

## **CHAPTER 90: ANIMALS**

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**§ 90.01 PURPOSE AND INTENT.** The purpose and intent of this Ordinance is to protect and promote the health, safety, and general welfare of the people of the City of Benson and adjacent communities as well as the health and general welfare of all animals owned, possessed or harbored within the City. This Ordinance regulates the number and type of animals, which may be kept, and the manner in which they shall be kept.

**§ 90.02 INTERPRETATION.** In the interpretation and application of this Ordinance, its provisions shall be held to be minimum requirements and shall not be construed so as to fully effect its purpose and shall not be deemed a limitation or repeal of any other authority established by law or Ordinance except as specifically provided herein. In the event that conflicting requirements are imposed by this Ordinance, by other Ordinances of the City of Benson, or Minnesota state law, the more restrictive provisions shall apply.

**§ 90.03 DEFINITIONS.**

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

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

(1) **DOMESTIC ANIMALS.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

(2) **FARM ANIMALS.** Those animals of a species commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

(3) **NON-DOMESTIC ANIMALS.** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

(a) Any number of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.

(g) Any other animal or species prohibited by state or federal law.

**ANIMAL CONTROL OFFICER.** Animal Control Officer means officers, employees, or individuals contracted with the City of Benson under to supervision of the Benson Chief of Police who is responsible for Animal Control operations in the City of Benson.

**AT LARGE.** The condition of an animal when it is off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

**CAT.** Both the male and female of the felidae species commonly accepted as domesticated household pets.

**DISEASED ANIMAL.** Any animal which has or is suspected of having rabies, distemper, panleucopenia, glanders, farcy, tuberculosis or any other disease dangerous or communicable to humans or animals.

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

**OWNER.** Any person or persons, firm, association or corporation, organization or department possessing, harboring, keeping, having any interest in, or having care, custody, or control of an animal.

#### **§ 90.04 DOGS AND CATS.**

(A) *Running at Large Prohibited.* It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, or the parents or the guardians of any such person under 18 years of age, to run at large. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be

effectively restrained by command as by leash, shall be permitted in streets or public land unless the City has posted an area with signs reading “Dogs or Cats Prohibited” or similar statement.

(B) *License Required.*

(1) All dogs over the age of six months kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City.

(2) Dog licenses shall be issued by the Police Department or other designated authority upon payment of the license fee. The owner shall state, at the time application is made for the license and upon forms provided for such purpose, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her.

(3) No license shall be granted for a dog which has not been vaccinated against rabies, as provided in this Section. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog is vaccinated. A veterinarian who vaccinates a dog to be licensed in the City shall complete a certificate of vaccination. One copy shall be issued to the dog owner for affixing to the license application.

(4) It shall be the duty of each owner of a dog subject to this Section to pay to the Police Department, or other designated authority by the Police Department, the license fee as imposed by the City Council by resolution.

(5) Upon payment of the license fee, the Police Department, or other designated authority, shall issue to the owner a metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and a corresponding license number. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the Police Department. A reasonable charge may be required to be paid for each duplicate tag. Dog tags shall not be transferable from one dog to another and no refunds may be made on any dog license fee or tag because of one death of a dog or the owner’s leaving the City before the expiration of the license period.

(6) The licensing provisions of this Subdivision shall not apply to dogs whose owners are non-residents temporarily within the City, nor dogs brought into the City for the purpose of participating in any dog show.

(7) The funds received by the Police Department from all dog licenses and metallic tags fees shall first be used to defray any costs incidental to the enforcement of this Section; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

(8) *Additional Identification Suggested.* Further identification methods are suggested by the City to be used to further identify each dog:

(a) Commercially available tags not less than 1” square or diameter which identify the owner by name and/or address and/or telephone number; or

(b) Permanent brands or tattoos placed on the animal in accordance with accepted practices and which carry appropriate owner or harborer registration information; or,

(c) Such electronic identification methods including implants, provided a tag or identification device identifies electronic registration.

