

Chapter 4

ANIMALS AND FOWL*

Sec. 4-1. Heading.

This chapter shall be known as the City of Opelika Animal Control Ordinance.
(Ord. No. 131-91, § 1, 12-17-91)

Sec. 4-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context otherwise requires:

Animal: Every nonhuman domesticated mammalian species of animal.

Animal control officer: All employees of the city public works animal control division.

Animal at large: Any animal which is not controlled by any adequate leash or tether, or otherwise under the owner's physical control, as defined in this section, while the animal is off the owner's premises. No animal shall be deemed "running at large" when said animal is upon the property of the owner.

Animal shelter: Any facility maintained by the city and any facility maintained by a nonprofit humane organization or municipal agency as approved by the city council for the confinement, care, control or disposition of animals that come into its custody.

ACO: Animal control officer, or any designated by him.

Cat: The domestic cat, felis catus.

Dangerous animal: Any animal which represents a danger to any person or any other animal and includes:

- (1) Any animal which, without provocation, shall bite any person or any animal;
- (2) Any animal which, without provocation, shall attack or attempt to attack any person or animal;
- (3) Any animal that on two (2) or more occasions, without provocation, approaches any person in a vicious or terrorizing manner in an apparent attitude of attack whether or not the attack is consummated.

***Editor's note**—Ordinance No. 131-91, § 1, adopted Dec. 17, 1991, amended Chapter 4 to read as set out herein. Former §§ 4-1—4-12, 4-26—4-39, 4-50—4-52, 4-63—4-66, 4-77—4-80, and 4-92—4-94 pertained to similar subject matter and derived from Code 1964, §§ 4-01, 4-4—4-11, 4-13, 4-24; and Ord. No. 111-88, §§ 1(4-26—4-39), 2(4-40—4-42), 3(4-43—4-46), 4A(4-47—4-50), 4B(4-52—4-54), adopted June 27, 1988.

Cross references—Cruelty to animals, § 19-452; cockfighting, § 19-572.

State law reference—Animals generally, Code of Ala., Tit. 3.

The definition of "dangerous animal" shall not include any animal which acted aggressively if the actual or intended victim has made an unlawful entry into the dwelling of the owner, nor shall such definition include any guard dog, which is properly registered under section 4-4 of this chapter and maintained in compliance with such section.

Division: The animal control division of the public works department of the city.

Dog: The domestic dog, *canis familiaris*.

Gross or severe injury: Any injury with a deep laceration, penetration or perforation of the victim's body.

Guard dog: Any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog.

Owner: Any person, partnership or corporation owning, keeping, maintaining, harboring or having custody of one (1) or more animals.

Physical control: The immediate, continuous physical control of an animal at all times such as by means of a leash, cord or appropriate chain of such strength to restrain the same; or in the case of trained dogs, "physical control" shall also include visual signals or oral commands by the owner of a dog which responds to such signals or commands, if said dog is at all times within unobstructed sight of the dog's owner.

Large animals: Horses, mules, cattle, pigs, hogs, sheep and other animals weighing twenty-five (25) pounds or more, except members of the canine family.
(Ord. No. 131-91, § 1, 12-17-91; Ord. No. 117-97, §§ 1, 2, 7-15-97)

Sec. 4-3. Rabies vaccinations.

(a) Every person who owns, harbors, keeps or maintains a dog or cat over the age of four (4) months shall secure on an annual basis a rabies vaccination for such animal including the proper certificate and tag from a licensed veterinarian as long as the dog or cat is within the city.

(b) Each dog over the age of four (4) months shall wear a substantial, durable collar or harness, to which the vaccination tag shall be attached. It shall be unlawful to attach such tag by wire, rope or any inhumane means. No person shall remove the collar or vaccination tag from any animal without the consent of the owner.

(c) Cats are not required to wear the rabies vaccination tag. If the rabies vaccination tag is not worn, the owner shall be required to produce the evidence of the rabies vaccination tag upon request of the ACO.

