

## CHAPTER 56

### DANGEROUS AND VICIOUS ANIMALS

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**56.01 DEFINITIONS.** For use in this chapter, the following terms are defined:

1. “Dangerous animal” means any animal, regardless of the age of the animal, which either:

A. Is a member of a species or breed which (i) is poisonous to humans or domestic animals; (ii) has a propensity to produce vicious animals; or (iii) is undomesticated and has tendencies to kill, to inflict serious injury or illness upon, or cause disease among human beings or domestic animals;

B. Belongs to one of the following general species or breeds of animals:

(1) Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;

(2) Wolves, coyotes and foxes;

(3) Badgers, wolverines, raccoons, opossums, weasels, skunks and mink;

(4) Wild boars;

(5) Bears;

(6) Apes, monkeys, and chimpanzees;

(7) Alligators, crocodiles and Gila monsters;

(8) Scorpions and venomous spiders;

(9) Venomous and constrictor snakes;

(10) Piranha;

(11) Pit bull terrier dogs, otherwise known as American Pit Bull Terriers or Staffordshire Terriers or American Staffordshire Terriers; or

C. Is an offspring of any dangerous animal.

2. “Guard dog” means a dog which is trained to protect persons or property by attacking or threatening to attack persons.

3. “Vicious animal” means an animal, whether domesticated or not, which has attacked or bitten any person without provocation sufficient to predict such a response from the animal, or which has a propensity to attack or bite persons without provocation sufficient to predict such a response from the animal.

#### **56.02 VICIOUS ANIMALS.**

1. Absolute Prohibition. No person shall harbor, shelter, keep, bring, release or allow at large a vicious animal within the City, or deliver such an animal to another person within the City except for impoundment. This prohibition shall apply even if the owner does not but should reasonably know of such propensity.

2. Exemptions. Animals used in law enforcement by law enforcement personnel are exempt from this prohibition. Guard dogs are exempt from this prohibition only under the condition that the dog is, at all times, either:

A. Under the absolute control and restraint of a trained handler so as not to be a threat to innocent persons; or

B. Securely confined within an enclosed area, including any enclosed motor vehicle, clearly posted with warnings at every door or other normal place of entrance that vicious dogs which may attack persons are within such area.

Except with respect to motor vehicles, the Animal Control Officer, the police department and the fire department shall be fully informed, at all times, of such areas and the times guard dogs will be within such areas.

#### **56.03 DANGEROUS ANIMALS.**

1. Conditional Prohibition. No person shall either bring into the City or continue to harbor, shelter or keep a dangerous animal within the City unless:

A. Such person has filed an application with the Animal Control Officer; and

B. A final determination pursuant to Sections 56.06 and 56.07 has been made that the animal is not a vicious animal. If the final determination is that the animal is likely to be or to become a vicious animal, the animal may be brought into, harbored, sheltered or kept within the City only on the terms and conditions established upon final determination of the application.

2. Absolute Prohibition. No person harboring, sheltering, or keeping a dangerous animal shall release or allow at large such animal, or deliver such an animal to another person within the City except for impoundment.

#### **56.04 IMPOUNDMENT.**

1. Authority. Any dangerous animal or vicious animal, or any animal suspected of being any of the foregoing, may be seized and impounded by the City.

2. Owner's Obligation. Any owner of an animal subject to impoundment shall either surrender the animal for impoundment or confine the animal, as directed by an officer of the City.

**56.05 NOTICE OF IMPOUNDMENT TO OWNER AND INQUIRY BY OWNER.** If the identity and address of an owner of an impounded animal is known, such owner shall be given written notice of the fact that the animal has been impounded, the name and address of the Animal Control Officer, and the date after which the animal will be disposed of unless an application is filed by an owner. The notice may be mailed or personally delivered. It is sufficient if notice is given to one of the owners, if there is more than one. Notice shall not be required when at least one owner has actual knowledge of the seizure of the animal. The City has no duty to attempt to discover the identity or address of any owner of an animal which is seized while at large and on which there is no owner identification or license number. Upon inquiry, the Animal Control Officer shall inform any applicant for the animal of the reason for the impoundment.