(C) *Waiver.* The provisions of this subchapter (B) shall not apply to the ownership or use of assistance dogs for people who are blind, deaf, or physically disabled, or dogs used in the police activities of the city, such as canine corps or tracking dogs used by or with the permission of the Police Department.

(D) *Vaccination.*

(1) All dogs and cats kept harbored, maintained or transported within the City shall be vaccinated at least once every three years by a licensed veterinarian for rabies with a live modified vaccine.

(2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner’s name and address, the animal’s name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian’s signature. Upon demand made by the Police Department or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven (7) days in which to present the certificate(s) to the Police Department or police officer. Failure to do so shall be deemed a violation of this Section.

#### **§ 90.05 NON-DOMESTIC ANIMALS.**

No person shall keep, maintain, or harbor with the City the following animals:

Any non-domestic animals. At the time of the adoption of this Ordinance if a non-domestic animal does not impose an immediate risk to the health, safety, and welfare of the animal or community, the owner of said non-domestic animal shall have thirty (30) days in which to remove the animal from the City after which time the City may impound the animal as provided for in Section 90.07. Any non-domestic animal that poses an immediate risk to the health and safety of the animal or community may be immediately seized and impounded by the City as provided in Section 90.07. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

## **§ 90.06 FARM ANIMALS.**

(A) *Agricultural District.* Farm animals shall only be kept in an agricultural district of the City; no animal shelter shall be within three hundred (300) feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

(B) *Harboring Farm Animals in Non-Agricultural District.* It shall be unlawful to harbor, feed or keep farm animals in any district other than agricultural or industrial for anything exceeding 30 minutes. Existing uses of land involving the keeping of horses, cattle or poultry which are otherwise not permissible under this chapter shall be considered lawful nonconforming uses of land, provided said uses do not constitute nuisances under this Code.

(C) *Livestock Transport.* It shall be unlawful for any person to transport animal unless they are:

- (1) Confined within a vehicle, cage or other means of conveyance;
- (2) Farm animal being transported in the agricultural district of the city; or
- (3) Restrained by means of bridles, halters, rope or other means of individual restraint.

## **§ 90.07 IMPOUNDING.**

(A) *Impoundment of dogs.* The Animal Control Authority may impound any dog found in the city without a license tag or any dog or other animal found running at large.

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

(C) *Reclaiming.* All animals conveyed to the pound shall be kept for five (5) regular business days by the city. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

- (1) Payment of release fee;
- (2) Payment of maintenance costs, as provided by the Police Department, per day or any part of day while animal is in said pound; and
- (3) If a dog is unlicensed, payment of a regular license fee and valid certificate of vaccination for rabies shots is required.

(D) *Unclaimed Animals.* If the owner does not reclaim the animal impounded under this section within five (5) regular business days after impounding, the animal may be destroyed and disposed of pursuant to M.S. § 35.71, and as amended. The owner will be responsible for the costs of the confiscation, boarding, destruction, and disposal of the animal.

(E) *Impoundment Records.* Impoundment records shall be maintained for the minimum of six months and shall provide:

- (1) The description of the animal by species, breed, sex, approximate age and other distinguishing traits;
- (2) The location at which the animal is seized;
- (3) The date of seizure.

#### **§ 90.08 RABIES CONTROL; BITES, QUARANTINE, REPORTING.**

(A) *Rabies control.*

(1) Whenever any person owning, possessing or harboring any animal within the city has potentially exposed any human being to rabies shall be promptly reported to the Animal Control Officer and shall thereupon be securely quarantined at the direction of the Animal Control Officer for a period of not less than ten (10) days, and shall not be released from quarantine except by written permission of the city. In the discretion of the Animal Control Officer, the quarantine may be on the premises of the owner or at the veterinary hospital of his or her choice. If the animal is quarantined on the premises of the owner, the city shall have access to the animal at any reasonable time for study and observation of rabies symptoms. In the case of a stray animal or in the case of an animal whose ownership is not known, the quarantine shall be at the animal pound, or at the discretion of the Animal Control Officer the animal may be confined in a veterinary hospital designated by him or her.

