

**TITLE 90
ANIMALS**

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SECTION GENERAL PROVISIONS

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90.001 SCOPE PURPOSE AND JURISDICTION:

The purpose of this Title is to regulate the existence of animals within the City of Box Elder to assure the safety of the public while also assuring the humane treatment of animals within the City.

The enforcement of the City’s Animal Control or Code Enforcement in general is an important public service and is vital to the protection of the public’s health, safety and welfare. The City has determined that there is a need for alternative methods of comprehensive enforcement using both administrative and judicial remedies and because animal control issues may be regulated through an administrative enforcement process, penalties for any violation should be enhanced. The purpose of this ordinance is to establish administrative regulations for the enforcement of the Box Elders City Animal Control Ordinance in order to properly protect the public’s health, safety and welfare.

Furthermore, the City Council hereby authorizes City staff to promulgate rules and procedures to carryout enforcement of this ordinance.

This ordinance shall does not apply to dogs used by law enforcement, the disabled or visually handicapped.

It is the intent of this ordinance to enforce animal control consistent with the authority granted in SDCL 40-1, 40-2, 40-34, 9-29 and such other chapters of the South Dakota Code that authorize the enforcement of Animal Control.

90.002 DEFINITIONS:

For the purpose of this Title, the following definitions shall apply unless the context indicates or requires a different meaning. Words used in the present tense shall include the future tense; words in the singular number include the plural; words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; and the word "may" is permissive. The terms "used" or "occupied" as applied to any land or building shall be construed to include the terms "intended, arranged, or designed to be used or occupied."

ABANDONMENT. Giving up with the intent of never again regaining one's interests in, or rights to, an animal other than placing ownership with a responsible party.

ADMINISTRATIVE CODE ENFORCEMENT REMEDIES: Administrative citations and civil penalties as contained in this Title.

AGENT: Any person, firm or corporation, designated by the City to assist in carrying out the provisions of this ordinance.

ANIMAL. Any mammal, bird, reptile, amphibian or fish, except humans.

ANIMAL CONTROL OFFICER (ACO): As defined in SDCL 40-2-9, the animal control officer may be any City employee or agent of the City designated with the authority to enforce any provision of this Ordinance and issue notice of violations or administrative citations.

ANIMAL ENCLOSURE: A secure confinement, as determined by the ACO, indoors or in a securely enclosed or locked facility that is suitable to prevent an animal from escaping and to prevent any physical threat to the well-being of any person or other animal, while not constituting inhumane treatment.

ANIMAL SHELTER. Any premises designated by the Council for the purpose of impounding and caring for animals.

APPOINTED DESIGNEE: For the purpose of this Title the appointed designee shall be any person appointed by or contracted with, or employee of the City of Box Elder, or in the case of a disaster, or other emergency situation, any member of an animal rescue or animal care group authorized by the City of Box Elder.

AT LARGE. Any animal shall be deemed to be at large when it is off the property of its owner and not under the immediate control of a responsible party.

CITY. The City of Box Elder, South Dakota.

COMMISSION. The Planning and Zoning Commission of the city.

COUNCIL. The Common Council of the city.

DANGEROUS ANIMAL. As per SDCL 40-1-2.5. A Dangerous animal as defined in SDCL § 40-1-2.5 and any animal that, by itself or by environmental circumstances, at the determination of the Council, any agent or officer of a humane society, or any peace officer after investigation, is a threat to the physical well-being of other owned animals or humans.

EXPOSED TO RABIES: An animal has been exposed to rabies within the meaning of this Title, if it has been bitten by or has been exposed to any animal know to or suspected of being infected with rabies.

FERAL/STRAY CAT: A **feral cat** is a domestic cat that has returned to the wild. It is distinguished from a stray cat, which is a pet cat that has been lost or abandoned, while feral cats are born in the wild. The offspring of a stray cat can be considered feral if born in the wild

FOWL. Any chicken, duck, goose, guinea fowl, poultry, turkey, or other similar fowl. This definition does not include domesticated fowl such as parrots, cockatoos, parakeets, or similar birds, which are kept inside the home.

