

## CHAPTER 4

### ANIMALS

#### Article I. Definitions

**Sec. 4-1. Definitions.** The following terms shall have the following meanings when used in this Chapter:

**“Abandon”** means for the owner or harborer to leave an animal without demonstrated or apparent intent to recover or resume custody; to leave an animal for more than twelve (12) hours without providing adequate food and shelter for the duration of the absence; to turn out or release an animal for the purpose of causing it to be impounded; or to fail to reclaim an impounded animal from the City-designated animal shelter after having been notified that the animal has been impounded.

**“Animal”** means any live vertebrate creature, domestic or wild, except humans. “Animal” includes, but is not limited to mammals, fowl, fish and reptiles.

**“Animal shelter”** means a facility which is used or designed for use to house, contain, impound or harbor any seized stray, homeless, relinquished or abandoned animal or a person who acts as an animal rescuer, or who collects and cares for unwanted animals or offers them for adoption. Animal shelter also includes a facility of an individual or organization, profit or nonprofit, maintaining twenty (20) or more dogs or cats, or both, for the purpose of collecting, accumulating, amassing or maintaining the animals or offering the animals for adoption.

**“Assistance dog”** means any guide dog, hearing assistance dog or service dog as such terms are defined in K.S.A. 39-1113, and amendments thereto.

**“At large”** means an animal running at will, acting on its own initiative and not firmly attached to a leash or lead under the physical control of its owner or harborer, unless the animal shall be on the premises of the owner or harborer thereof and under control of a responsible person and obedient to that person’s command.

**“Bite”** means any contact between an animal’s mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, abrasion, bruise or other piercing of the skin.

**“Cat”** means an animal which is wholly or in part of the species, *Felis domesticus*.

**“City-designated animal shelter”** means any premises designated by the City for the purpose of impounding and caring for animals held under the authority of this Chapter.

**“Community services officer”** means a duly authorized person employed by, contracted with or appointed by the City whose duties include, in whole or in part, the enforcement of the provisions of this Chapter.

**“Dangerous animal”** means any mammal, amphibian, fish, reptile or fowl of a species which, due to size, vicious nature or other characteristics would constitute a danger to human life, physical well being or property, including, but not limited to the following animals:

- a. Any animal having a poisonous bite;
- b. Any warm-blooded, carnivorous or omnivorous, wild animal, including, but not limited to apes, gorillas, monkeys, chimpanzees and other non-human primates, lions, tigers, leopards, panthers and other exotic felines, elephants, bears, foxes, coyotes, wolves, hybrid wolves, raccoons and skunks, but excluding domesticated ferrets and small domesticated rodents;
- c. Any reptile, including but not limited to, alligators, crocodiles, and snakes which are venomous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup, but excluding nonvenomous snakes less than eight feet (8’) in length, nonvenomous lizards and nonvenomous turtles;
- d. Any animal which is considered dangerous because of past behavior, violations of any local, state or federal animal control provisions, or due to the inherently dangerous nature of the animal itself; or
- e. Any dog which has been determined to be a dangerous dog by the municipal judge after a hearing as provided for in Sec. 4-60.

**“Dangerous dog”** means any dog determined to be dangerous pursuant to the provisions of Article VI herein.

**“Dog”** means an animal which is wholly or in part of the species, *Canis familiaris*.

**“Domestic animal”** means an animal whose species is primarily domesticated in that it is bred for and adapted to living dependently in a household setting.

**“Euthanasia”** means the humane destruction of an animal which may be accomplished by any of those methods provided for in K.S.A. 47-1718 and amendments thereto.

**“Guard dog”** or **“attack dog”** means any dog intended to attack intruders, whether the dog has been trained to do so or the dog does so without training, and who will cease to attack upon command.

**“Harbor”** means to provide food, shelter or other care or control of an animal.

**“Harborer”** means any person who provides food, shelter or otherwise accepts responsibility for the care or control of a domestic animal.

**“Humane”** means a manner of care, including, but not limited to, protection from harm, provision of shelter with adequate protection from the elements, ventilation, sanitation, and appropriate food and potable water consistent with the requirements and habits of the animal’s species, type, size, age and condition.

**“Impound”** means to seize, confine or restrain in custody.

**“Licensed veterinarian”** means as defined in K.S.A. 47-816 and amendments thereto.

**“Own”** means to keep, maintain, possess, harbor, or have charge, custody or control of an animal.

**“Owner”** means any person keeping, maintaining, possessing, harboring, or having charge, custody or control of, an animal. A parent or legal guardian shall be deemed to be an owner of an animal owned by a minor upon such parent or legal guardian’s premises.

**“Person”** means any individual, association, partnership, corporation or other entity.

**“Pet shop”** means as defined in K.S.A. 47-1701 and amendments thereto.

**“Police dog”** means any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders.

**“Public nuisance animal”** means as defined in Sec. 4-45.

**“Research facility”** means as defined in Sec. 47-1701 and amendments thereto.

**“Schedule of fees”** means the schedule established and reviewed by the Governing Body as set forth in Sec. 2-110.

**“Vaccination”** means the inoculation of an animal with a vaccine approved by the State of Kansas for use in the prevention of rabies.

**“Veterinarian”** means as defined in K.S.A. 47-816 and amendments thereto.

**“Veterinary premises”** means as defined in K.S.A. 47-816 and amendments thereto.

**“Vicious animal”** means any animal that attacks, bites, or physically injures human beings, domestic animals or livestock without adequate provocation, or which, because of temperament or training, has a known propensity to attack, bite or physically injure human beings, domestic animals or livestock.

**“Vicious dog”** means a dog that:

- a. Has inflicted substantial bodily harm on or has killed a human being on public or private property;
- b. Has killed a domestic animal without provocation while off the owner’s or harborer’s property; or
- c. Has been found to be a dangerous dog and after the owner or harborer has notice that the dog is dangerous, the dog aggressively bites, attacks or endangers the safety of humans or domestic animals.

**“Wild animal”** means any animal, whose species is predominately free roaming and in a state of nature as opposed to domesticated and tame.

**Sec. 4-2. Community Services Officers; Duties.** The community services officers of the City are hereby charged with the duties of enforcing this Chapter and no person shall interfere with, hinder, molest or abuse such officers in the exercise of their powers. City law enforcement officers shall also have the authority to enforce the provisions of this Chapter and all references to community services officers herein shall apply to City law enforcement officers exercising such authority.