(2) The owners, upon demand made by the Animal Control Officer or his/her designee empowered by the City Council to enforce this subchapter, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this subchapter and upon compliance with licensing provisions set forth in this subchapter.

(3) When an animal under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the city shall immediately send the head of the animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of the examination.

(4) The city shall issue proclamation and take action when rabies is suspected or exists as is required by Minnesota Statutes.

(B) *Reports of bite cases.* It is the duty of every physician, or other practitioner, to report to the Police Department the names and addresses of persons treated for bites inflicted by animals, together with other information as will be helpful in rabies control.

(C) *Responsibility of veterinarians.* It is the duty of every licensed veterinarian to report to the Animal Control Officer his or her diagnosis of an animal observed by him or her as a rabies suspect.

#### **§ 90.09 KENNELS.**

(A) *Definition of Kennel.* The keeping of three or more dogs in the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel;” except that a fresh litter of pups may be kept for a period of three months before such keeping shall be deemed to be a “kennel.”

(B) *Kennel as a Nuisance.* Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the City.

#### **§ 90.10 NUISANCES.**

(A) *Habitual Barking.* It shall be unlawful for any person to keep or harbor a dog who habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least three minutes with less than one minute of interruption. Such barking must also be audible off of the owner’s or caretaker’s premises.

(B) *Damage to Property.* It shall be unlawful for any person’s dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage. Any animal covered by this subdivision may be impounded as provided in this Section or a complaint may be issued by anyone aggrieved by an animal under this Section, against the owner of the animal for prosecution under this Section.

(C) *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property. Any person violating this section shall be punishable by a fine set by and amended, from time to time, by the City Council through resolution.



(D) *Chasing.* It shall be unlawful for any owner or harbinger to allow any animal to chase or aggressively approach pedestrians, bicycles, vehicles or other animals on any street, roadway, bridle path, park or parkway within the City.

**§ 90.11 SEIZURE OF ANIMALS.**

(A) Any police officer or Animal Control Officer may enter upon private property and seize any animal provided that the following exist:

(1) There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

(2) The officer reasonably believes that the animal meets either the barking dog criteria set out in 90.10 (A); the criteria for cruelty set out in 90.14; or the criteria for a running at large animal set out in 90.04;

(3) The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

(4) The officer has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;

(5) The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have such key shall not be considered unauthorized entry; and

(6) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

(7) All Animal Control Officers may enter upon private property where it appears that there is reasonable cause to believe that an animal is not being kept, confined, or restrained as herein required or where it appears that a violation of this Ordinance may be present and when accompanied by a warrant to enter property duly issued by a judge of the district court.

(B) *Seizure of animal by person other than Animal Control Officer.* Any person who is not an Animal Control Officer appointed by the City who seizes and confines an animal found running at large shall notify the Benson Police Department within two hours of said seizure and confinement for placement by the Animal Control Officer in the City Pound. If known, the person shall provide the name and address of the owner or custodian of the animal to the Animal Control Officer.

(C) *Impoundment.* The Animal Control Officer may impound, and destroy and dispose of if necessary, the animal pursuant to Section 90.07 and M.S. § 35.71.

## § 90.12 DISEASED, INJURED OR DEAD ANIMALS.

(A) *Diseased animals prohibited.* No person shall own, buy, sell, keep or cause to be kept any diseased animal, unless such animal is under the care or treatment of a licensed veterinarian.

(B) *Quarantine.* The Commissioner of Health and/or City of Benson may order any diseased animal to be immediately quarantined. Upon certification by a licensed veterinarian that such animal is indeed suffering from one of the diseases enumerated in § 90.03, the Commissioner and/or City of Benson may order that such animal be destroyed and disposed of and direct the manner thereof.