#### **56.06 APPLICATION BY OWNER.**

1. Application. An application by an owner of an animal shall be complete and shall be filed with the Animal Control Officer of the City, on an appropriate form if available, within the time period prior to disposition of unclaimed animals. An application will not be deemed to be complete unless it reasonably identified the specific animal involved and sets forth the applicant's name, address and telephone number where the applicant can be reached. Such application will not be deemed delivered or filed until actual receipt by the Animal Control Officer. The City shall have no obligation to determine whether or not any applicant, in fact, has a legal right to possession of an animal or which of two or more applicants has superior legal rights to the possession of the animal.

2. Effect. The animal shall not be destroyed by the City during the pendency of the application unless the animal is found to be rabid. If the animal is within the custody of the City upon grounds or suspicion of

being a dangerous animal or vicious animal, the filing of such an application shall automatically put such matters into issue.

**56.07 DETERMINATION REGARDING AN APPLICATION FOR AN ANIMAL WHICH IS OR IS SUSPECTED OF BEING A DANGEROUS OR VICIOUS ANIMAL.**

1. Procedure Before Animal Control Officer. Within two (2) days from the delivery of the application to the Animal Control Officer, excluding Saturdays, Sundays and official State holidays, the applicant may present evidence informally to the Animal Control Officer tending to show that the animal is not a vicious animal or a dangerous animal which may be or may become a vicious animal. The Animal Control Officer may also investigate and accept other evidence. Pending and subject to final decision on the application, the Animal Control Officer may, for considerations of convenience and expense, release an impounded animal into the custody of the applicant under such terms and conditions as the Animal Control Officer deems necessary and proper, provided that all accrued fees, charges and expenses have been paid.

2. Decision of the Animal Control Officer. The Animal Control Officer shall render a decision upon a finding either that:

A. The animal is vicious and should not be released or allowed within the City;

B. The animal is not vicious and should be unconditionally released and allowed within the City;

C. The animal may be or may become vicious and that the animal should be released and allowed within the City only upon certain conditions which may include requirements of liability insurance, methods of confinement or restraint, restrictions on sale or transfer of the animal within the City, and other pertinent restrictions;

D. The animal be kept by the City under observation or testing for a period of not more than thirty (30) days before a decision is rendered. The decision of the Animal Control Officer shall be in writing and dated and shall be delivered immediately to the applicant personally or by mail.

3. Right of Appeal. The applicant shall have two (2) days from the date of personal delivery of the decision, or five (5) days from the date of mailing of the decision, within which to appeal an adverse decision to the City Council by filing a written notice of appeal with the City Clerk.

If the last day falls on a Saturday, Sunday or official State holiday, the applicant may file the notice of appeal on the next following day which is not a Saturday, Sunday or official State holiday. If no appeal is filed within that time period, the decision of the Animal Control Officer becomes a final decision.

4. Procedure on Appeal. Upon timely appeal, the City Council shall hold a hearing at its next regular public meeting, or at a special public meeting not more than fourteen (14) days after filing of the notice of appeal, at which time the City Council shall hear all evidence from the Animal Control Officer, the applicant and any other persons who wish to be heard. The City Council shall render its own independent final decision on the application consistent with this chapter and with the evidence.

5. Presumptions. Dangerous animals shall be presumed to be vicious animals and subject to the prohibition of Section 56.02. The burden shall be upon the owner to prove by the clear and convincing weight of the evidence that a dangerous animal is not and will not become a vicious animal. Animals which are not dangerous animals are presumed to be not vicious. The burden shall be upon the Animal Control Officer to establish by the preponderance of the evidence that an animal is a dangerous animal, and, if the animal is not a dangerous animal, that the animal is a vicious animal.

#### **56.08 DISPOSITION.**

1. An animal found to be a vicious animal may be humanely destroyed or sold or released to a suitable environment outside of the City.

2. An animal which may become vicious may be released within the City only upon the conditions established in the final decision on the application, and otherwise may be humanely destroyed or sold or released to a suitable environment outside of the City.

3. No animal shall be released until all fees, charges and expenses have been paid in full.

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