KENNEL. Lot or premises or portion thereof established for boarding, training or breeding, of animals, where more than four (4) animals, six months of age or older, are maintained, boarded, bred, or cared for, in return for any compensation, and/or kept for the purpose of sale.

LEASH. A cord, thong, or chain not more than ten (10) feet in length by which an animal is controlled by the person accompanying the animal.

LIVESTOCK. Any horse, cow, mule, donkey, swine, sheep, goat, buffalo, or llama.

MUZZLE. A device constructed of strong, soft material or of metal designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

OWNER. Any person, group of persons, or corporation who has a right of property in an animal, keeps or harbors an animal, or who has an animal in his care or acts as its custodian, or permits an animal to remain on or about any premises owned, leased, rented, or occupied by him or her.

PET. Any dog, cat, or other tame species of animal kept for purposes of domestication, companionship, or display.

PIGEON. Any kind of pigeon, whether wild, kept as a pet, or kept for hobby purposes such as breeding, showing, or sporting.

PROPER ENCLOSURE. A secure confinement, as determined by an Animal Control

Officer, indoors or in a securely enclosed or locked facility that is suitable to prevent an animal from escaping and to prevent any physical threat to the well-being of any person or other animal, while not constituting inhumane treatment.

RESPONSIBLE PARTY: any person or persons in charge of the premises or location, or the person or persons responsible for the event or incident, and includes any of the following:

- A. The owner of the animal and/or property where the violation exists.
- B. The person or persons in charge of the animal and/or the premises where the violation exists.

- C. The person or persons using or renting the premises when the violation exists.
- D. If any of the above is a minor, a parent or guardian of such minor shall be the responsible party.
- E. If any of the above is a business entity, the manager or onsite supervisor where the violation exists.

RESTRAINT. An animal is under restraint if it is controlled by a leash not more than ten feet (10') in length, "at heel" beside a competent person and obedient to that person's commands; is confined within a vehicle in such a manner as not to allow it to reach outside the confines of that vehicle; or is attached or tethered to said vehicle; or is confined within an enclosure sufficient to keep the animal restrained from escaping the enclosure. An animal is under leash or is considered restrained only when the person bearing that leash is physically capable of effecting positive physical control and restraint of the animal at all times.

ROLLING 12-MONTH PERIOD: Any 12 consecutive months following a violation.

SERVICE DOG. Any dog owned by a law enforcement agency or police department which has been trained to aid law enforcement officers and is actually being used for law enforcement or rescue purposes or any dog specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons.

SHELTER TECHNICIAN: Any person(s), firm or corporation who is employed by the City to care for the daily needs of food, water, and shelter of any animal impounded by the City of Box Elder.

SPAYED FEMALE: An matron that has undergone surgery to prevent conception, whose owner can provide suitable proof of said surgery.

VICIOUS DOG: A vicious dog is:

- (1) Any dog which, when unprovoked, in a vicious or terrorizing manner approaches in apparent attitude of attack, or bites, inflicts injury, assaults, or otherwise attacks a human being upon the streets, sidewalks, or any public grounds or places; or
- (2) Any dog which, on private property, when unprovoked, in a vicious or terrifying manner approaches in apparent attitude of attack, or bites, or inflicts injury, or otherwise attacks a mailman, meter reader, serviceman, journeyman, delivery man, or other employed person who is on private property by reason of permission of the owner or occupant of such property or who is on private property by reason of a course of dealing with the owner of such private property. (SDCL 40-34-14)