(C) *Abandonment, care and destruction of diseased or injured animals.* No person having the care, custody and control of any diseased, sickly, or injured animal shall abandon said animal anywhere in the city but instead shall provide care for said animal unless it is adjudged past recovery in which case said person shall cause said animal to be destroyed and disposed of in such manner as the commissioner of health or his designee shall direct.

(D) *Unclaimed animals.* Any sickly, injured or diseased animal found or abandoned upon any street, alley, lot or public place, which is adjudged by the commissioner of health or by any veterinarian summoned by the Commissioner of Health and/or City of Benson to be past recovery, shall, if unclaimed and uncared for by the owner thereof, be destroyed and disposed of pursuant to state law by order of the Commissioner of Health and/or City of Benson.

(E) *Burial or abandonment of dead animals prohibited.* No person shall deposit or cause to be deposited upon any lot or in any street, alley, lake, river or other body of water, sewer or manhole or bury or conceal in any way, a dead animal or part thereof. The owner or other person having charge of an animal at the time of its death shall remove or cause to be removed the dead body of such animal within twelve (12) hours after death to a crematory, sanitary landfill, rendering factory or any other place designated by the commissioner of health.

(F) *Confinement.* Any animal reasonably suspected of being diseased and presenting a treat to the health and safety of the public, may be apprehended and confined in the pound by any person or police officer. The police officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this Section shall be liable for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

(G) *Release.* If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free of charge.

**§ 90.13 REGULATION OF DANGEROUS DOGS.**

(A) *Incorporation of Statutes.* The provisions of Minnesota Statutes Chapter 347, inclusive, and as amended, are hereby adopted as the potentially dangerous and dangerous dog regulations for the City. Where a conflict exists between the provisions of the City Ordinances, and the provisions of Minnesota Statutes Chapter 347, the more restrictive provision shall apply.

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

(C) *Definitions.*

(1) **A DANGEROUS DOG** is a dog that has:

(a) without provocation, inflicted substantial bodily harm on a human being on public or private property;

(b) killed a domestic animal without provocation while off the owner's property; or

(c) been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) **A POTENTIALLY DANGEROUS DOG** is an dog that:

(a) when unprovoked, inflicts bites on a human or domestic animal on public or private property;

(b) when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

(c) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(3) **PROPER ENCLOSURE.** Securely confined indoors or in a securely locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A **PROPER ENCLOSURE** does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. The enclosure shall not allow the egress of the

dog in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) Have a minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of eleven gauge or heavier wire. Openings in the wire shall not exceed two inches and support posts shall be one and one-quarter inch or larger steel pipe. The posts must be buried a minimum of eighteen inches into the ground or the kennel must have a concrete floor.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the dog is in the pen or kennel.

(4) **PROVOKED.** Provoked means an act that an adult could reasonably expect may cause a dog to attack or bite.

(5) **UNPROVOKED.** Unprovoked shall mean the condition in which the dog is not purposely excited, stimulated, agitated or disturbed.

(D) *Designation.* The Animal Control Officer shall designate any dog as a **DANGEROUS DOG OR POTENTIALLY DANGEROUS DOG** upon receiving such evidence of any of the factors set forth in the definitions of **DANGEROUS DOG** and/or **POTENTIALLY DANGEROUS DOG** above.

(E) *Procedure after Declaration.* The owner of any dog declared dangerous or potentially dangerous has the right a hearing by an impartial officer.

(1) *Hearing.* The owner of any dog declared dangerous or potentially dangerous may request a hearing. Any hearing shall be held within fourteen (14) days of the request to determine the validity of the dangerous dog or potentially dangerous dog order. In the event that the dangerous dog or potentially dangerous dog is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 shall be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten (10) days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the Animal Control Authority.

(2) *Security.* A person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual

cost of care and keeping. The security must be posted within seven (7) days of the seizure inclusive of the date of the seizure.