**Sec. 4-3. Community Services Officers; Powers.** The community services officer of the City may:

- a. Enter without a warrant upon private property to regulate or prohibit the running at large of any animal or the creation of an animal nuisance where such animal is found in plain sight, other than in a residence structure, and to seize such animal from said private property;
- b. Enter without warrant upon private property to apprehend a dangerous, vicious or wild animal or an animal suspected of being infected with rabies where such animal is found in plain sight, other than in a residential structure, and to seize such animal from said property; and
- c. Enter upon private property to investigate cruelty to animals.

**Sec. 4-4. Presentation of Animal.** The owner or harborer of any dog or cat shall physically produce the animal for observation, identification or inspection when requested to do so by a community services officer investigating a violation of this Chapter, provided the officer has probable cause to believe a crime or violation of this Chapter has been committed. Failure to produce or present the animal upon request of the community services officer shall be unlawful.



**Sec. 4-5. Guard Dogs and Attack Dogs.**

- a. No person shall leave any guard dog or attack dog unattended in any place in or out of any building unless a warning sign has been placed in a clearly visible location at the premises, located so that it can be seen by any person before entering the place to which the dog has access, warning that a guard dog or attack dog is present.
- b. No person shall leave any guard dog or attack dog unattended in any place in or out of any building without first providing to the police department emergency contact information and information regarding the hours during which the guard dog or attack dog will be “on duty.” The emergency contact information shall include telephone numbers answerable twenty-four hours per day by a person responsible for said guard dog or attack dog.
- c. No guard dog or attack dog shall be left unattended in any place except inside a building or out of doors in a fenced yard, with a fence adequate to prevent the dog from leaving the yard.

**Sec. 4-6 – Sec. 4-9 Reserved.****Article II. Prohibited Animals**

**Sec. 4-10. Dangerous, vicious, wild animals prohibited.** It is unlawful to own or harbor or in any way possess or offer to sell within the corporate limits of the City of Merriam any dangerous, vicious or wild animal.

**Sec. 4-11. Exceptions.** The following animals shall not be prohibited as set forth in Sec. 4-10:

- a. A dog deemed dangerous pursuant to a dangerous dog hearing as set forth in Sec. 4-60 so long as such dog and its owner or harbinger are complying with the conditions imposed by the municipal judge pursuant to such hearing;
- b. Any animal in the ownership of a licensed veterinarian upon veterinary premises, subject to the confinement requirements of Sec. 4-12 and all applicable state rules and regulations;
- c. Any animal in the ownership of a research facility licensed by the Kansas Animal Health Department, subject to the confinement requirements of Sec. 4-12 and all applicable state rules and regulations;
- d. Any animal in the ownership of a person designated and authorized as an animal rehabilitator by the Kansas Department of Wildlife and Parks, subject to the confinement requirements of Sec. 4-12, and all applicable state rules and regulations;

- e. Any animal temporarily owned by an animal shelter licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering or caring for animals, subject to the confinement requirements of Sec. 4-12 and all applicable state rules and regulations; or
- f. Any animal temporarily owned by a pet shop licensed by the Kansas Animal Health Department, subject to the confinement requirements of Sec. 4-12 and all applicable state rules and regulations.

**Sec. 4-12. Confinement Requirements.** It is unlawful for the owner or harbinger of a dangerous, vicious or wild animal which is permitted to be within the City limits due to the exceptions set forth in Sec. 4-11 to fail to confine said animal to the owner or harbinger's premises. Such animal must at all times be controlled, confined and restrained in such a manner that the safety and property of any person shall not be endangered. Confinement shall be in an enclosure which has secured sides and a secure top, is securely enclosed and locked, and is designed to prevent the animal from escaping the enclosure. If such enclosure has no bottom secured to the sides, the sides must be embedded into the ground no less than two (2) feet deep. An "invisible" or underground electric fence shall not be considered as a substantial or sufficient method of confining a dangerous, vicious or wild animal.

**Sec. 4-13. Confiscation of Prohibited Animal.** The municipal judge may order the confiscation of a prohibited animal, including those otherwise excluded by Sec. 4-11 if not adequately confined, if the animal poses an immediate danger to the public or itself. Upon the conviction of a person for owning an animal prohibited by this Chapter, the municipal judge shall order the animal confiscated and transferred to the City-designated animal shelter. The municipal judge may order the release of the animal to the owner, provided that the animal will not be kept within the city limits and provided that the owner of such animal shall provide the municipal court with the exact location and address of where the animal will be moved. The animal shall not be returned to any location within the City limits after removal.

**Sec. 4-14 – Sec. 4-19 Reserved.**

### **Article III. Permitted Animals; General Requirements.**

**Sec. 4-20. Permitted Animals.** The owner or harbinger of any animal not prohibited in Article II shall be required to comply with the requirements set forth herein in order to own or harbor such animal within the city limits of Merriam.

**Sec. 4-21. Responsible Animal Care.** It shall be unlawful for the owner or harbinger of an animal not to provide for his or her animal the following:

- a. Good and wholesome food suitable for the species at reasonable intervals in a sanitary manner and in quantities sufficient to maintain good health in the animal;
- b. Clean, fresh water in sufficient amounts for the species of the animal, with continual access or at reasonable intervals, in a container that cannot be overturned;

- c. Continual access to a shelter with insulation for protection from the weather with clean and adequate bedding as described herein. Both bedding and resting surfaces must be clean, dry, shaded from direct sun and compatible with the condition and species of the animal. Shelters should have three sides with both top and bottom, be structurally sound, properly ventilated, sanitary, weather proof, with the ability to provide cover from exposure to inclement weather conditions;
- d. Veterinary care when needed to maintain health and prevent suffering; and
- e. Humane treatment.

**Sec. 4-22. Responsibility for Removal of Animal Excrement.**

- a. It shall be unlawful for any person who is an owner, harborer or possessor of an animal in his care to fail to remove any excrement deposited by the animal upon any public or private property, other than the property of the owner or harborer of the animal, absent the consent of the property owner.
- b. The provisions of this Section shall not apply to any person who is using an assistance dog and who, upon request of a community services officer, can provide adequate documentation as set forth in K.S.A. 39-1111 verifying such person's right to be accompanied by an assistance dog.

**Sec. 4-23. Dogs and Cats; Registration and Licensing Required.** It is unlawful for any person to own or harbor any dog or cat over six (6) months old unless such dog or cat is registered and licensed as set forth in Article VII.

**Sec. 4-24. Vaccination.** It shall be unlawful for any person to own, keep or harbor any dog or cat six (6) months of age or older unless such dog or cat is currently vaccinated against rabies. The rabies vaccination receipt issued by a veterinarian at the time of vaccination shall be carefully preserved by the owner or harborer of the dog or cat and exhibited promptly upon request for inspection by the community services officer.