WILD ANIMAL. Any in, but not limited to, the following orders and families, whether bred in the wild or in captivity, and any animal hybrid resulting from the breeding of an

animal that is a member of the following orders and families: Non-human primate and prosimians (e.g. chimpanzees, monkeys), Felidae (e.g. feral cats, lions, tigers, captive-bred cougars, jaguars, cheetahs, leopards, snow leopards, and clouded leopards except domesticated cats), Canidae (e.g. wolves, wolf hybrids, and foxes, but excluding domesticated dogs), Ursidae (e.g. bears), Proboscidae (e.g. elephants), Cetacea (e.g. whales, dolphins, porpoises), Crocodylia (e.g. alligators, caimans, crocodiles), Marsupialia (e.g. kangaroos, opossums), Reptilia over two feet in length and snakes and reptiles of the venomous variety, Perissodactyla (e.g. rhinoceroses, tapirs, not horses or donkeys, or mules), Artiodactyla (e.g. hippopotamuses, giraffes, camels, not cattle, buffalo, swine, sheep or goats), Hyaenidae (e.g. hyenas), Mustelidae (e.g. skunks, weasels, otters, badgers), Procyonidae (e.g. raccoons, coatis), Edentata (e.g. anteaters, sloths, armadillos), Viverridae (e.g. mongooses, civets, and genets), Pinnipedia (e.g. seals, sea lions, walruses), Struthioniformes (e.g. ostriches), or Anatidae (undomesticated ducks and geese).

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90.003 GENERAL ENFORCEMENT AUTHORITY

For the purpose of this ordinance, any enforcement officer or his/her designee may issue notices of violation and administrative citations, inspect public and private property, and enforce any available administrative and judicial remedies.

90.004: AUTHORITY TO INSPECT

Any enforcement officer and his/her designee may enter upon any property and make any examination and conduct any surveys necessary to perform their enforcement duties. Inspections may include the taking of photographs, samples or other physical evidence. If an owner, occupant or agent refuses permission to enter to inspect, the enforcement officer may seek an administrative inspection warrant pursuant to the procedures provided for in South Dakota Codified Laws including those powers set forth in SDCL §§ 40-1 and 40-2.

SECTION CITATIONS

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90.005: ADMINISTRATIVE CITATIONS

Any person violating any provision of the Code for which a civil penalty may be assessed may be issued an administrative citation by an enforcement officer as provided for in this Ordinance.

A continuing violation of the Code constitutes a separate and distinct violation each day that the violation exists.

A civil penalty shall be assessed by means of an administrative citation issued by the enforcement officer and/or his/her designee and shall be payable directly to the City Finance Office no later than 20 days of issuance of the violation.

Penalties assessed by an administrative citation shall be collected in accordance with the schedule of civil penalties.

90.006: ADMINISTRATIVE CITATION PROCEDURES

An enforcement officer and/or his/her designee may issue an administrative citation to a responsible party as described in this Title. The citation shall be on forms approved by the City.

If the responsible party is not an individual, the enforcement officer shall attempt to issue the owner an administrative citation. If the owner cannot be located, the administrative citation may be issued in the name of the entity and given to an occupant, manager or onsite supervisor. A copy of the administrative citation shall also be mailed to the owner.

The responsible party shall sign the administrative citation. If the responsible party refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation.

If the code enforcement officer and/or designee cannot locate a responsible party, the administrative citation shall be mailed to the responsible party.

Furthermore, in the case when no adult can be located at the property, the administrative citation may be posted in a conspicuous place near the property and a copy subsequently mailed to the responsible party.

In the case of mailing, the City shall mail the citation by certified mail to the address of the owner of the property and/or owner of the animal at the address listed in the office of the Meade/Pennington County Director of Equalization, and such action by the City

shall meet any notice requirement of this Title.

The citation may also be mailed to the recorded animal owner of record if an owner can be identified.

The failure of any responsible party to receive notice shall not affect the validity of any proceedings taken under this Ordinance.

90.007: ADMINISTRATIVE CITATION PENALTIES ASSESSED

Any civil penalties assessed shall be payable to the City within twenty (20) days from the date of the administrative citation.

Payment of the civil penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City.

If the responsible party fails to correct the violation, subsequent administrative citations may be issued for the same violations. The amount of the civil penalty shall increase at a rate specified in ordinance.

Additionally, any fees and/or costs associated with the capture, impoundment, care or euthanasia or disposal of the animal shall be bared by the responsible party.