(3) *Notice of Dangerous Dog.* Notice of an order declaring a dog dangerous or potentially dangerous will be given by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The owner shall be notified as to the dates, times, places and parties bitten, and shall be given fourteen (14) days to appeal the order by requesting a hearing before the City Council for review of the order.

(a) *Content of Notice.* The notice of dangerous dog declaration must include:

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

(ii) a statement as to whether the dog's destruction is being sought by the City pursuant to subsection (F) of this section and Minn. Stat. § 347.56;

(iii) a description of the requirements with which the owner must comply under subsection (H) of this section;

(iv) a statement of the criminal penalties for violating requirements pertaining to dangerous dogs;

(v) a statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations for the dog, and that failure to do so within fourteen (14) days of the date of the notice will terminate the owner's right to a hearing under this subsection;

(vi) a statement that if an appeal request is made within fourteen (14) days of the notice, the owners must immediately comply with the requirements of subsections (H) (2) and (12) and until such time as the hearing officer issues an opinion;

(vii) a statement that if the hearing officer affirms the dangerous dog declaration, the owner will have fourteen (14) days from receipt of that decision to comply with subsection (H) and all other requirements of Minnesota Statutes Chapter 347 and as amended;

(viii) a form to request a hearing under this section; and

(ix.) a statement that all actual costs of the care, keeping, and disposition of the seized dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

(b) If no appeal is filed, the orders issued will stand or the Animal Control Officer may order the dog destroyed.

(F) *Destruction of Dog in Certain Circumstances.*

(1) Notwithstanding the other provisions of this Ordinance, a dog may be destroyed in a proper and humane manner by the Animal Control Authority if the dog:

(a) inflicted substantial or great bodily harm on a human on public or private property without provocation;

(b) inflicted multiple bites on a human on public or private property without provocation;

(c) bit multiple human victims on public or private property in the same attack without provocation; or

(d) bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

(2) *Hearing.* The Animal Control Authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker pursuant to the requirements set forth herein.

(G) *Potentially Dangerous Dog Requirements.* Upon designation of dog as a potentially dangerous dog, the Animal Control Authority shall provide written notice of said designation.

(H) *Dangerous Dog Requirements.* If the City Council does not order the destruction of an dog pursuant to the requirements set forth herein, the City Council may, as an alternative, order all of the following:

(1) *Registration.* No person may keep a dangerous dog in the City of Benson unless the dog is registered with the Animal Control Authority as provided in this chapter, which may include also meeting the registration requirements with the Animal Control Authority of Swift County. The Animal Control Authority shall issue a certificate of registration to the owner of the dangerous dog upon meeting all the requirements set forth herein:

(2) *Secure Enclosure.* Provide and maintain a proper enclosure for the dangerous dog as specified in section 90.13 (C) (3);

(3) *Muzzling.* If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

(4) *Warning Symbol.* Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children that there is a dangerous dog on the property as specified in M.S. § 347.51;

(5) *Bond/Insurance.* Obtain a surety bond issued by a surety company authorized to conduct business in the State of Minnesota in a form acceptable to the Animal Control Authority in the sum of at least \$300,000.00, payable to any person injured by the dangerous dog, or obtain a policy of liability insurance issued by an insurance company authorized to conduct business in the State of Minnesota in the amount of at least \$300,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog.

(6) *Registration fee.* The owner shall pay a dangerous dog registration fee of \$500.00 in addition to standard dog licensing fees.

(7) *Tag.* The dog must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51.

(8) *Microchip.* The owner has had a microchip identification implanted in the dangerous dog, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Authority. If the microchip is not implanted by the owner, it may be implanted by the Animal Control Authority with the costs borne by the dog's owner.

(9) *Licensed.* The dog must be licensed and up to date on rabies vaccination.

(10) *Photograph.* The owner of the dangerous dog shall make the dog available to be photographed for identification by the Animal Control Authority at a time and place specified by the Animal Control Authority.