- a. Multi-Year Vaccine. Nothing herein shall preclude the use of multi-year rabies vaccines in accordance with accepted veterinary practices.

**Sec. 4-25. Dogs; Maximum Number Allowed; Exceptions.**

- a. The owning or harboring of more than two (2) dogs older than six (6) months of age upon any one premises or property, or in any dwelling or living quarters of any type, within the city without a license for the operation of a kennel, or unless authorized by the City pursuant to the issuance of a special dog permit as set forth in Article VII, is unlawful and shall constitute a nuisance per se.

- b. Exception. The provisions of this Section shall not apply to the owning or harboring of the following:
1. Assistance dogs;
  2. Police dogs;
  3. Dogs owned or harbored by:
    - (a) a licensed veterinarian upon veterinary premises;
    - (b) a research facility;
    - (c) a person designated and authorized as an animal rehabilitator by the Kansas Department of Wildlife and Parks;
    - (d) an animal shelter licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering or caring for animals;
    - (e) a pet shop licensed by the Kansas Animal Health Department; or
    - (f) an individual or business entity that possesses a city occupational permit that temporarily harbors animals for grooming purposes.
  4. any dog owned or harbored by a person who, prior to January 1, 2007, submitted a petition pursuant to Ordinance No. 1027 to own or harbor more than two (2) dogs older than six (6) months of age upon any premises or property, or in any dwelling or living quarters of any type within the city. Such person may continue to own or harbor such dogs without applying for a special dog permit as set forth in Article VII until such time as one or more of the dogs allowed pursuant to the provisions of Ordinance No. 1027 is no longer owned or harbored at such location. Should such person again desire to own or harbor three (3) dogs older than six (6) months of age at such location, it will be necessary for such person to comply with the special dog permit application requirements set forth in this Chapter.

**Sec. 4-26. Cats; Maximum Number Allowed; Exceptions.** The owning or harboring of more than five (5) cats older than six (6) months of age upon any one premises or property, or in any dwelling or living quarters of any type, within the city is unlawful and shall constitute a nuisance per se.

- a. Exceptions. The provisions of this Section shall not apply to the following:
1. Cats owned or harbored by:

- (a) a licensed veterinarian upon veterinary premises;
  - (b) a research facility;
  - (c) a person designated and authorized as an animal rehabilitator by the Kansas Department of Wildlife and Parks;
  - (d) an animal shelter licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering or caring for animals;
  - (e) a pet shop licensed by the Kansas Animal Health Department; or
  - (f) an individual or business entity that possesses a city occupational permit that temporarily harbors animals for grooming purposes.
2. Any person who, prior to January 1, 2007, owned or harbored more than five (5) cats and lawfully registered all such cats. Only those specific cats registered as of January 1, 2007 may be owned or harbored pursuant to this exception. No additional cats made be owned or harbored on the premises or property until such time as the number of cats on the premises or property is equal to or less than five (5) cats older than six (6) months of age, at which time the general provisions of Sec. 4-31 will apply.

**Sec. 4-27. Dogs; Running at Large.**

- a. It shall be unlawful for the owner or harborer of any dog to allow or permit such dog to run at large within the city.
- b. Any dog on property without the permission of the property owner that is not firmly attached to a leash or lead under the physical control of its owner or harborer shall be deemed to be running at large and the owner or harborer of such animal shall be in violation of this Section.
- c. A dog shall not be deemed to be running at large if:
  - 1. The dog is firmly attached to a leash or lead under the physical control of its owner or harborer; or
  - 2. The dog is within a structure or within a fence enclosure with the permission of the owner or keeper of the structure or fence enclosure; or

3. The dog has an operating electronic collar and is under the charge, care or control of its owner or harbinger who is operating an electronic pet containment system or electronic training system for the animal.
- d. The provisions of this Section shall not apply to a person who is using an assistance dog and who, upon request of a community services officer, can provide adequate documentation as set forth in K.S.A. 39-1111 verifying such person's right to be accompanied by an assistance dog.

**Sec. 4-28. Cats; Duty to Control.** It shall be unlawful for any owner or harbinger of a cat to not have such cat under control. Cats which cause injury to persons or damage to property of another or which emit loud noises causing annoyance or discomfort to surrounding neighbors shall be presumed to not be under control.

**Sec. 4-29. Female Animal in Heat; Confinement.** The owner or harbinger of a female animal shall, during the time in which such animal is in heat, keep such animal securely confined within a building, except when out upon such owner's or harbinger's premises briefly, for toilet purposes, while on a leash or otherwise effectively physically restrained, in such a manner that the animal cannot come into contact with a male animal except for planned breeding. For purposes of this Section, "briefly" shall be defined as not to exceed fifteen (15) minutes.

**Sec. 4-30 – Sec. 4-39 Reserved.**

#### **Article IV. Prohibited Conduct.**

**Sec. 4-40. Cruelty to Animals.** Cruelty to animals, as defined in Section 11.11 of the Uniform Public Offense Code, incorporated by Sec. 16-1 of the Merriam Code, is unlawful.

**Sec. 4-41. Procedures Associated with Cruelty to Animals.**

- a. Any public health officer, community services officer, law enforcement officer, licensed veterinarian or officer or agent of any incorporated humane society, animal shelter or other appropriate facility may take into custody any animal upon either private or public property, which clearly shows evidence of cruelty to animals, as defined in K.S.A. 21-4310 and amendments thereto. Such officer, agent or veterinarian may inspect, care for or treat such animal or place such animal in the care of an animal shelter or licensed veterinarian for treatment, boarding or other care or, if an officer of such humane society or such veterinarian determines that the animal appears to be diseased or disabled beyond recovery for any useful purpose, for euthanasia.
- b. The owner or harbinger of an animal placed for adoption or euthanized pursuant to subsection a. of this Section shall not be entitled to recover damages for the placement or euthanasia of such animal unless the owner proves that such placement or euthanasia was unwarranted.

- c. Expenses incurred for the care, treatment or boarding of any animal taken into custody pursuant to this Section pending prosecution of the owner or harborer of such animal for the crime of cruelty to animals as defined in K.S.A. 21-4310 and amendments thereto, shall be assessed to the owner or harborer as a cost of the case if the owner or harborer is adjudicated guilty of such crime.
  
- d. If a person is adjudicated guilty of the crime of cruelty to animals as defined in K.S.A. 21-4310 and amendments thereto, and the court is satisfied that an animal owned or harbored by such person would be in the future subject to such crime, such animal shall not be returned to or remain with such person. Such animal may be turned over

to a duly incorporated humane society, animal shelter or licensed veterinarian for sale or other disposition.