90.008: FAILURE TO APPEAL OR PAY ADMINISTRATIVE CITATION PENALTIES

The failure of any person to pay civil penalties or file a timely appeal within the time specified on the citation, shall constitute an irrefutable presumption that a violation has occurred. The violation of this ordinance and the failure to pay may result in a class II Misdemeanor Citation and/or the city attorney filing legal proceedings in magistrate or circuit court. Alternatively, the City may pursue any other legal remedy available to collect the civil penalty or correct the violation.

90.009: CIVIL/ADMINISTRATIVE PENALTY AMOUNT

Civil penalties may be cited under this Ordinance, although criminal enforcement is not prohibited.

The civil penalties within any rolling 12-month period shall be as follows:

- First violation \$50.00
- Second violation \$100.00
- Third or subsequent violation(s) \$300.00

90.010: REMEDIES NOT EXCLUSIVE

The procedures established in this Ordinance are in addition to other legal remedies established by law, which may be pursued to address violations of the Code. The City is enabled to establish policies and procedures to carry out this ordinance. The use of this Ordinance shall be at the sole discretion of the City.

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90.011: APPEAL PERMITTED

Any person aggrieved by a citation issued by any enforcement officer and/or his/her designee under this Ordinance may appeal said citation to the City Council. Before filing an appeal, the aggrieved person is strongly encouraged to meet with the Planning & Zoning Director and/or Public Works Director to discuss why the person believes the citation was issued in error. If unresolved, the aggrieved must pay the citation and file the appeal for it to be commenced.

Appeals shall be commenced by filing a notice of appeal with the Box Elder Finance Officer. There shall be a Two-Five dollars (\$25.00) non-refundable

administrative fee assessed for filing an appeal, which shall be paid to the Finance Officer at the time of filing the notice of appeal.

The notice of appeal shall include a statement of the action complained of, why the same should be modified or rescinded, and an address where the appellant can be mailed notice of hearings, and a copy of the citation issued.

Upon receipt of the appeal documents from the Finance Officer, the Finance Officer shall deliver a copy of the appeal to the city attorney.

90.012: HEARING

A. Time of hearing and notice:

A public hearing shall be held on all appeals within 45 working days after the filing of the appeal, unless a later date is agreed upon by the aggrieved person and the City. The City shall cause written notice of the date, time and place of such hearing to be

served upon the aggrieved person by personal service or certified mail to the address set forth in the appeal documents at least ten days prior to the hearing. The appeal shall be scheduled on the agenda of a regularly scheduled meeting of the City Council for a period of not more than 30 minutes unless otherwise directed by the City Council.

B. Hearing Procedures

The following rules shall govern the procedures for an administrative hearing:

1. Hearings and administrative appeals need not be conducted according to the technical rules relating to evidence and witnesses.
2. Any relevant evidence shall be admitted if it is the type of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission for such evidence after objection in civil actions in courts or competent jurisdiction in this state.
3. Irrelevant and unduly repetitious evidence and evidence that lacks trustworthiness shall be excluded.

C. Rights of parties at hearing

The aggrieved person and the City shall have these rights among others:

1. To call and examine witnesses on any matter relevant to the issue of the hearing;
2. To introduce documentary, physical and oral evidence;
3. To cross examine opposing witnesses on any matter relevant to the issues of the hearing; and
4. To rebut evidence.

D. Decision

After each appeal hearing, the Council shall consider the evidence in executive session, and may state its decision when it has concluded the executive session.

In addition, the council shall provide findings on the record stating the following:

1. The evidence the City Council relied upon in reaching its decision.
2. Based upon such findings, the Council may sustain or dismiss the citation or decision. In sustaining citation, the Council may in its discretion reduce or waive the payment of any civil penalty, permit, reinstatement or late penalty fee; and/or refund a paid citation fee.

90.014: SUBJECT TO JUDICIAL REVIEW

The decision of the Council may be subject to judicial review as provided by law.

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90.015 ANIMAL SHELTER

The City may provide and maintain or contact a suitable shelter for the impounding of, and for sheltering of animals when deemed necessary.