(d) It shall be unlawful for any person to permit or allow any dog or cat in his charge or control to wear a rabies vaccination tag issued for a different animal.
(Ord. No. 131-91, § 1, 12-17-91)

Sec. 4-4. Guard dogs.*(a) Registration.*

- (1) Guard dog owners or services shall register all dogs used in their business, whether housed or used in the city, with the ACO. The registration shall include name, address and telephone number of the service's manager; the breed, sex, weight, age, color, tattoo registration number of the guard dog, and other distinguishing physical features of the dog; a city license certificate the rabies vaccination certificate; and a tag that is highly visible and conspicuously different from ordinary dog tags, as approved and supplied by the city.
- (2) Guard dogs which are newly acquired by guard dog services shall be vaccinated against rabies and registered with the city within seventy-two (72) hours of acquisition.
- (3) The fee for registration of a guard dog with the city shall be established by the city council and shall be a one-time charge for each individual dog.
- (4) The fee to register a guard dog with the city shall be a charge of five dollars (\$5.00).
- (5) Such registration shall not constitute a waiver of any other requirements of this chapter.

(b) Tattoo required.

- (1) Each guard dog shall have a registration number to be obtained from the city and tattooed by the owner on its inside right thigh so as to be clearly visible at all times. The registration number shall be prefixed by the letter "G." Each letter and number shall be at least one-quarter ($\frac{1}{4}$) inch in height.
- (2) Owners of guard dogs registered with the American Kennel Club or a similar organization may elect to have the tattoo placed in the dog's ear.
- (3) Any guard dog already tattooed by some number system different from that required by this chapter need not be retattooed if the existing tattoo is identifiable and can properly identify that dog.

(c) Maintenance of guard dog registration record. The city shall maintain a guard dog registration record which shall contain all data required by this chapter. Upon transfer of ownership, death, disappearance and/or annual rabies vaccination of a guard dog, each guard dog service or owner shall immediately notify the city ACO. Upon receipt of the information, the appropriate entry shall be made in the guard dog registration record. If the dog has disappeared, an entry should be made to reflect the location of such disappearance.

(d) Inspection.

- (1) As a condition to maintaining registration with the city, each guard service or owner shall allow the ACO to enter and inspect all kennels housing guard dogs and other premises where such dogs are used, for the determination of owner registration compliance.

- (2) It shall be unlawful for any person, firm or corporation to own, harbor, keep, maintain, use or otherwise have custody of any guard dog in the city which has not been vaccinated, registered, and tattooed as provided by this section.

(e) *Transportation of guard dog.*

- (1) The vehicle of every guard dog service transporting any guard dog must be clearly and conspicuously marked with the words "Dangerous Dog" showing that it is transporting a guard dog. A compartment separate from the driver is required which should be arranged to ensure maximum ventilation for the animal.

- (2) No guard dog shall be transported in the trunk of a car or on open-bed trucks.

(f) *Requirements for businesses using guard dogs.*

- (1) Each business which hires or uses a guard dog must provide proper fencing to keep the guard from digging or jumping out, or must otherwise properly confine the animal within a secure enclosure.
- (2) At each appropriate location and entry point, and at fifty-foot intervals along the fence perimeter, a sign shall be posted including the words "Dangerous Dog."
- (3) Entry points shall have a sign posted with the telephone number of the dog's trainer or handler in case of an emergency.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-5. Dogs or cats at large.

(a) No dog or cat shall run at large within the city as defined under this chapter. Any person who owns, harbors, keeps, maintains or has custody of any dog or cat which is running at large shall be in violation of this section, regardless of the knowledge, intent or culpability of the owner.

(b) This section shall not apply to police dogs when such dogs are engaged by a law enforcement agency in an official capacity.

(c) It shall be unlawful for any person to allow a female dog or cat, when it is breeding season, to go upon or have access to the streets, roads or public areas of Opelika, Alabama. Female dogs and cats shall be confined in such places and manner as will avoid nuisances being caused by the attraction of male dogs or cats to the premises of others under any circumstances.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-6. Public nuisance animals.

Without regard to other provisions of this chapter or other sections of the City Code, it shall be unlawful for owners of dogs, cats, or other animals to allow, permit or by negligence fail to prevent such animals from acting or performing in such a manner as to cause damage or unsanitary conditions to the property of another, public streets, public parks and recreation

areas, or otherwise to cause a nuisance in the city. Acts deemed to be nuisances shall include, but are not limited to, the following:

- (1) Any dog or cat to enter any place where food is stored, prepared, served, or sold to the public except seeing-eye dogs while in the company of a blind person.
 - (2) Any dog to chase, run after, or jump at vehicles moving on public streets and alleys.
 - (3) Any dog to snap, growl, snarl, jump upon, or otherwise threaten persons lawfully using public sidewalks, streets, alleys, or other public ways. These acts shall be considered a violation of this chapter whether or not the dog is confined by fence, chain, or leash, or under the voice control of a responsible person.
 - (4) Any animal to howl, yelp, whine, or bark in such manner as to reasonably disturb any person or neighborhood.
 - (5) Any animal to feed from, turn over, or otherwise disturb garbage containers.
 - (6) Any animal to scratch or dig in flower beds or to soil or damage any property other than that of the owners.
- (Ord. No. 131-91, § 1, 12-17-91)

Sec. 4-7. Classification of dangerous animals.