**Sec. 4-42. Unlawful Treatment of Animals.**

- a. It shall be unlawful for any person:
1. by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances;
    - (a) Exception. Normal or accepted practices of pest control, as defined in K.S.A. 2-2438a.
  2. to drive or work any animal cruelly;
  3. to leave any animal confined in a vehicle under weather conditions that endanger its life, health or well-being;
    - (a) Whenever an animal is found confined in a vehicle and under weather conditions that endanger its life or health as set forth herein, the community services officer may, with assistance from the police department, enter such vehicle to rescue such animal, impound it, or seek medical treatment from a licensed veterinarian if necessary. A prominent notice will be left on the vehicle advising why the animal was removed and the location where it was taken.
  4. to transport an animal in the trunk of a vehicle;
  5. to cause, instigate, stage, or train any animal to fight or permit any fight between any animal and another animal or human;
  6. other than a licensed veterinarian, to crop animal ears or dock animal tails;
  7. to tether an animal in violation of the provisions of Sec. 4-43; or
  8. to place a restraint on any animal that permits the animal to be tangled or injured by the restraint.
- b. Exceptions. Nothing in subsection a. of this Section shall:
1. Be deemed to prohibit any action by a licensed veterinarian done in accordance with accepted standards of veterinary medicine;

2. Be deemed to prohibit any action taken by a law enforcement officer pursuant to the interests of public health and safety; or
3. Be interpreted as prohibiting any act done in self-defense or done to defend another person.

**Sec. 4-43. Tethering of Dogs.**

- a. It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.
- b. It shall be unlawful for any person to:
  1. continuously tether a dog for more than one continuous hour, except that tethering of the same animal may resume after a hiatus of three continuous hours, for up to three hours total time on tether per day; provided that, for the purpose of tethering a dog, a chain, leash, rope or tether shall be at least ten (10) feet in length;
  2. use a chain, leash, rope, collaring device, tether, or any assembly or attachments thereto to tether a dog that shall weigh more than one-eighth (1/8) of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area tethered; or
  3. tether a dog in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, posts or other man-made or natural obstacles.

**Sec. 4-44. Nuisance Prohibited.** It shall be unlawful for any owner or harbinger of an animal to permit such animal to be a public nuisance animal, as defined in this Article, at any time within the city. It shall further be unlawful for an owner or harbinger to fail to exercise proper care and control of his animals to prevent them from becoming public nuisance animals. Any animal found acting in any way prohibited by this Article, as determined by a community services officer, shall hereby be declared a public nuisance animal and its owner or harbinger shall be subject to citation.

**Sec. 4-45. Public Nuisance Animal Defined** The term "public nuisance animal" shall mean and include, but is not limited to, any animal that:

- a. unreasonably annoys humans, endangers the life or health of other domestic animals or persons or substantially interferes with the rights of persons, other than its owners, to the enjoyment of life or property;
- b. is repeatedly found at large;

- c. defecates upon any public property or the property of anyone other than its owner or harborer, unless the owner or harborer takes immediate remedial action in compliance with Sec. 4-22;
- d. damages public property or the property of anyone other than its owner;
- e. molests or intimidates pedestrians or passersby;
- f. chases vehicles;
- g. is in heat and not properly confined as required by Sec. 4-29;
- h. causes an offensive odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- i. makes disturbing noises, including but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animal is kept or harbored. "Neighbor" for purpose of this Section is defined as an individual residing in a residence within two hundred feet (200') of the property on which the animal is kept or harbored and who does in writing state that he will so testify if called upon to testify about such matter under oath;
- j. threatens, or causes a condition which endangers, the public health, safety and welfare;
- k. attacks other domestic animals; and/or
- l. is harbored or kept in violation of Sec. 4-28 regarding duty to control cats.

**Sec. 4-46 – Sec. 4-49. Reserved**

**Article V. Quarantine; Impoundment.**

**Sec. 4-50. Animal Bites; Rabies Quarantine**

- a. Upon receipt of notification that an animal bite incident has occurred, or when an animal is suspected of having rabies, the community services officer shall make reasonable effort to contact the owner of the animal involved in the incident or report, if known, and advise the owner to place the animal immediately with a regularly licensed and practicing veterinarian of the owner's choice for a confinement period of a minimum of ten (10) days from the time of the occurrence of the bite. The exact period of confinement may be longer than ten (10) days at the discretion of the veterinarian selected. If the owner fails to comply with the provisions of this Section within twenty-four (24) hours of notification, the owner shall be deemed in violation of this Article and the community services officer shall take such animal

into custody and commit it for the above described confinement period. The owner shall be liable for all costs incurred as a result of confinement.

- b. In the event that an owner of a biting animal cannot be located, the community services officer shall take such animal into custody and impound the animal at an animal shelter or veterinary premises for a period of not less than ten (10) days from the time of the occurrence of the bite. If the owner seeks to claim the animal during the confinement period, the provisions of subsection a. shall govern the confinement of said animal.
- c. No person shall release from confinement any animal subject to the confinement requirements set forth herein or remove such animal from its place of confinement to another place without the consent of the community services officer.
- d. As an alternative to subsection a., the community services officer may authorize the confinement of the animal on the owner's premises if at the time of the bite the animal was not running at large as defined by Sec. 4-1 and Sec. 4-27 and if the owner produces a rabies vaccination certificate showing that the animal has been vaccinated with a vaccine currently in effect. The expiration date of the rabies vaccination shall be recorded on the vaccination certificate along with positive identification of the animal for which such certificate is issued. The owner of the animal must sign a written agreement to keep the animal confined as directed by the community services officer and further agree to allow the animal to be examined periodically to determine its physical condition during the confinement period. The animal must be confined as directed by the community services officer.
- e. In the event that an animal involved in a bite incident becomes ill, dies or is euthanized within the confinement period, the bite victim or victim's representative shall be notified and the City shall direct further management of the animal or animal remains.
- f. If, at the end of the confinement period, the animal involved in the bite incident is alive and healthy, the bite victim or victim's representative shall be notified and the animal shall be released to the owner upon payment of costs, or in the event the owner refuses to pay for said costs within three (3) business days of said notice, or in the event that no one claims ownership of the animal, the animal shall become the property of the City-designated animal shelter.

**Sec. 4-51. Impounding, Redemption and Disposition of Animals.**

- a. The community services officer is authorized to take up and impound:
  - 1. any animal running at large in violation of the terms of this Chapter;
  - 2. any animal that has bitten a person or another domestic animal; or
  - 3. any animal suspected of having a disease transmittable to human beings.