Said shelter shall be so constructed that animals of different kinds and different sizes may be segregated, and maintained in a safe and sanitary condition. Such shelter may, either be constructed and operated by the City, and/or the City may enter into a contract with a veterinarian, humane society as defined by law, or other suitable person or organization for the supplying and operation of the same. All animals confined in such shelter shall be regularly fed, watered, and treated in a humane manner.

The City's designee shall be responsible for the daily maintenance of the shelter, the record keeping of the intake and release of animals and the maintenance of a

working adoption program. The designee shall on a monthly basis provide a report to the City Finance Officer indicating the following:

1. A detailed ledger of cost related to care of animals approved for intake by the City of Box Elder.
2. Detailed record of the Name(s) of person(s) delivering animal(s) to the shelter; to include but not limited to mailing/physical address and phone number.
3. Name(s) of person(s) for whom animal(s) has been released; to include but not limited to mailing/physical address and phone number.
4. Number and type of animals taken in, released and euthanized.
5. A detail of fee's charged for release of animals.

90.016 CERTAIN ANIMALS PROHIBITED

Unless otherwise in existence at the time of the adoption of this ordinance no person shall allow, bring, keep, or maintain, into or within the City, whether under control or at large, any wild animal, snake, horse, cow, mule, swine, sheep, goats, fowl, and pigeons, except as otherwise provided in this ordinance.

A. Exceptions:

The animals mentioned in the previous Section shall be allowed within the City only when:

1. They are used or are part of a legally authorized circus, menagerie, or carnival;
2. They are used in or are a part of a legally authorized parade, provided that such animals shall only be allowed within the City for said purpose for the length of time necessary to participate in said parade;
3. They are in the process of being transported from one area outside of the City to another, in which case they shall be in constant supervision and control of the owner, manager, or driver and such transporting shall be done with all due speed and care;
4. They are on the premises of a duly licensed stock exchange, livestock sale ring, or veterinarian hospital;
5. They are a part of a legally authorized livestock show or exhibition; or
6. They are animals of an exotic nature and are kept as pets. There shall be no more than four (4) such species on any premises, and the owner shall have received prior approval under the conditional use process to gain approval from the City Council and Chief of Police, and the Animal Control Officer before the animal is moved to the premises, and permitted to remain.

In the case of non-domestic exotic animals, the conditional use shall be reviewed on annual basis throughout the life of the animal; unless otherwise approved by City Council.

90.017 ANIMALS AT LARGE

It shall be deemed a violation of this chapter for any person who owns or who has under his or her care any animal to allow the animal to run at large. Any animal shall either be on a leash or controlled by a person, or properly secured to a leash, which has been tied to an immovable object, or confined within an enclosure sufficient to keep the animal restrained from escaping such enclosure. No animal shall be leashed to an immovable object so as to permit the animal to walk on or over any public sidewalk or street, or any property of another person, other than that of the owner of the animal. Any person that controls or restrains any animal by hand, leash, or tether shall be physically capable of effecting positive physical control and restraint of the animal at all times.

Any dog or cat not controlled by a responsible party or on a leash or in an enclosure as set forth herein, is hereby declared to be running at large and is declared to be a public nuisance.

When animal are found running at large, and their ownership can be discovered by examination of any rabies tag, license and/or identification chip, which must be affixed to the dog or cat; and/ or by inquiry of any person residing in the immediate vicinity

where the dog or cat, was first taken into possession; such dog or cat need not be impounded. But, the Animal Control Officer or designee may cite the owner of such dog or cat for violation(s) of this ordinance.

Such administrative citation shall state the violation date, time, location, breed, and color of the dog or cat, rabies tag number and/or Micro-Chip identification, if known, and

the name and address of the owner of said dog or cat. Said notice shall direct the owner to pay a fee for said violation.

Public Park, Recreation Areas, Bike Path and/or other Public Places – Unless otherwise designated by Ordinance; It shall be unlawful to have any animal in any public park, recreation area, Bike Path, and/or public place, or in an area specifically designated as a pet area within the City, except under leash control. Any persons and/or organizations otherwise authorized by the City Council are exempt from this limitation.

