

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 Cruelty to Animals Prohibited
- Sec. 5-8 Animal Warden
- Sec. 5-9 "Run at Large" Defined
- Sec. 5-10 **Animals; Capture Impossible**

Article II. Dogs and Cats

- Sec. 5-12 "Owner" Defined
- Sec. 5-13 Number of Dogs and Cats Limited
- Sec. 5-14 **Vaccination; Defined**
- Sec. 5-15 Owning or Keeping Unimmunized Dog or Cat Prohibited
- Sec. 5-16 **Animals; Rabies Suspected**
- Sec. 5-17 **Animals; Cost of Confinement**
- Sec. 5-18 Rabies Quarantine of Dogs or Cats
- Sec. 5-19 **Dangerous Dogs**
- Sec. 5-20 **Control of Dogs**
- Sec. 5-21 Control of Female Dogs and Cats
- Sec. 5-22 Impoundment—When Required
- Sec. 5-23 Same—Providing for Pound; Notification of Owner of Impounded Dog or Cat
- Sec. 5-24 Same—Reclaiming by Owner

Sec. 5-25	Same—Disposition of Unclaimed Dogs and Cats
Sec. 5-26	Liability of Owner for Damages
Sec. 5-27	Right of Entry of Police and Animal Warden
Sec. 5-28	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 (Crotalidae, 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 Cruelty to Animals Prohibited.

It shall be unlawful for any person within the City, to cruelly, inhumanely or unnecessarily beat, injure, overload or to insufficiently shelter or feed, or to otherwise abuse any horse, mule or other animal or to cause, encourage or urge any dogs or other animals to fight within the City.

- (a) Physical abuse. It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with stick, chain, club or other object, mutilate, burn or scald with any substance, or cruelly set upon any animal except that reasonable force may be employed to drive off vicious or trespassing animals.
- (b) Care and maintenance. It is unlawful for any person to fail, refuse or neglect to provide any animal in his or her charge or custody, as owner or otherwise, with proper food, drink, shade, shelter or veterinary care as may be necessary for diseased or injured animals. Any animal habitually kept outside shall be provided with a structurally sound moisture proof and wind proof shelter large enough to accommodate and keep the animal reasonably clean, dry and comfortable.
- (c) Leaving Animals in an Unattended Vehicle. It is unlawful for any person to place or confine or allow such animal to be confined in such a manner that it must remain in a motor vehicle or trailer under such conditions or for such periods of time as may endanger the health or well being of the animal due to heat, lack of food or water or any circumstances which might cause suffering, disability or death.
- (d) Dogs; Fighters. It shall be unlawful for any person, by agreement or otherwise, to set dogs to fighting, or by any gesture or word to encourage the same to fight.

- (e) Abandonment of Animals. It is unlawful for any person to abandon or dump any animal within the City of Lexington.
- (f) Owner's cost. Any person violating this section, in addition to prosecution, shall bear full cost and expenses incurred by the City in the care, medical treatment, impoundment cost, and disposal of said animals, including removal from a vehicle.
- (g) Trapping of Animals. It shall be unlawful for any person to trap animals within the city limits unless given permission by the City Manager.
- (h) Animal's health. If an animal's health is in immediate danger, the animal warden or police officer shall impound the animal and the animal shall be treated at the owner's expense.
- (i) Animals for Slaughter. Within the area of the City zoned for residential purposes, or upon property predominantly used for residential purposes, it shall be unlawful to slaughter any livestock animal, including but not limited to horses, cattle, hogs, sheep or goats, or to confine or impound any such animal prior to slaughter.
- (j) This Section 5-7 shall not apply to animals impounded or confined for slaughter at a properly zoned commercial slaughter house. (Ord. No. 1992)

Sec. 5-8 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. 5-9 "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. 5-10 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. 5-12 "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. 5-13 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. 5-14 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. 5-15 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)

Any person who shall own, keep or harbor a dog or cat which is not displaying a current vaccination tag shall be issued a citation for violation of this chapter.