Those animals specified herein may be taken up or impounded even though no citizen makes a complaint and even though the community services officer issues no notice to appear. The community services officer, upon picking up or receiving any animal for impoundment, shall make a complete record entering the breed, color, description and gender of such animal, and the number of the license tag if the animal is licensed.

It is further provided that if any animal taken up pursuant to this Article is unacceptable by the City-designated animal shelter due to serious injury or due to such animal being infected with a communicable disease, the City may dispose of such animal.

b. Impoundment shall be subject to the following:

1. Notice. The community services officer shall notify the owner of an animal, identifiable by a tag or other approved method, which is impounded under this Chapter, by telephone or personal service. If the animal is not identifiable by a tag or other approved method, no notice is required.
2. Impoundment Period. An impounded animal shall be confined in the approved shelter for a period of five (5) days from the date such animal is impounded. If the owner does not reclaim his or her animal during the five (5) day period, or if the community services officer is unable to locate and notify the owner after making a good faith effort to do so within the five (5) day period, then the animal shall become the property of City-designated animal shelter.

Notwithstanding the above, if an animal is impounded pursuant to a report that any person or other animal has been bitten by that animal, it shall be held as set forth in Sec. 4-50.

3. Fees and Costs to Claim Impounded Animal. An animal may be claimed by its owner upon the payment of the following fees and costs prior to the animal's release:
    - (a) Boarding costs and administrative processing fees. All boarding costs and administrative processing fees shall be paid by the owner to the City-designated animal shelter and shall be in such amounts as the City is currently paying under contract to said shelter.
  4. Identification of owner. An owner reclaiming an impounded animal shall provide, prior to release of the animal, full and complete identification sufficient to facilitate the issuance of a notice to appear.
- c. Failure to claim. All animals not claimed within the period provided in this Section may be adopted or humanely euthanized.

- d. Veterinary Certification. All animals impounded for reasons of suspected disease may be reclaimed by their owners upon evaluation and treatment by a licensed veterinarian who shall certify, in writing, the disease-free release of such animal.

**Sec. 4-52 – Sec. 4-59. Reserved.**

**Article VI. Dangerous or Vicious Dog.**

**Sec. 4-60. Determination of Dangerous or Vicious Dog.**

- a. Power to Convene Hearing. In the event that a community services officer or law enforcement officer receives a complaint or otherwise has probable cause to believe that a dog is dangerous or vicious, or in the event that a dog moves into the City that was previously determined, declared or adjudicated to be dangerous or vicious by any other jurisdiction and which jurisdiction uses substantially the same standards as the City for determination of a dangerous or vicious dog, the municipal judge shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared dangerous or vicious, and thereby subject to the provisions of this Article.
- b. Notice. The municipal court clerk shall cause notice of such hearing, including the date, time and place of such hearing, to be mailed by certified mail to the owner or harbinger of the dog which is the subject of the hearing at his or her last known place of residence. Such notice shall indicate that the owner or harbinger of said dog shall have the opportunity at the hearing to present evidence why the dog should not be declared dangerous or vicious. The hearing shall be held promptly within not less than five (5) nor more than fourteen (14) days after mailing notice to the owner or harbinger of the dog. Failure to receive actual notice shall not prevent the municipal judge from proceeding with a hearing authorized herein nor shall such failure invalidate any determination, rulings, orders or decisions of the municipal judge.
- c. Hearing. The municipal judge may receive comments and information from city staff, the owner or harbinger of the dog which is the subject of the hearing, or any other person deemed appropriate by the Judge. Failure of the owner or harbinger to attend or participate in the hearing shall not prevent the Judge from making the appropriate determination concerning the dog.
- d. Determination by Judge. The Judge, within ten business (10) days of the hearing, shall give written notice of his or her determination to the owner or harbinger of the dog, the community services officer and the city attorney. If a determination is made that the dog is dangerous or vicious, the owner or harbinger shall comply with the provisions of this Chapter as directed by the municipal judge in accordance with a time table established by the municipal judge, but in no case more than fifteen (15) days subsequent to the date of the determination.

- e. Appeal. Any person dissatisfied with any order or determination of the Judge made pursuant to this Section may appeal such order or determination within ten (10) days to the district court pursuant to law. All written orders issued by the municipal judge as conditions upon which the owner was allowed to regain or retain physical custody of the animal shall remain in effect during the pendency of the appeal to district court.
  
- f. Location of, and Restrictions on, Dog Pending Hearing and Appeal. If the community services officer or law enforcement officer has probable cause to believe that the dog in question is dangerous or vicious and that it may pose a threat of serious harm to human beings or other domestic animals, the community services officer may seize and impound the dog pending the aforesaid determination by the municipal judge and/or the findings of any appeals taken. Upon the court's determination that the impounded dog is dangerous or vicious, the owner or harbinger of the dog shall be liable to the City for the costs and expenses of keeping such dog.
  
- g. Factors. In making a determination whether a dog is dangerous, the municipal judge may consider, but is not limited to the consideration of, any one or all of the following factors:
  - 1. The seriousness and nature of any attack, bite or physical injury of a human being or domestic animal;
  - 2. Whether the dog has any history of attacking or biting a human being or domestic animal;
  - 3. Whether the dog has chased or approached a person upon any public or private property in an apparent attitude of attack;
  - 4. Whether the dog behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to a human being or domestic animal;
  - 5. Whether the dog has a known propensity, tendency or disposition to attack or bite unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals;
  - 6. Whether the dog has been previously determined, declared or adjudicated to be dangerous or vicious by the City or by any other jurisdiction of which the City has notice or of which the owner has knowledge, and which jurisdiction uses substantially the same standards as the City for determination of a dangerous or vicious animal;
  - 7. The likelihood of attacks or bites in the future;

8. The conditions and circumstances existing at the time of the approach, attack or bite, including, but not limited to:
  - (a) whether the dog was provoked;
  - (b) whether the victim was committing a willful trespass or other tort or was committing or attempting to commit a crime upon premises occupied by the owner of the dog; or
  - (c) whether the dog was protecting or defending a human being or another animal within the immediate vicinity of the dog from an unjustified attack or assault.
9. The conditions under which the dog is kept, enclosed or confined; and
10. The status of the dog's license and vaccination, as required by applicable state, county or city law, resolution or ordinance.