(a) When any person claims that an animal is dangerous, as defined under this chapter, he shall make a sworn affidavit before an officer authorized to administer oaths in the city and shall deliver such statement to the ACO. Such affidavit shall specify the address or location of the alleged violation, the nature, time and date of the incident, or acts, the name and address of the owner, if known, and a description of the animal, if known. Upon receipt of such sworn affidavit, the ACO shall immediately make an investigation. The ACO is also authorized to investigate for violations under this section arising under other circumstances.

(b) Upon a determination by the ACO that an animal is dangerous, the ACO shall make a summary of findings which shall be incorporated in writing in the classification document. The classification shall order the owner to confine the animal in a substantial enclosure, or to securely muzzle the animal and otherwise contain it in a reasonable manner as specified by the ACO.

- (1) The classification document shall be served upon the owner of the animal together with a copy of the procedure for appealing the classification. Service can be accomplished by hand delivery or by certified mail, return receipt requested.
- (2) The owner of any animal which is classified as dangerous may appeal the classification or any of its provisions to the director of public works by notifying the director in writing within twenty (20) days of having been served such classification. The ACO shall, within twenty (20) days of receipt of such appeal, notify the owner of the time and place of a hearing before the director of public works or his designee. After the hearing, the director of public works or his designee shall take one (1) of the following

actions: Uphold, modify, or revoke the classification. The decision shall be made in writing and a copy of the decision shall be mailed or personally delivered to the owner of the animal.

(Ord. No. 131-91, § 1, 12-17-91; Ord. No. 117-97, § 3, 7-15-97)

Sec. 4-8. Dangerous animals.

(a) [*Violation.*] It shall be a violation of this chapter for any person to own, keep, maintain, harbor or have custody in the city, any animal which the ACO has classified dangerous, as defined under this chapter, unless said dangerous animal is securely confined in a substantial enclosure or unless it is securely muzzled and under restraint of a person by such means as specified in the classification document.

(b) [*Notification to animal control officer.*] All owners of animals classified dangerous shall immediately notify the ACO when such animal is loose or unconfined; has bitten a human being or attacked another animal; was sold, given away, died or moved to another address.

- (1) Prior to a dangerous animal being sold or given away, the present owner shall provide the name, address, and phone number of the new owner to the ACO. The new owner shall execute a document to be supplied by the ACO acknowledging that said owner is aware of the dangerous animal classification and that said owner shall comply with the requirements of this chapter.
- (2) Owners of dangerous animals shall provide the ACO with two (2) color photographs of each animal in two (2) different poses showing the color and approximate size of the animal.
- (3) As a condition to each animal's classification, each owner of a dangerous animal shall allow the ACO to enter and inspect the owner's premises to determine compliance with the classification document and this section.

(c) *Tattoo required.*

- (1) Each dangerous animal shall have a registration number to be obtained from the ACO and tattooed by the owner on its inside right thigh so as to be clearly visible at all times. The registration number shall be at least one-quarter ($\frac{1}{4}$) inch in height and shall be prefixed by the letter "D."
- (2) Owners of dangerous animals registered with the American Kennel Club or a similar organization may elect to have the tattoo placed in the dog's ear.
- (3) Any dangerous animal already tattooed by some number system different from that required by this chapter need not be retattooed if the existing tattoo is identifiable and can properly identify that dog.

(d) *Subsequent violation by an animal classified as dangerous.*

- (1) Upon the written, sworn affidavit of any person or upon a written finding of the ACO setting forth that an animal previously classified as dangerous has actually bitten and otherwise exhibited aggressive behavior, causing injury upon a person or animal

or creating reasonable apprehension of immediate injury upon a person, while in violation of the provisions of the classification document, the ACO may impound and subsequently destroy such animal whether said animal shall then be at large or in its owner's custody.