90.018 ANIMALS TO BE IMPOUNDED: (REDEMPTION)

It shall be the duty of the Animal Control Officer and/or his/her designee to impound and/or dispose of any animal found in violation of the provisions of this Ordinance; and any persons claiming any animal so impounded shall pay for its discharge and/or associated fees from the animal shelter, for each day or fractional part of a day each animal has been impounded. The City and/or its agent may assess a lien against the animal(s) for the cost of capture, impoundment, keeping, caring and/or euthanization for such animals in the amount it would take to have said animal discharged and/or euthanized under the provisions herein. The City and/or its agent may foreclose said lien as by law provided by the foreclosure of liens against chattels.

Prior to the redemption of any animal after impound; a microchip shall be implanted with the cost borne by the owner.

90.019 CHEMICAL IMMOBILIZATION

As per SDCL40-1-37 the Animal Control Officer and/or his/her duly appointed designee is hereby authorized to use, operate and possess such devices that are designated to propel projectiles for the purpose of intermuscular injection of drugs used in the humane capture of animals. Any person using the above-described devices shall have specialized training in the use of the device, any and all departmental policies concerning the device, in the drugs, in the proper use of the drugs, and in the care of the animal after such drugs have been injected.

90.020 CRUELTY TO ANIMALS GENERAL

In addition to the definition in SDCL 40-1-2.2, any person who inhumanely beats, or wantonly or maliciously tortures or deprives of necessary sustenance, drink, or shelter, overloads, abandons, mutilates or cruelly kills any animal shall be deemed guilty of a violation of this Section.

90.021 TEASING AND MOLESTING

Any person who inhumanely teases, molests, baits or in any way bothers any animal shall be deemed guilty of a violation of this Section and issued a citation as per Sections 90.005 - 90.010.

90.022 KILLING, INJURING, OR POISONING ANIMALS

It shall be unlawful for any person to willfully or maliciously kill, wound, or injure any animal in any way except as to protect the lives of any person or livestock from being attacked by such animal; or to willfully or maliciously administer poison to any animal that is the property of another person or to expose any such poison substance with the intent that the same shall be taken and swallowed by any dog or cat or any animal that is the property of another person.

90.023 ANIMAL ABANDONMENT.

It shall be deemed a violation of this chapter for any person to abandon any animal upon a public right of way, or upon the property of another, or upon property owned by that person.

90.024 SEIZURE OF ABUSED OR NEGLECTED ANIMALS:

The animal control officer, law enforcement, or agent/officer of the humane society who finds an animal finds an animal to be inhumanly treated shall, pursuant to a warrant or court order, cause the animal to be impounded or otherwise properly cared for, and the expenses of such impoundment or care shall be a lien on the owner of the animal to be

paid before the animal may be lawfully recovered. However, a warrant or court order is not necessary if the animal is severely injured, severely diseased, or suffering and any delay in impounding the animal would continue to cause the animal extreme suffering or if other exigent circumstances exist. If any abused or neglected animal is impounded or subjected to the other action under this Ordinance without court order, the officer or agent shall subsequently show cause for the impoundment or other.

90.025 DISTURBING THE PEACE.

It shall be deemed a violation of this chapter for any person owning or possessing any animal to suffer or permit such animal to disturb the peace and quiet of the neighborhood by barking, howling, crowing, crying, or making other loud or unusual noises. It shall be the duty of any person in possession of any such animal which disturbs the peace and quiet to dispose of the disturbance even if disposing of the animal is the only effective means.

90.026 UNATTENDED ANIMALS IN STANDING/PARKED VEHICLES.

It shall be deemed a violation of this chapter for any person to leave an animal unattended in a standing or parked vehicle in a manner that endangers the health or safety of such animal. The owner or operator of a vehicle containing an unattended animal will be contacted if possible before reasonable force may be used to remove such animal by any Animal Control Officer, law enforcement officer, or agent/officer of a humane society. Removal of an unattended animal by an Animal Control Officer, law enforcement officer, or agent/officer of a humane society shall not constitute an offense, nor shall such person be held civilly or criminally liable for any damage caused by removing the animal from the vehicle.

