

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 5 OF THE LEXINGTON CITY CODE; TO REPEAL OBSOLETE SECTIONS AND TO RENUMBER THE REMAINING SECTIONS; TO REPEAL ORIGINAL CHAPTER 5 AND ALL OTHER ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA AS FOLLOWS:

Section 1. That Chapter 5 of the Lexington City Code is hereby amended to read as follows:

CHAPTER 5

ANIMALS AND FOWL

Article I. In General

- Sec. 5-1 Poisoning, Injuring, etc., Prohibited
- Sec. 5-2 Procedure Upon Striking Animal with Vehicle
- Sec. 5-3 Animals Running at Large
- Sec. 5-4 Fowl Running at Large
- Sec. 5-5 Unusual Animals Prohibited
- Sec. 5-6 Keeping Animals and Beehives in Proximity to Dwellings
- Sec. 5-7 Animal Warden
- Sec. 5-8 "Run at Large" Defined
- Sec. 5-9 Animals; Capture Impossible

Article II. Dogs and Cats

- Sec. 5-10 "Owner" Defined
- Sec. 5-11 Number of Dogs and Cats Limited
- Sec. 5-12 Vaccination; Defined
- Sec. 5-13 Owning or Keeping Unimmunized Dog or Cat Prohibited
- Sec. 5-14 Animals; Rabies Suspected
- Sec. 5-15 Animals; Cost of Confinement
- Sec. 5-16 Rabies Quarantine of Dogs or Cats
- Sec. 5-17 Dangerous Dogs
- Sec. 5-18 Dangerous Dogs; Reporting Requirements.
- Sec. 5-19 Control of Female Dogs and Cats
- Sec. 5-20 Impoundment—When Required
- Sec. 5-21 Same—Providing for Pound; Notification of Owner of Impounded Dog or Cat
- Sec. 5-22 Same—Reclaiming by Owner
- Sec. 5-23 Same—Disposition of Unclaimed Dogs and Cats

- Sec. 5-24 Liability of Owner for Damages
- Sec. 5-25 Right of Entry of Police and Animal Warden
- Sec. 5-26 Citations for Running at Large Violations

Article I. In General

Sec. 5-1 Poisoning, Injuring, etc., Prohibited.

It shall be unlawful for any person to willfully kill, poison or injure any dog, cat or other animal or place poison or poison food or poison articles at places with the intent of such person to poison any dog, cat or other animal. This section shall not apply to the Municipal Police acting within their power and duty.

Sec. 5-2 Procedure upon Striking Animal with Vehicle.

It shall be unlawful for the operator of any vehicle after knowingly hitting an animal to leave the scene of the collision without notifying the police or the owner of such animal, if the owner of such animal can be ascertained.

Sec. 5-3 Animals Running at Large.

It shall be unlawful for any person to permit or cause to run at large, within the corporate limits of the City, any cattle, hogs, horses, mules, sheep, goats, dogs, cats or any other animal. Any animal running loose shall be impounded and disposed of as provided herein.

Sec. 5-4 Fowl Running at Large.

The running at large within the City, except in enclosed places on private property, of poultry, chickens, turkeys, ducks, geese or other like fowl, is hereby declared to be a common nuisance and is hereby prohibited; and it is hereby declared and shall hereafter be unlawful for any person to permit the same to run at large.

Sec. 5-5 Unusual Animals Prohibited.

It shall be unlawful for any person to own, harbor, or have under such person's control, care or custody any unusual animal within the City of Lexington.

The term "unusual animal" shall mean any poisonous or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the City of Lexington, State of Nebraska, or federal requirements, and also:

- (a) Class Mammalia; Order Carnivora, Family Felidae (such as lions, tigers, jaguars, leopards and cougars) except commonly accepted domesticated cats and hybrids involving same; Family Canidae (such as wolves, coyotes and fox) except domesticated dogs and hybrids involving same; Family Mustelidae (such as weasels, martins, fishers, skunks, wolverines, opossums, mink, badgers and ferrets); Family Procyonidae (such as

raccoon); Family Ursidae (such as bears); Order Primata (such as monkeys and chimpanzees); and Order Chiroptera (such as bats).

- (b) Poisonous reptiles, cobras and their allies (Elapidae, Hydrophiidae); vipers and their allies (Crotiladae, Viperidae); Boonslang and Kirtland's tree snake; and gila monster (Heleodermatidae).

Sec. 5-6 Keeping Animals and Beehives in Proximity to Dwellings.