- (2) Prior to the actual destruction of any animal classified as dangerous under this chapter, the ACO shall give notice to the imminent destruction of the animal and the basis thereof to the owner of the animal by hand delivery or certified mail, return receipt requested. The date of destruction shall be included in the notice and shall not be earlier than the eighth day following the mailing or hand delivery of such notice. Notice is prescribed by the section in order to give the owner of such animal time to apply to a court of competent jurisdiction for any remedies which may be available. This time may be waived by the owner in writing.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-9. Vicious animals.

(a) It shall be unlawful for any person to keep or harbor a vicious animal. Any animal that, without provocation, attacks a person causing gross or severe injury, as defined under this chapter, may be classified as vicious by the ACO. The definition of "vicious animal" shall not include any animal which acted aggressively if the actual or intended victim has made an unlawful entry into the dwelling of the owner. Nor shall such definition include any guard dog which is properly registered under section 4-4 of this chapter and is maintained in compliance with such section. The ACO may impound and subsequently destroy an animal classified as vicious, whether said animal shall be at large or in its owner's custody.

(b) Prior to the actual destruction of any animal classified as vicious under this section, the ACO shall give notice of the imminent destruction of the animal and the basis thereof to the owner of the animal by hand delivery or certified mail, return receipt requested. The date of destruction shall be included in the notice and shall not be earlier than the eighth day following the mailing or hand delivery of such notice. Notice is prescribed by this chapter in order to give the owner of such animal time to apply to a court of competent jurisdiction for any remedies which may be available. This time may be waived by the owner in writing.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-10. Cruelty.

(a) Whoever impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water; keeps any animal in any enclosure without wholesome exercise and change of air; and/or abandoned to die any animal that is maimed, sick, infirmed, or diseased shall be in violation of this section.

(b) A person who unnecessarily overloads, overdrives, tortures, torments, deprives of necessary sustenance or shelter or unnecessarily or cruelly beats, mutilates, or kills any

animal or causes the same to be done, or carries in or upon any vehicle or otherwise, any animal in a cruel or inhumane manner, shall be in violation of this section.

(c) Whoever exposes, deposits, or puts out upon his or her own premises, or upon the premises of another, or upon property owned by the city or any other governmental unit or agency, or upon any street, alley, lane, highway, and thoroughfare of any kind, any substance known to be poisonous to animals which is poured over, wrapped in, or otherwise combined with food, with the apparent intent of enticing such animals to eat such poisonous substance and become poisoned thereby, shall be in violation of this section. The finding of such poisonous substance or poisoned food, together with the proof as to the identify of the person exposing, depositing, or putting out same, shall be prima facie evidence of the intent to poison and destroy such animals. This section shall not apply where insect or rodent poison is used on a person's own premises for control of insects, mice or rodents in accordance with the manufacturer's instructions.

(d) Any person who commits any of the following acts shall be in violation of this section:

- (1) Using any animal or fowl for the purpose of fighting any other animal or fowl.
- (2) Knowingly owning, managing, or operating any facility kept or used for the purpose of fighting any animal or fowl.
- (3) Promoting, staging, advertising or charging any admission fee to a fight between two (2) or more animals or fowl.
- (4) Betting or wagering any money or other valuable consideration on the fighting of animals or fowl.

(5) Attending the fighting of animals or fowl.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-11. Abandonment.

(a) Any person who is the owner or possessor or has charge or custody of any animal who abandons any animal in a street, road, or public place without providing for the care, sustenance, protection and shelter of such animal shall be in violation of this section.

(b) Upon an affidavit of any person or a law enforcement officer stating an animal appears to have been abandoned, the ACO will investigate the matter and thereupon is authorized to impound and dispose of the animal in the manner provided by this chapter, with the assistance of a law enforcement officer if necessary. The ACO shall cause written notice bearing the address where the animal may be claimed by the owner thereof and the time by which the animal must be claimed to be sent to the owner, if known, at the last known address.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-12. Animals in vehicles.

(a) No vehicle owner, passenger or operator shall place or confine an animal or allow it to be placed or confined or to remain in an unattended vehicle without sufficient ventilation or

under conditions or for such a period of time as may reasonably be expected to endanger the health or well-being of such animal due to heat, lack of water or such other circumstances as may be expected to cause suffering, disability or death.

(b) Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purposes.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-13. Keeping hogs.