**Sec. 4-61. Dangerous Dog; Requirements for Continued Ownership in City.** If the municipal judge determines that a dog is dangerous, in order to continue to own or harbor such dog within the city limits of the City, the owner or harbinger of such dog shall comply with the following requirements and shall provide proof of compliance with such on an annual basis pursuant to the dangerous dog registration procedure set forth in Sec. 4-73 and upon reasonable request by the municipal judge, community services officer or other City representative:

- a. **Confinement; Muzzle.** All dangerous dogs shall be confined in an enclosure when outside of the dwelling. It shall be unlawful for any owner or harbinger to maintain a dangerous dog upon any premises that does not have a locked enclosure. It shall be unlawful for any owner or harbinger to allow a dangerous dog to be outside of the dwelling of the owner or harbinger or outside of the enclosure unless in a fenced yard under the direct supervision of a responsible adult capable of controlling the dog, or unless it is necessary for the owner or harbinger to obtain veterinary care or professional behavior modification training for the dangerous dog, or to sell or give away the dangerous dog, or to comply with commands or directions of a community services officer with respect to the dangerous dog. If it is necessary for the owner or harbinger to obtain veterinary care or professional behavior modification training for the dangerous dog, to sell or give away the dangerous dog, or to comply with commands or directions of the community services officer, the dangerous dog shall be securely muzzled on a leash or crated and securely muzzled. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.
- b. **Confinement Indoors.** No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or

- when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
- c. Signs. The owner or harbinger of a dangerous dog shall display in a prominent place on his or her premises a clearly visible warning sign of a description and in places directed by the Judge, advising the public that there is a dangerous dog on the premises.
  - d. Microchip or Tattoo Identification. The owner or harbinger of a dangerous dog must permanently identify the dog by tattooing or by implanting a microchip in the dog, using standard veterinary procedures and practices. The name of the microchip manufacturer and identification number of the microchip must be provided to the community services officer.
  - e. Dangerous Dog Registration Fee. The owner or harbinger of a dangerous dog shall pay a dangerous dog registration fee and register as set forth in Sec. 4-73.
  - f. Mandatory Spay and Neuter. All dangerous dogs shall be required to be spayed or neutered.
  - g. Training. The owner or harbinger of a dangerous dog shall enroll such dog in a behavior modification program administered by a licensed animal behaviorist approved by the City prior to the compliance hearing set forth in this Section. Verification of successful completion of said program must be provided to the community services officer upon completion thereof.
  - h. Insurance. The owner or harbinger of a dangerous dog is required to present to the municipal court proof that the owner or harbinger has procured liability insurance in the amount of at least Three Hundred Thousand Dollars (\$300,000), covering any damage or injury which may be caused by such dangerous dog during the twelve (12) month period contemporaneous with the dangerous dog registration period. The policy shall contain a provision requiring the City to be named as additional insured for the sole purpose of notification to the City by the insurance company of any cancellation, termination or expiration of the liability insurance policy. The owner or harbinger shall maintain and not voluntarily cancel the liability insurance required by the court during each annual dangerous dog registration period, unless the owner or harbinger shall cease to own or harbor the dangerous dog prior to expiration of such registration period.
  - i. Notification of Change in Ownership, Animal Status, Subsequent Attacks. The owner or harbinger of a dog deemed to be dangerous shall provide prompt notification to the city clerk of any changes in ownership of the dangerous dog including name, address and telephone numbers of the new owner; any change in the health status of the dog; any further instances of attack; any claims made or lawsuits brought as a result of any instances of attack; and/or death of the dog.
  - j. Notification of Escape. The owner or harbinger of a dog deemed to be dangerous shall

notify the City Police Department immediately if such dog escapes from its enclosure or restraint and is at large.

- k. Other requirements as Determined by the Municipal Judge. The owner or harborer of a dog deemed to be dangerous shall comply with all other requirements determined by the municipal judge to be necessary to protect the public health and safety.
- l. Compliance Hearing. In the event that a dog has been determined to be dangerous, the municipal judge shall set a compliance hearing within thirty (30) days of said determination. The owner or harborer of said dog shall provide verification of full compliance with this Section and orders of the municipal judge at said hearing. In the event the court finds the owner or harborer is not in full compliance, the dangerous dog shall be impounded by the community services officer for a period not to exceed thirty (30) days as determined by the municipal judge to allow the owner or harborer an opportunity to comply with this Section and orders of the municipal judge. The owner or harborer shall pay all costs of said confinement and such costs shall be assessed as court costs. If full compliance is not verified to the court within that thirty (30) day period, the dangerous dog shall be euthanized or the owner or harborer of the dog shall remove the dog from the City limits and shall provide the municipal court with the exact location and address where the animal has been moved.
- m. Exception to Section Requirements. In the event that the municipal judge makes a determination, based on information submitted at the dangerous dog hearing, that one or more of the requirements set forth in this Section should not apply or should be modified with regard to a specific dangerous dog, the municipal judge shall make a written order specifying such inapplicability or modification and the basis for such determination.

#### **Sec. 4-62. Post-hearing Matters.**

- a. Dangerous Dog Designation Review. Beginning one (1) year after a dog is declared a dangerous dog, its owner or harborer may request annually that the municipal judge review the designation. The owner or harborer must provide evidence that the dog is no longer dangerous due to the dog's age, spaying or neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the community services officer finds sufficient evidence that the dog's behavior has changed, he shall submit evidence of such to the municipal judge who shall hold a hearing to determine whether to rescind the dangerous dog designation or whether to modify any of the requirements associated with such designation.
- b. Failure to Comply.
  - 1. Power to Order Impoundment, Euthanasia, Removal. If the municipal judge receives information or otherwise determines that its orders or the provisions of this Article are not being complied with during the remaining lifetime of the dog

determined to be dangerous, the municipal judge shall have the authority, after a hearing, to cause the dangerous dog to be impounded, euthanized or removed from the city.

2. Municipal Code Violations. It shall be a violation of this Chapter for any owner of any dog that has been determined to be a dangerous dog after a hearing by the municipal judge to fail to comply with any and all written orders issued as conditions upon which the owner was allowed to regain or retain physical custody of the animal.

**Sec. 4-63. Disposition of Vicious Dog.** If the municipal judge determines that a dog is vicious, the dog shall be euthanized or the owner or harbinger of such dog shall remove the dog from the City limits and shall provide the City with the exact location and address of where the animal has been moved. The dog shall not be returned to the city limits after removal. It shall be unlawful for the owner or harbinger of a vicious dog to maintain such animal in violation of the court's order.