Sec. 5-16 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. 5-17 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. 5-18 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. 5-19 Vicious Dogs.

“Vicious Dog” as used herein shall include the following:

- (1) 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
- (2) Has aggressively bitten, attacked, endangered, or inflicted severe injury on a human being on public or private property, when unprovoked;
- (3) Has more than once severely injured or killed a domestic animal, when unprovoked;
- (4) Has been used primarily or in part for the purpose of dog fighting, or is a dog trained for dog fighting;
- (5) A Staffordshire Bull Terrier or American Staffordshire Bull Terrier or Pit Bull Terrier, or any mixed breed of dog which includes as an identifiable element of such dogs the breed of Staffordshire Bull Terrier or American Staffordshire Bull Terrier or Pit Bull Terrier.
- (6) This definition shall not apply to dogs utilized by law enforcement officers in the performance of their duties.

It shall be unlawful for any person to own, harbor, or care for any vicious dog within the Municipality. The keeping, maintaining, owning, or harboring of a vicious dog within the Municipality is hereby declared a nuisance as being against the public health, safety, and welfare.

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 in said case.

Sec. 5-20 Control of Dogs.

It shall be unlawful for any person to own, or allow to be in or upon any premises occupied by him/her or under his/her control, any dog without said dog being securely confined within the premises of the owner so that the dog cannot be closer than six (6) feet from the public sidewalk and cannot go beyond the property line of the owner and confined in such a manner that it does not cause injury or pose a threat of injury to any person, or the property of any person who is lawfully on the premises of the owner.

No person having charge, custody, or possession of a dog shall allow the dog to exit the owner's premises unless such dog is under the direct control of the owner. Direct Control means immediate, continuous physical control of a dog such as by means of a leash or chain no more than four (4) feet in length and of such strength to restrain the dog and controlled by a person capable of restraining the dog, or safe and secure restraint within a vehicle. If the controlling person is at all times fully and clearly within unobstructed sight and hearing of the dog, voice control shall be considered direct control when the dog is actually participating in training or in an official showing, obedience, or field event. Direct Control shall not be required of dogs actually participating in a legal sport in an authorized area or to government police dogs.

Failure of any owner to control their dog as indicated herein will be issued a citation for violation of this chapter.

It shall be unlawful for any person to tease, annoy or irritate any such dog controlled as described.

Sec. 5-21 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. 5-22 Impoundment—When Required.

All dogs and cats running at large, all stray dogs and cats, all dogs and cats without current vaccination tags, all vicious 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. 5-23 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. 5-24 Same—Reclaiming by Owner.

Within three (3) days after notice is given as provided in Sec. 5-23, the owner of any such impounded animal may claim such animal by paying: an impoundment fee of \$15.00, 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. 5-15. (Ord. No. 2010)

Sec. 5-25 Same—Disposition of Unclaimed Dogs and Cats.

Any impound dog or cat not reclaimed as provided by Sec. 5-24 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. 5-26 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. 5-27 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. 5-28 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

Calls- By Type
01/01/06 - 04/30/06

Agency -11

<u>Type</u>	<u>Description</u>	<u># of Calls</u>
91A	ANIMAL	19
91A1	ANIMAL-RUNNING AT LARGE	138
91A2	ANIMAL-BARKING/OFFENSIVE	5
91A3	ANIMAL-BITE	7
91A4	ANIMAL-VICIOUS	4
TOTAL		173

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Lexington Police Department

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Calls- By Type
01/01/07 - 04/30/07

Agency -11

<u>Type</u>	<u>Description</u>	<u># of Calls</u>
91A	ANIMAL	28
91A1	ANIMAL-RUNNING AT LARGE	253
91A2	ANIMAL-BARKING/OFFENSIVE	25
91A3	ANIMAL-BITE	10
91A4	ANIMAL-VICIOUS	19
TOTAL		335