It shall be unlawful for any person to keep pigs or hogs in the corporate limits of the city.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-14. Keeping noisy animals and fowl.

It shall be unlawful within the corporate limits of the city to confine, harbor or keep on a lot, place or premises, any animal or fowl which habitually, continuously or intermittently makes or emits sounds or noises of such volume, nature and extent as to be a public nuisance by reason of being obnoxious or annoying to persons in that neighborhood.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-15. Sanitary conditions of enclosures.

All places and premises in the city where horses, mules, cattle, rabbits, dogs or other animals or fowl are kept, harbored or confined shall be kept clean, sanitary and free of noxious odors and shall be maintained in such a manner as will effectually prevent the reproduction or propagation in or about such places or premises of flies; and the presence on or about such places or premises of the live larvae of flies under conditions which permit or favor growth or development shall be prima facie evidence of the reproduction or propagation of flies and of the keeping or maintaining of such place or premises used for such purposes in violation of the provisions hereof.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-16. Enclosures for horses or cattle—Generally.

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building, structure or shed unless such stable, building, structure or shed is equipped with a watertight floor or base of cement or other impervious material and so laid or arranged and constructed as to prevent refuse, foodstuffs and discharges from animals from falling upon, touching or soiling the ground, and also for removing any such refuse, foodstuffs and discharges as set out in section 4-18 of this chapter.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, in a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of one thousand (1,000) square feet for one (1) such

animal and two hundred (200) square feet for each additional such animal there kept, harbored or confined.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-17. Same—Minimum space requirements.

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or in or upon any uncovered, enclosed parcel of land, outside a commercial or industrial district as established by zoning regulations, unless such corral or parcel of land shall have a minimum area of two thousand five hundred (2,500) square feet for one (1) such animal, and one thousand (1,000) square feet for each additional animal there kept, harbored or confined, to every portion of which such animal shall have free and unrestricted access.

(b) The material used in the base or floor may include portions of wood when the aggregate of such portions does not exceed three-fourths ($\frac{3}{4}$) of the total area of such base or floor, and when each piece of wood is embedded in cement or other impervious material, separated from each adjacent piece at least one (1) inch by cement or other impervious material, and is continuous with and forms an integral part of such base or floor.

(c) It shall be permissible to cover, not exceeding three-fourths ($\frac{3}{4}$) of the area of a floor or base constructed as hereinabove specified, with hardwood, provided each piece of such hardwood is separated from each adjacent piece at least one (1) inch and is readily removable.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-18. Collection and disposal of manure and other materials.

All accumulations of manure and material soiled by excreta in and about every stable, building, structure, shed, corral or pen where any animal of the equine or bovine type is kept, harbored or confined, shall be collected at least once each day and immediately deposited in substantial flyproof containers. All such collections shall be kept stored in substantial flyproof containers for a continuous period of two (2) weeks from the date of collection. Sawdust, shavings, straw and other material used as animal bedding and unsoiled by excreta shall be collected at least once a week and deposited and stored as provided in this section. In lieu of storage, as herein provided, manure and other materials, when collected in accordance with the provisions hereof, being free of live fly larvae, may be disposed of, within twenty-four (24) hours from time of collection, by burial at least six (6) inches underground or by spreading the same thinly upon the surface of the ground at some place distant from any place where animals are kept, harbored or confined, so that such collections shall be and remain fully exposed to sunshine.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-19. Cleaning floors, structures where certain animals are kept.

The base or floor of every stable, building, structure or shed in which any animal of the equine, bovine or rabbit species or type is kept, harbored or confined, together with all appli-

ances used in connection therewith, shall be cleaned at least once each day by the removal of manure and other material soiled by manure and by washing.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-20. Keeping of horses or cattle near certain buildings.

(a) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any corral or other uncovered enclosure in the city or its police jurisdiction, any part of which is within one hundred (100) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

(b) It shall be unlawful to keep, harbor or confine any animal of the equine or bovine species or type in any stable, building structure or shed in the city, any part of which is within fifty (50) feet of a dwelling, school, church, hospital, public building, public park, public playground or public thoroughfare.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-21. Keeping of fowl.

It shall be unlawful to keep, harbor or confine any ducks, geese, chickens, guineas, peacocks or other fowl in any stable, building, structure, corral, pen or enclosure in the city, any part of which is within fifty (50) feet of a dwelling, church, hospital, school, public building, public park or public thoroughfare.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-22. Large animals running at large.