90.027 STRIKING AN ANIMAL WITH A VEHICLE.

Any person operating a motor vehicle that strikes a domestic animal, the operator shall at once report the accident to the appropriate law enforcement agency.

90.028 FIGHTS BETWEEN ANIMALS.

It shall be deemed a violation of this chapter for any person to willfully allow any animal to fight, worry, or injure another animal, nor shall any person keep any house, pit, or other place to be used in permitting any fighting, worrying, or injuring of animals, nor shall any person instigate or encourage any animal, bird, or fowl to attack, bite, wound, or worry another animal, bird, or fowl for any bet, stake, reward, or entertainment.

90.029 HARASSMENT OF A SERVICE ANIMAL.

It shall be deemed a violation of this chapter for any person to maliciously beat, injure, attempt to injure, harass, intimidate, entice, distract, or otherwise interfere with any service animal accompanying either a person with a disability or a law enforcement

officer if the service animal is being controlled by the person.

90.030 ANIMAL EXCRETA.

The person charged with the care or control of any animal, except livestock in compliance with **90.036** below, shall remove and dispose of in a sanitary manner any excreta deposited by such animal upon that person's property in reasonable intervals as not to cause a nuisance. Furthermore, shall remove excreta deposited upon any public or other person's private property immediately after excretion.

90.031 NUMBER OF DOGS AND CATS ALLOWED.

No person, or group of persons shall own, harbor, or keep more than four (4) dogs or four (4) cats, nor any combination of dogs and cats greater than four in number, over the age of six months old, at any one location (property or vehicles owned, rented, leased, or occupied by said person or group of persons) within the municipal limits of the city.

90.032 PACKS.

An Animal Control Officer, law enforcement officer, or agent/officer of a humane society shall have authority to destroy animals in packs which are actively chasing, barking, harassing, or attacking any livestock, animal, or human if, in his or her opinion, all other means of controlling or subduing the pack would fail. Two or more animals shall constitute a pack.

90.033 KENNELS PROHIBITED.

No person except a licensed veterinarian shall own, keep, or operate any kennel.

90.034 KEEPING OF WILD ANIMALS PROHIBITED.

No person shall own, keep, or maintain a wild animal(s) unless such animal is participating in a circus, menagerie, carnival, show, exhibition, or parade, provided that such animals shall only be allowed for said purpose for the length of time necessary to participate in said event.

90.035 FEEDING OF WILD ANIMALS PROHIBITED.

Feeding is not only potentially harmful to wildlife, but can also lead to significant health and safety risks for humans and domesticated pets as well. As wildlife becomes conditioned by human feedings, many species will actually alter their natural behaviors, resulting in adverse consequences.

No person shall deliberately and knowingly feed any wild animal on any public or private property or public right-of-way when the placement of feed, bait, or other edible substance causes them to congregate or be drawn into an area.

90.036 LIVESTOCK.

- (A) Livestock shall only be allowed on land: within an Agricultural Zoning District; or on land within the municipal limits of the city in a zoning district other than an Agricultural Zoning District where the Council has approved (and the owner is in full compliance with) a conditional use permit for such livestock.
- (B) Livestock that are found upon land within the municipal limits of the city not described in division (A) above upon the effective date of this chapter are hereby allowed if all of the following conditions are met:
- (1) Livestock shall be present on land owned by the owner of said livestock.
 - (2) The allowance is not transferable and will cease upon: the death, sale (or other transfer of ownership), or removal (for more than one year) of each livestock animal; upon the violation of this chapter by the landowner; upon the death of the landowner(s); or upon the sale (or other transfer of ownership) or subdivision of the land by the landowner(s).
 - (3) That all livestock that will be eligible for such allowance shall have an identification (re: tag, leg band, etc.) attached or inserted and shall be registered, in writing, with the city's Animal Control Officer within 90 days of the effective date of this chapter.
 - (4) That the offspring of any livestock that are in compliance with such allowance will be allowed to reside on the property until weaned from the mother or for no more than one year, whichever is sooner. The offspring shall have an identification chip inserted and shall be registered with the Animal Control Officer within 30 days of birth.
- (C) All livestock, except those on land used as sales pavilions, stockyards, slaughterhouses, locker plants, or truck terminals which must of necessity temporarily confine animals for the purpose of sale, slaughter, or transportation, other than those allowed in divisions (A) or (B) above are hereby deemed to be in violation of this chapter.
- (D) No building or enclosure for use in sheltering or keeping of livestock shall be allowed within 150 feet of any dwelling or building used for human habitation other than that of the owner of the livestock.
- (E) No person shall keep or maintain any land, building, or enclosure where livestock is kept unless the land, building, or enclosure is kept at all times in a clean, neat, and sanitary condition and free from substances that attract