It is hereby declared to be unlawful for any person, either by himself, his agents, servants or employees, to have under such person's control, care or custody, any beehive, livestock animal, or fowl, including but not limited to horses, cattle, hogs, sheep, goats, poultry, chickens, turkeys, ducks, geese, or other like fowl, at any place within the City which is within six hundred feet (600') of any dwelling house in the City. This Section shall not apply to fowl kept for display in a public park. (Ord. No. 1992, Ord. No. 2082)

Sec. 5-7 Animal Warden.

An animal warden shall be appointed by the City Manager. The animal warden is hereby given the responsibility, the power, the duty and authority to enforce the provisions of Articles I and II of this chapter.

Sec. 5-8 "Run at Large" Defined.

For the purpose of this chapter the phrase "to run at large" shall mean to be off the premises of the owner and not under the control of the owner or other member of his immediate family.

Sec. 5-9 Animals; Capture Impossible.

The Municipal Police shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible due to the danger involved.

Article II. Dogs and Cats

Sec. 5-10 "Owner" Defined.

For the purpose of this chapter "owner" shall include a harbinger of dogs or cats and the parents of any minor who owns or harbors a cat or dog.

Sec. 5-11 Number of Dogs and Cats Limited.

No household within the city shall harbor more than four (4) dogs and four (4) cats over six months of age. Household shall include all persons living together, whether related or otherwise, in a single family dwelling unit.

Sec. 5-12 Vaccination; Defined.

Vaccination for rabies shall mean the inoculation of an animal with a rabies vaccine licensed by the United States Department of Agriculture. Such vaccination must be performed by a duly licensed veterinarian.

Sec. 5-13 Owning or Keeping Unimmunized Dog or Cat Prohibited.

Every person who shall own, keep or harbor a dog or cat more than four (4) months of age within the City, shall have such animal vaccinated with an inactivated virus anti-rabies vaccine by a licensed veterinarian. To be valid, such vaccination shall be current as of the date on which such animal is kept or maintained.

For every dog or cat vaccinated for rabies, the veterinarian shall issue a tag sufficient to identify the name of the veterinarian. A record of such tag and vaccination will be kept by the veterinarian, sufficient to identify the animal and owner thereof. A copy of such record shall be provided to the Lexington Police Department, within 30 days of the date of vaccination, to be used solely for the purpose of identification of animals. (Ord. No. 2136)

Sec. 5-14 Animals; Rabies Suspected.

Any dog or cat suspected of being afflicted with rabies, or any dog or cat not vaccinated in accordance with the provisions of this Article which has bitten any person and caused an abrasion of the skin, shall be seized and impounded for a period of not less than ten (10) days. If upon examination by a veterinarian, the dog or cat has no clinical signs of rabies at the end of such impoundment, it may be released to the owner, or, in the case of an unlicensed animal, it shall be disposed of in accordance with the provisions herein. If no signs of rabies are observed, the animal may be released from confinement.

Sec. 5-15 Animals; Cost of Confinement.

If the ownership of any animal which has bitten a person can be established, the owner shall be liable for the cost of confining it for such length of time as is necessary to establish whether the animal is rabid. If the ownership of such animal cannot be determined, the cost of confining an animal who is only suspected of having rabies, shall be paid by the Municipality.

Sec. 5-16 Rabies Quarantine of Dogs and Cats.

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the mayor, if he deems it necessary, shall issue a proclamation ordering every person owning or harboring a dog or cat to confine it securely on his premises unless such dog or cat shall have a muzzle of sufficient strength to prevent biting a person. Any unmuzzled dog or cat running at large during the time of the proclamation shall be seized and impounded, unless noticeably infected by rabies. All dogs and cats so noticeably infected with rabies, and displaying vicious propensities shall be disposed of by the police without notice to the owner. Dogs or cats

impounded during the first seventy-two (72) hours of such proclamation shall, if claimed within five (5) days, be released to the owner, unless infected with rabies, upon payment of impounding charges and any medical fees as provided in Section 5-24. If not claimed after such period, such dog or cat may be summarily disposed of under direction of the police.

During the period of such proclamation, the provisions as to notice in Section 5-23 shall be of no force and effect and will be considered waived by owners of any dogs or cats impounded.

Sec. 5-17 Dangerous Dogs.