It shall be unlawful and punishable as a misdemeanor for any person owning, keeping, possessing, harboring or maintaining a large animal to cause, permit or allow such animal to be at large on or about any place, lot or premises or portion of the same within the corporate limits of the city.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-23. Impounding of large animals upon premises of other than owner.

Any large animal which is found at large upon the premises of another person other than the owner or keeper thereof shall be impounded by the chief animal control officer, his deputies, assistants or other authorized agent of the city. Any large animal which is found at large upon any street, alley, thoroughfare, sidewalk, park, school or other public place of the city shall also be subject to impoundment by the chief animal control officer, his deputies, assistants or other authorized agent of the city as provided in this chapter.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-24. Bird sanctuary.

(a) The entire area embraced within the corporate limits is hereby designated as a bird sanctuary.

(b) It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests without the advance written consent and approval of the public safety department. Such consent and approval shall be given if such activity will not endanger persons or property, and if such birds are congregating in such numbers as to endanger the public health and safety.

(c) No provision of this section shall be construed to prohibit or abrogate the right of the city to protect the health, safety or welfare of the citizens of the community.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-25. Impoundment.

(a) Animals of the following classes may be captured and impounded within the municipal limits of the city:

- (1) Vicious animals of all kinds.
- (2) Dangerous animals not confined to the premises of the owner in violation of section 4-8.
- (3) Animals that are causing nuisances in violation of section 4-6.
- (4) Animals that have been bitten by an animal suspected of having rabies.
- (5) Any dog not wearing a current rabies vaccination tag.
- (6) Any cat whose owner cannot produce evidence of the rabies vaccination tag upon request of the ACO.
- (7) Abandoned animals and animals whose ownership is unknown.
- (8) Any animal running at large in violation of sections 4-5 and 4-23.
- (9) Female dogs and cats in breeding season not confined to the premises of the owners in such manner as to avoid nuisances and prevent access to other animals.

(b) The ACO and its animal control officers, law enforcement officers and humane officers or state-chartered nonprofit humane organizations shall have authority to pick up, catch, or procure and impound any animal in violation of this chapter or any animal infected or believed to be infected with rabies or other contagious or infectious disease to humane or animals in such a manner as is reasonably necessary to effectuate its capture. Impounded animals shall be confined in a humane manner at an animal shelter.

(c) An impounded animal shall be held for at least seven (7) days including the day of impoundment, except a sick or injured animal which poses a threat to the safety of the personnel responsible for the care of such animal may be euthanized at the discretion of the impounding agency. The depositing of a letter of notification by first class U.S. mail shall constitute adequate notification of impoundment. The owner shall also be notified by phone, if possible. This section shall not apply to animals surrendered by the owner or an agent of the owner, in which case disposition may be made as provided in this chapter without notification

or a holding period. At the expiration of the holding period, during which time a diligent attempt has been made to locate and contact the owner, the animal may be disposed of in a manner provided in this chapter.

(d) A registry shall be maintained by the impounding agency. The registry shall contain identifying characteristics of each animal impounded along with the location, date and reason of each pickup.

(e) For violations of this chapter, an owner may be subject to a written warning or such penalties as prescribed in this chapter, in addition to or in lieu of impoundment.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-26. Redemption and disposition.

All animals which have been impounded in accordance with the provisions of this chapter may be disposed of as provided below:

- (1) Within the holding period, animals, except dangerous and vicious animals, may be redeemed by the owner or his agent upon the payment of those fees or costs associated with the impoundment, as established by the city council. The owner entitled to possession of an impounded dog or cat which does not have the required rabies inoculation certificate and tag shall have such animal inoculated and shall present proof of the issuance of such certificate and tag to the ACO within ninety-six (96) hours of the release from impoundment.
- (2) If not redeemed within the holding period, animals may be disposed of by humane euthanasia.
- (3) Those animals which would otherwise be disposed of by euthanasia may be offered to state-chartered nonprofit humane organizations for the purpose of providing adoption of such animals. Fees and costs shall be waived for the disposition of animals in this manner. All dogs and cats placed with this organization shall be vaccinated and sterilized before said organization offers each animal for adoption. The adopter may enter into a written agreement that sterilization will be performed within thirty (30) days or prior to the age of six (6) months. Written document must be returned to the organization by the adopter of said sterilization. Failure to comply with the requirements of this subsection within the specified time shall constitute a violation of this section, and the ACO shall have the right to impound the animal.
- (45) Dangerous and vicious animals will be disposed of in accordance with the provisions of sections 4-8 and 4-9 of this chapter.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-27. Fees and charges; administration.