(11) *Annual Renewal.* The owner of the dangerous dog must renew the registration of the dog annually with Benson and Swift County annually until the dog is deceased. The owner of a dangerous dog shall pay the registration fee annually set forth in subsection (6) above; and, in addition, to any regular dog licensing fees to obtain a renewal certificate of registration for a dangerous dog under this section. If the dog is removed from the City, it must be registered as a dangerous dog in its new jurisdiction.

(12) *Death or Transfer from City.* The owner of any dangerous dog must notify the City in writing of the death of the dog; of its transfer to a residence outside the City of Benson or of its transfer within the City within thirty (30) days of the death or transfer. The notice must also provide the new location where the dog will reside if moved.

(13) *Notice to Landlord.* The owner of a dangerous dog who rents property from another where the dog will reside must disclose to the property owner, prior to entering into the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.

(14) *Transfer of Ownership.* The owner of a dangerous dog must notify any new owner, whether by purchase, donation or other transfer, that the City has identified the dog as a dangerous dog. The transferring or selling owner must also notify the Animal Control Authority in writing of the sale and provide the Animal Control Authority with the new owner's name, address, and telephone number.

(15) *Sterilization.* The Animal Control Authority shall require a dangerous dog to be sterilized at the owner's expense. If the owner does not have a dangerous dog sterilized within thirty (30) days of a final determination, the Animal Control Authority may have the dog sterilized at the owner's expense.

(I) *Seizure.* Animal Control shall immediately seize any dangerous dog or potentially dangerous dog if the owner does not meet each of the above requirements within fourteen (14) days after the date notice is sent to the owner that the dog is dangerous or potentially dangerous, may also request a hearing as set forth on section 90.13 (E) above.

(J) *Reclaiming.* A dangerous dog or potentially dangerous dog seized under this section may be reclaimed by the owner of the dog upon payment of all applicable fees, including but not limited to, impounding fees, boarding fees, and release fees and presenting proof to Animal Control Authority that each of the requirements under section 90.13 is fulfilled. A dog not reclaimed under this section within fourteen (14) days may be disposed of as provided under section 90.13 (E) and (F), and the owner is liable to Animal Control Authority for costs incurred in confining and disposing of the dog.

(K) *Subsequent offenses.* If an owner of an dog has subsequently violated the provisions under section 90.13 with the same dog, the dog must be seized by Animal Control. The owner may request a hearing as defined in section 90.13 (E). If the person is found not to have violated the provisions for which the dog was seized, the owner may reclaim the dog under the provisions of section 90.07 (C). If the dog is not yet reclaimed by the owner within fourteen (14) days after the date the owner is notified that the dog may be reclaimed, the dog may be disposed of as provided under section 90.07 (D) and the owner is liable to the Animal Control for the costs incurred in confining, impounding and disposing of the dog.

(L) *Restrictions.*

(1) No owner may own a dog if a person has been convicted of any of the violations set forth in M.S. § 347.542 and as amended.

(2) If any member of a household is prohibited from owning a dog pursuant to Section 90.12 (L) (1), no person in the household is permitted to own a dog.

(M) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim, including but not limited to, shooting the animal.



(N) *Notification of new address.* The owner of an dog that has been identified as dangerous or potentially dangerous must notify the Animal Control Officer in writing if the dog is to be relocated from its current address or given or sold to another person. The notification must be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification must include the current owner's name and address, the relocation address, and the name of the new owner, if any.

(O) *Police Dogs.* The provisions of this subchapter shall not apply to dogs used in the police activities of the city, such as canine corps or tracking dogs used by or with the permission of the Police Department.

(P) *Designation Review.* Beginning six months after an dog is declared a dangerous dog or potentially dangerous dog, an owner may request annually a review of the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. The owner shall submit a request for reconsideration to the City Administrator who shall then have the Animal Control Authority consider the request. If the Animal Control Authority finds sufficient evidence that the dog's behavior has changed, the dangerous dog or potentially dangerous dog designation may be rescinded.