1. No person shall own, harbor or care for a dangerous dog within the Municipality. The term “dangerous dog” as used herein shall include the following:
 - (a) Any animal with a propensity, tendency or disposition to attack, to cause injury or damage or otherwise endanger the safety of human beings or domestic animals; or
 - (b) Any animal which attacks a human being one time without provocation; or
 - (c) Any animal which attacks a domestic animal on two or more occasions without provocation, while the dog was off the owner’s property; or
 - (d) Any dog which has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting.
2. The keeping, maintaining, owning, or harboring of a dangerous dog within the Municipality is hereby declared a nuisance as being against the public health, safety and welfare.
3. Whenever a nuisance exists as defined in the foregoing section, the Municipality may proceed by a suit in a court of competent jurisdiction to enjoin and abate the same in a manner provided by law. In any criminal prosecution, the court, in addition to any penalty imposed, may enter an order of abatement as part of the judgment of that case. As a part of the order of Abatement, the court may order the police department to have the dog euthanized.
4. This section shall not prevent the owner of a commercial or industrial property from keeping a guard or watch dog, where each entrance to the premises is clearly marked with signs warning of such dog.

Sec. 5-18 Dangerous Dogs; Reporting Requirements.

Any medical health care provider, including hospital, medical clinic, physician, veterinarian, veterinary clinic, ambulance, or rescue agency, which provides treatment or emergency care for an injury to a human being or domestic animal, when the injury appears to have been inflicted by dog bite, is required to report to the Lexington Police Department, by telephone, immediately upon becoming aware of such injury.

Sec. 5-19 Control of Female Dogs and Cats.

An owner of any female dog or cat shall keep such dog or cat enclosed within a building during any mating season of such dog or cat. Such female dog or cat found not enclosed shall be impounded as provided in Section 5-22.

Sec. 5-20 Impoundment—When Required.

All dogs and cats running at large, all stray dogs and cats, all dogs and cats without current vaccination tags, all dangerous dogs, and all other dogs and cats for which impoundment is herein provided shall be impounded by the animal warden, the police of the city or by an employee of the City employed for that purpose. The owner of any dog or cat shall, on demand, surrender to the animal warden or the police of the city, any dog or cat required to be impounded under the provisions of this article.

Sec. 5-21 Same—Providing for Pound; Notification of Owner of Impounded Dog or Cat.

The City Manager shall provide by contract or otherwise for adequate shelter and food for any dog or cat impounded under the provisions of this Code or other ordinances of the City. The City Manager shall give notice of such impoundment to the known owner of such impounded dog or cat.

Sec. 5-22 Same—Reclaiming by Owner.

Within three (3) days after notice is given as provided in Sec. 5-21, the owner of any such impounded animal may claim such animal by paying: an impoundment fee set by the City Manager, plus the cost of any medical care or boarding costs expended by the City for such impounded animal. Fees for impoundment shall be in addition to prosecution for violation of any of the provisions of this chapter.

No animal shall be released from impoundment unless such animal has been currently vaccinated with anti-rabies vaccine as required by Sec. 5-13. (Ord. No. 2010)

Sec. 5-23 Same—Disposition of Unclaimed Dogs and Cats.

Any impound dog or cat not reclaimed as provided by Sec. 5-22 shall become the property of the City, and the City shall have the power to give away such dog or cat to a reputable person for adoption; to sell or give the dog or cat for use for research purposes for preventing disease or betterment of mankind; or to cause such dog or cat to be humanely destroyed. The owner of such animal shall be liable to the City for any costs incurred for impoundment and destruction of such animal.

Sec. 5-24 Liability of Owner for Damages.

The owner of any dog or cat shall be liable in damages for any injuries, nuisances or damages to property caused by any dog or cat within the City, which injuries, nuisances or damages were not the result of the negligence or wrongdoing of the person damaged.

Sec. 5-25 Right of Entry of Police and Animal Warden.

For the purpose of discharging the duties imposed by this chapter, and to enforce its provisions, the Chief of Police, any police officer and the animal warden are empowered to enter upon any premises upon which a dog or cat is kept or harbored and to demand the exhibition by the owner of such dog or cat.

Sec. 5-26 Citations for Running at Large Violations.

When dogs or cats are found running at large and their ownership is known to the Chief of Police, any police officer or the animal warden, such dogs or cats need not be impounded, but the Chief of Police, any police officer or the animal warden may, at their discretion, cite the owners of such dogs or cats to appear in court to answer charges of violation of this chapter.

Section 2. That original Chapter 5, together with all ordinances or sections of ordinances in conflict herewith are hereby repealed.

Section 3. That this Ordinance shall be published in pamphlet form and take effect as provided by law.

Passed and approved this ____ day of _____, 2007.

Mayor

Attest:

Deputy City Clerk