(a) Any cat or dog, except a dangerous or vicious dog, impounded hereunder may be reclaimed as herein provided upon payment by the owner of the following:

- (1) Boarding fee charged by the city or any other state-chartered nonprofit organization or veterinarian or kennel designated by the city council.

(2) The amount of vaccination fee, if necessary.

(b) Any large animal impounded hereunder may be reclaimed as herein provided upon payment by the owner to the ACO or his assistants the following:

(1) The actual costs incurred by the city in seizing, confining and transporting such animal.

(2) Actual costs incurred by the city for boarding such animal.

(3) The actual costs incurred by the city for veterinary care, if necessary.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-28. Enforcement.

(a) The mayor shall, through the public safety department and its director, appoint an ACO to take charge of the animal control division. The ACO shall, along with his assistants, enforce the provisions of this chapter.

(b) The ACO, his assistants and members of the police division shall have the right, for the protection of public health, welfare and safety, to enter upon any property within the city for the purpose of capturing and impounding any animal which is in violation of this chapter.

(c) Any expense incurred in the handling of any animal under the provisions of this chapter shall be borne by the owner or custodian of such animal.

(d) It shall be a violation of this section to interfere with any animal control officer while in the lawful performance of his duties or with anyone who may be assisting in the performance of such duties.

(e) Any person who willfully refuses to sign and accept a citation issued by a law enforcement officer or the ACO shall be in violation of this chapter.

(f) The city council may contract with any state-chartered non-profit humane organization to carry out all or part of the duties herein. Said organization shall carry out the duties pursuant to the provisions prescribed in this chapter. Failure to do so shall result in the city council assuming the duties or contracting with another organization to assume the duties. Compensation may be provided in an adequate amount to fulfill the prescribed duties.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-29. Penalties for violations.

(a) Except for the offenses listed in subsection 4-29(b), any person convicted of violating any provision of this chapter within a twelve-month period shall be guilty of a violation and shall be punished as follows:

(1) *First violation:* A fine of ten dollars (\$10.00);

(2) *Second violation:* A fine of twenty dollars (\$20.00);

(3) *Third violation:* A fine of thirty dollars (\$30.00);

- (4) *Fourth or any subsequent violation:* A fine in an amount not exceeding five hundred dollars, (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

Any person who has been charged with the violation of any provision of this chapter, except those offenses identified in section 4-29(b), and who desires to waive trial of the question of his guilt or innocence of such alleged offense, may pay the fine prescribed above to the municipal court of the city, and the municipal court magistrate is hereby authorized and instructed to receive such amount. Voluntary settlement shall not be permitted to any person who has been thrice convicted of the same offense prior to the date of the instant alleged offense, and such person shall be required to stand trial in municipal court. Offenses not settled as provided in this subsection prior to the court appearance date shown on the notice of violation will be disposed of in the same manner as is any case appearing on the regular municipal court docket.

(b) Any person who is alleged to have committed any of the following offenses listed in this chapter shall be required to stand trial in municipal court:

- (1) *Section 4-4:* Failing to register and maintain guard dogs.
- (2) *Section 4-8:* Registration, maintenance and confinement of dangerous animals.
- (3) *Section 4-9:* Harboring vicious animals.
- (4) *Section 4-10:* Cruelty to animals.
- (5) *Section 4-11:* Abandonment of animals.

Any person convicted of any act listed in this subsection (b) shall be punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than six (6) months, or both such fine and imprisonment at the discretion of the municipal judge trying the case.

(c) Each day's violation of any provision of this chapter shall constitute a separate offense.

(d) In addition to the penalties provided in this section, the city council is hereby authorized to institute any appropriate action or proceeding including suit for injunctive relief in order to abate violations of this chapter.

(Ord. No. 131-91 § 1, 12-17-91)

Sec. 4-30. Area embraced.

All territory within the incorporated city limits of the city shall be embraced by the provisions of this chapter. The provisions of this chapter shall not be enforced in any area outside the city limits.

(Ord. No. 131-91 § 1, 12-17-91)