer.
 - (6) The animal must be up to date on rabies vaccination.

- (B) Seizure. As authorized in M.S. 347.54, as it may be amended from time to time, the law enforcement officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within fourteen (14) days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the City and filing it with the district court.
- (C) Reclaiming Animals. A dangerous animal seized under Section 145.12(B), may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to the law enforcement officer that each of the requirements under Section 145.12(B), is fulfilled. An animal not reclaimed under this section within fourteen (14) days may be disposed of as provided under Section 145.11(F), and the owner is liable to the City for costs incurred in confining and impounding the animal.
- (D) Subsequent Offenses. If an owner of an animal has subsequently violated the provisions under Section 145.11 with the same animal, the animal must be seized by the law enforcement officer. The owner may request a hearing as defined in Section 145.11(G). If the owner is found to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of Section 145.12(C). If the animal is not yet reclaimed by the owner within fourteen (14) days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under Section 145.11(F) and the owner is liable to the animal for the costs incurred in confining, impounding and disposing of the animal.

145.13 Basic Care. All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

145.14 Breeding Moratorium. Every female dog in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog except for planned breeding. Upon capture and failure to reclaim the animal, every dog shall be neutered or spayed prior to being transferred to a new owner.

145.15 Enforcing Officers. The Council is hereby authorized to appoint City personnel or law enforcement officers to enforce the provisions of this section. In the appointed personnel or law enforcement officer's duty of enforcing the provisions of this section, he or she may from time to time, with consent of the City Council, designate assistants.

145.16 Interference with Officers. No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs or other animals and convey them to the pound or shelter while engaged in that operation. Nor shall any unauthorized person take or attempt to take from any agent any animal taken up by him or her in compliance with this Ordinance, or in any other manner to interfere with or hinder the authorized personnel or law enforcement officer in the discharge of his or her duties under this chapter.

145.17 Penalty (Amended August 10, 2009).

- (A) Separate Offenses. Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.
- (B) Misdemeanor. Unless otherwise provided, violation of this chapter shall constitute a misdemeanor, and upon conviction shall be punished by a fine of not more than \$1,000.00 and/or up to 90 days in jail.

- (C) Petty Misdemeanor. Violation of 145.02, 145.07, 145.13 and 145.14 are petty misdemeanors, and upon conviction shall be punished by a fine of not more than \$300.00.

/s/ Brian Thompson, Mayor

/s/ Mona Doering, Clerk-Treasurer

This Ordinance introduced by Council member Goblirsch on May 27, 2008

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