#### **§ 90.14 BASIC CARE.**

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Seizure and impounding of the animal may occur and be held pursuant to the terms of this chapter. Any owner not treating their pet in such a humane manner will be subject to the penalties provided in this Section.

#### **§ 90.15 BREEDING MORATORIUM.**

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

#### **§ 90.16 POUND.**

Every year the Chief of Police shall designate an official pound or pound(s) to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

#### **§ 90.17 MISCELLANEOUS REGULATIONS.**

(A) *Unattended animals in streets, alleys, sidewalks, public places.* No owner shall permit any animal under his or her care, custody, or control to be left standing unattended in any street, alley, sidewalk, or public place within the city whether leashed or not.

(B) *Attachment of animals to trees, posts prohibited.* No owner shall attach in any manner any animal under his or her care, custody, or control to any tree, shrub, or other planting, or to any post or pole growing or being in any public place within the city.

(C) *Careless riding or driving.* No owner shall ride or drive any animal anywhere within the city carelessly or heedlessly, in disregard of the rights or the safety of others or in a manner so as to endanger or be likely to endanger any person or property.

(D) *Seeing Eye or Hearing Aide dogs permitted in public places.* Whenever any blind or hearing-impaired person accompanied by a "Seeing Eye" or "Hearing Aide" dog presents himself or herself for accommodation or service on any public conveyance vehicle or to any cafe, restaurant, store, or other place of business open to the public, it shall be unlawful for the owner, proprietor, manager, or operator of such vehicle or place of business to refuse admission to the dog or service to the blind or hearing-impaired person.

(E) *Animal traps and similar devices.* No person shall set, lay or prepare any trap or mechanical device capable of killing, injuring or maiming any person, domestic animal or wildlife. No owner or person having the care, custody or control of any dwelling, building or other structure shall permit such a trap or device to be set or to remain set on the premises inside or outside such dwelling, building or structure.

(1) *Exceptions.* The provisions of this section do not apply:

(a) To representatives of the city, county, state, federal government, or licensed pest control operators while in the course of their official duties and a more humane trap is not available;

(b) Nor to property owners, their agents or their tenants who may employ, on private property:

(i) A trap specifically designed to eradicate rats, mice or moles;

(ii) A cage, box or enclosure-type device, in which an animal can be confined, but which does not injure, maim or kill, to prevent an unsafe condition or to prevent waste or destruction of their property.

**§ 90.18 FEES AND FINES.** Any fees or fines pursuant to the provisions of this section shall be set by and amended, from time to time, by the City Council through resolution.

**§ 90.99 VIOLATIONS AND PENALTIES.**

(A) *Separate Offenses.* Each day a violation of this Chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this Section.

(B) Penalties.

(1) A person who violates any of the provisions of section 90.13 (H) is guilty of a misdemeanor. A misdemeanor is as defined in M.S. § 609.02 and as amended.

(2) It is a misdemeanor to remove the microchip from a dangerous or potentially dangerous animal, to fail to annually renew the registration of a dangerous animal, to fail to account for a dangerous animal's death or removal from the City, to sign a false affidavit with respect to a dangerous dog's death or removal from the City, or to fail to disclose ownership of a dangerous animal to a property owner from whom the person rents property.

(3) A person convicted of a second or subsequent violation of Section 90.99 (B) (1) or 90.99 (B) (2) is guilty of a gross misdemeanor as defined in M.S. § 609.02 and as amended.

(4) An person who violates Section 90.13 (L) is guilty of a gross misdemeanor as defined herein.

(C) Any owner, harborer, or other persons, or the parents of any person under eighteen (18) years of age violating any of the provisions of this Ordinance shall be solely responsible for all costs associated with enforcement of this Ordinance including, but not limited to, notice fees and costs, hearing fees and costs, impound fees, boarding, notification of owners, and disposal.

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Mayor

ATTEST: \_\_\_\_\_  
Clerk

Approved as to Form: \_\_\_\_\_  
City Attorney

First Reading: January 4, 2010

Second Reading: February 1, 2010

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