**Sec. 4-64 – Sec. 4-69. Reserved.**

#### **Article VII. Registration and Licensing; Special Permits.**

##### **Sec. 4-70. Dogs and Cats; Licensing Required.**

- a. License Required. It is unlawful for any person to own or harbor any dog or cat over six (6) months of age unless such dog or cat is licensed as set forth herein.
- b. Application. Application for such license shall be made with the city clerk's office by the owner or harbinger within thirty (30) days after acquiring any dog or cat over six (6) months of age or within thirty (30) days after a dog or cat becomes six (6) months of age; provided that any owner or harbinger moving to the City for the purpose of establishing residence shall have thirty (30) days from the date they become residents to obtain such license before they will be considered to be in violation of this Section.
- c. Exceptions. Licensing requirements set forth herein shall not apply to the following:
  1. Any nonresident owner or harbinger of a dog or cat while such nonresident is passing through the City, provided such dog or cat shall remain on a leash or otherwise effectively restrained as in a closed vehicle;
  2. The temporary owning or harboring of a dog or cat over six (6) months of age by:
    - (a) a licensed veterinarian upon veterinary premises;
    - (b) a research facility;

- (c) a person designated and authorized as an animal rehabilitator by the Kansas Department of Wildlife and Parks;
  - (d) an animal shelter licensed by the Kansas Animal Health Department for the purpose of impounding, sheltering or caring for animals;
  - (e) a pet shop licensed by the Kansas Animal Health Department; or
  - (f) an individual or business entity that possesses a city occupational permit for grooming purposes.
- d. **Proof of Rabies Vaccination Required.** No license shall be issued to the owner or harborer of a dog or cat until such time as the owner or harborer thereof presents a current certificate of rabies vaccination showing proof that the dog or cat has been vaccinated for rabies, indicating the expiration date thereof.
- 1. **Deferment.** If a licensed veterinarian indicates that the rabies vaccination may endanger an animal's health due to age, infirmity, debility, or other physiological consideration, the vaccination requirement shall be temporarily waived on the provision that the animal be confined at all times to the house, or a fenced yard that adequately prevents escape. The deferment shall be valid only during the period that is indicated by the certificate of a licensed veterinarian.
  - 2. **Multi-Year Vaccine.** Nothing herein shall preclude the use of multi-year rabies vaccines in accordance with accepted veterinary practices.
- e. **Proof of Sterilization.** Any owner or harborer claiming that his or her dog or cat has been spayed or neutered must show to the satisfaction of the city clerk written proof that such operation has been performed.
- f. **Payment of License Fee.** A license fee shall be paid at the time of making application. The license fee shall be in an amount as set forth in the City schedule of fees and no license shall be issued until such fee has been paid to the city clerk. If, at the time of registration, the current rabies vaccination is valid for six months or less, the owner shall pay one half the annual fee.
- 1. **Prepayment of License Fees.** Any person wishing to pay for more than one licensing period may do so upon proof of a multi-year rabies vaccination certificate. In no event shall any such prepayment extend the term of the license beyond the term of the rabies vaccination.
  - 2. **No Refunds of License Fees.** No refunds shall be made for license fees paid for any dog or cat that dies during the licensing period or that does not live in the city

for the entire licensing period. This provision shall apply regardless of whether fees are paid on an annual basis or prepaid as set forth above.

- g. Waiver of License Fee. Any person owning or harboring an assistance dog or police dog shall register said animal with the City, however, all licensing fees shall be waived upon sufficient proof that the dog qualifies as an assistance dog or police dog.

**Sec. 4-71. Dogs and Cats; Licensing Period.** Any license issued for the owning or harboring of a dog or cat shall take effect on the date of issuance and shall be valid for a period of one (1) year, unless the current rabies vaccination expires prior to the one-year anniversary of the license tag issuance in which case the license shall expire on the expiration date of such rabies vaccination.

**Sec. 4-72. Dogs and Cats; License Tag Issuance; Nontransferability.** Upon completion of the application form, submittal of proof of rabies vaccination and the payment of the required license fee, the city clerk shall issue to the owner or harborer a license receipt and a numbered license tag for each dog or cat so licensed. Every owner or harborer shall be required to provide each dog or cat with a collar or harness to which the tag must be affixed and shall ensure that the collar or harness is constantly worn.

- a. Lost or Destroyed License Tag. In the event that a license tag is lost or destroyed, a duplicate shall be issued by the city clerk upon presentation of a receipt showing payment of the fee for the current registration period and the further payment for such duplicate tag pursuant to the schedule of fees.
- b. Nontransferability. No person may use a license for any animal other than the animal for which the license was issued. It shall also be unlawful for any person to remove from the neck of any dog or cat the license tag issued pursuant to this Section or to alter such tag in any manner.

**Sec. 4-73. Dangerous Dog Registration.** The owner or harboring of a dog deemed to be a dangerous dog by the municipal judge pursuant to Sec. 4-60 shall submit to the city clerk a completed dangerous dog registration form and dangerous dog registration fee as set forth in the schedule of fees within fifteen (15) days of the Judge's initial determination and annually on the anniversary of such determination. The owner or harboring shall provide proof of compliance with Sec. 4-61 and any orders of the municipal judge.

**Sec. 4-74. Special Dog Permit Application; Application and Registration Fees.** Any person desiring to own or harbor three (3) dogs older than six (6) months of age upon any one premises or property, or in any dwelling or living quarters of any type, within the city, shall submit to the city clerk an application for a special dog permit that shall, upon issuance, permit the applicant to own or harbor the animals specifically allowed in such permit. The application must be completed in its entirety and shall be accompanied by an application fee and registration fee set forth in the schedule of fees. The application fee and registration fee shall be nonrefundable and nontransferable unless the requested special dog permit is denied in which case the registration fee shall be refunded to the

applicant within 30 days of denial. The application fee shall be retained by the City to cover a portion of its costs related to the processing and consideration of such application.

An applicant must adequately show that special circumstances exist which justify the keeping of the subject dogs, and that the keeping of the additional dog will not create a nuisance in the surrounding neighborhood, that humane care will be provided and that the premises where the dogs are owned or harbored is suitable for the keeping of multiple animals.

**Sec. 4-75. Special Dog Permit Application Procedure.**

- a. Within five (5) business days of receiving a completed application and the applicable fees, the city clerk shall a) provide to the applicant a form notice letter and a list of names and addresses of those property owners within two hundred feet (200') of the property line of the property on which the dogs are proposed to be owned or harbored; and b) forward the application to the community services officers for an investigation and report of whether the applicant, in the opinion of the community services officers, meets the requirements for obtaining a special dog permit, including a determination of whether the applicant is, or has been in the immediately preceding twelve (12) month period, in violation of this Chapter.
  1. The form notice letter sent to property owners shall include a date by which comments regarding the application must be submitted to the city clerk for consideration ("feedback deadline"). The feedback deadline shall be twenty (20) days from the date the city clerk receives the special dog permit application.
- b. The applicant shall, within five (5) days of receiving the property owner list referenced in this Section:
  1. mail a copy of the form letter provided by the city clerk to each property owner on said list; and
  2. submit proof of such mailing to the city clerk.
- c. The community services officers shall submit to the chief of police prior to the feedback deadline a written report of their investigation stating the factual basis for their recommendation to grant or deny an application. The community services officers shall consider the comments of neighbors, past violations by applicant, past complaints concerning the applicant or his or her dogs, the size, condition and location of the area where the dogs will be kept, the size of the dogs to be kept, or any other factors relative to the issue of keeping an additional dog.
- d. Upon the expiration of the feedback deadline, the city clerk shall forward to the chief of police the Special Dog Permit application, any neighborhood feedback received by the city clerk and any other relevant information received by the city clerk.

- e. Upon receipt of the application from the city clerk, the chief of police or his designee shall review the application, information, documents and reports received from the community services officers and/or the city clerk, or any other information the chief of police or his designee deems helpful in making a determination on the application. The criteria to be evaluated when making such a review is set forth in Sec. 4-76 below. The standard of review for determining whether an applicant has met the required standards shall be by clear and convincing evidence.

**Sec. 4-76. Special Dog Permit; Criteria for Consideration.** The criteria to be evaluated by the chief of police or his designee when making a determination of whether to grant a special dog permit shall include, but not be limited to, the following:

- a. Whether the dogs will be kept or maintained at all times in a safe and sanitary manner;
- b. Whether the quarters in which such dogs are kept or confined will be adequately lighted and ventilated and are constructed such that they can be maintained in a clean and sanitary condition;
- c. Whether the health and well-being of the dogs will in any way be endangered by the manner of keeping or confinement;
- d. Whether the keeping of such dogs will harm or disturb the peace and quiet of the surrounding neighborhood;
- e. Whether the keeping of such animals will cause an offensive odor and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored;
- f. Whether the animals will unreasonably annoy humans, endanger the life, health or safety of other domestic animals or persons or substantially interfere with the rights of persons other than the animals' owners, to the enjoyment of life or property;
- g. Whether the animals will repeatedly run or be found at large; will damage or deposit excretory matter upon the property of anyone other than their owner; or will chase vehicles or molest or intimidate pedestrians or passersby;
- h. Whether the dogs will make disturbing noises, including but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the dogs are kept or harbored, or otherwise be offensive or dangerous to the public health, safety or welfare, by virtue of their behavior, number, type or manner of keeping;
- i. Whether the applicant, or any person who will share in the care, custody and control of the dogs, is currently in violation of, or has previously violated any applicable City, state or federal laws, codes, rules or regulations including, but not limited to, those pertaining to the care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit; and
- j. Whether the dogs have been owned or harbored in the city in violation of the maximum number of dogs allowed, and if so, the length of time so owned or harbored.

**Sec. 4-77. Special Dog Permit; Approval or Denial of Permit.** The chief of police shall give written notice of his determination to the applicant and any neighbor who submitted comments on the application, with copies to the community services officers, city attorney and city clerk, not later than ten (10) days after the feedback deadline.

**Sec. 4-78. Special Dog Permit; Revocation of Permit.** The chief of police may revoke a special dog permit upon a showing that the dog's place of keeping constitutes a nuisance to the surrounding neighbors, that humane standards of care are not being met by the permittee, or that the permittee provided false information in his or her application.

**Sec. 4-79. Special Dog Permit; Right of Appeal to Municipal Court; Procedure; Fees.** Any person who is denied a special dog permit or who has his or her special dog permit revoked, may, within ten (10) business days thereafter, file a written notice of appeal from said decision, ruling, action or finding to the municipal court for an administrative hearing thereon.

An administrative fee in an amount set forth in the schedule of fees shall be paid to the municipal court clerk and is required for each appeal to the municipal court. No appeal shall be set for hearing until such fee has been paid.

The filing of an appeal under this Section shall not stay any action taken pursuant to this Chapter.

**Sec. 4-80. Special Dog Permit; Appeals; Administrative Hearing; Subpoena Power**

- a. Administrative Hearing. The hearing on the appeal provided for in Sec. 4-79 shall be conducted by the municipal judge who will sit as an administrative judge for purposes of this Section. The sole issue for determination shall be whether decisions, findings or actions of the chief of police or community services officers were within the scope of their authority, supported by substantial evidence, and not arbitrary nor capricious in nature. The municipal judge shall make specific findings of fact and conclusions of law.
- b. Subpoena power. Pursuant to his role as administrative judge, the municipal judge is empowered to hold hearings, subpoena witnesses, take the testimony of any person under oath and in connection therewith, to require the production of any evidence relating to any matter being heard.

**Sec. 4-81. Special Dog Permit; Duration of Exception; Non-transferability.** In the event that an applicant is granted permission to own or harbor three (3) dogs older than six (6) months of age upon any one premises or property, or in any dwelling or living quarters of any type, within the city, such permission shall extend until such time as one or more of the three (3) dogs is no longer owned or harbored at such location. Permission to own or harbor three (3) dogs shall not be transferable to a different owner or different address and permission is limited to the three (3) specific dogs identified in the application. Should the owner or harbinger again desire to own or harbor three (3) dogs older than six (6) months of age at such

location, it will be necessary for such owner or harborer to comply with the application procedures set forth herein. The fact that an individual has previously been issued a special dog permit may be considered but shall not be controlling in the decision to issue a special dog permit for a different animal.

**Sec. 4-82. False or Incomplete Information.** Providing false or incomplete information on any application for license, permit or registration required or provided for in this Chapter shall be unlawful and may result in the denial of the applied for license, permit or registration.

**Sec. 4-83 – 4-89. Reserved.**

### **Article VIII. Enforcement and Penalties.**

**Sec. 4-90. Nuisance; Injunction.** Any violation of this Chapter is hereby declared to be a nuisance. In addition to any other relief provided by this Chapter, the city attorney, or his or her designee, may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

**Sec. 4-91. Collection of fees.** The City may recover all costs incurred in caring for any animal impounded, or held pursuant to or associated with the provisions of this Chapter, including, but not limited to, the cost for necessary veterinarian care, euthanasia of any animal, surrender of any animal to the animal shelter, and impoundment administration. Said fees shall be in addition to any fine imposed for violation of the provisions of this Chapter. Fees shall be as set forth in the schedule of fees.

**Sec. 4-92. Penalties.** Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), or by imprisonment in jail for not more than six (6) months, or by both such fine and imprisonment. In addition thereto, the court may require the permanent removal of the animal from the city limits. Each incident which is in violation of the provisions of this Chapter shall be considered as a separate offense and be subject to penalty as provided in this Chapter.

(Ord. No. 1556, 12-18-06)