rodents or insects. It is deemed an unsanitary condition for pastures and grazing areas to be grazed or trampled to the extent that a majority of the grass is destroyed, resulting in bare or weed-infested ground.

- (F) All cases of livestock at large, abuse, neglect or dangerousness shall be immediately reported to the South Dakota Animal Industry Board for enforcement pursuant to SDCL § 40-1-25.
- (G) It shall be deemed a violation of this chapter for any person to fail to maintain fencing that is adequate to ensure that livestock remains on the owner's property.
- (H) It shall be deemed a violation of this chapter for any person to drench or cause to be drenched with water any livestock while loaded in any vehicle or to clean or cause to be cleaned any vehicle used to carry livestock.

90.037 PIGEONS AND/OR FOWL.

No person shall keep or cause to be kept upon any premises within the municipal limits of the city pigeons or fowl, as defined in the chapter. Domesticated pigeons that are found upon property within the municipal limits of the city upon the effective date of this chapter, are hereby allowed so long as they do not constitute a nuisance or create a hazard to public health and their loft area is kept at all times in a clean, neat, and sanitary condition that is free from substances that attract rodents or insects.

90.038 DESIGNATION OF PET AREAS IN PARKS.

The City Park Board is hereby authorized to designate areas within city parks or upon public ground as no pet areas or as leash-free pet areas. The Public Works Department shall post such areas as shall be required to give reasonable notice to the public. It shall be deemed a violation of this chapter for any person to permit any animal under his ownership or control to be present upon any park or public ground designated as a no pet area.

90.039 INTERFERENCE.

Any person, who by using or threatening to use violence, force, or physical interference or obstacle, intentionally obstructs, impairs, or hinders the enforcement of the provisions of this chapter by an Animal Control Officer, a law enforcement officer, or agent/officer of a humane society is guilty of interference. Interference is hereby deemed to be a violation of this chapter.

90.040 FALSE REPORTING.

Any person who makes a report or intentionally causes the transmission of a report to authorities empowered herein of a violation of this chapter, knowing that it did not occur; or provides false information about any violation of this chapter, is guilty of false

reporting.

90.041 UNAUTHORIZED RELEASE.

No person shall seek to release any animal in the custody of the Animal Control Officer, law enforcement officer, or agent/officer of a humane society except as herein provided.

90.042 OWNER LIABILITY.

The owner and/or responsible party of any animal responsible for damage to person or property resulting from the actions of the animal shall be deemed liable for such damage. Should the city, its agents, contractors, or designees incur any costs for the investigation and enforcement of the provisions of this chapter, the owner of the

offending animal or the offender, if the offense is against an animal or its owner, shall be deemed liable for such damage.

90.043 POLICE, MILITARY, AND RESCUE ANIMALS.

Nothing in this chapter shall be construed to limit, affect, or apply to the use of animals by law enforcement, military, or rescue organizations.

SECTION RABIES CONTROL

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90.050 KEEPING RABID ANIMALS PROHIBITED.

No person shall knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by an animal known to be infected with rabies.

90.051 REPORT OF SUSPECTED CASES (General).

Any person who shall suspect any animal to be infected with rabies shall report the animal to the Animal Control Officer, describing the animal and giving the name and address of the owner, if known. Further all cases of suspected rabies shall be reported to the South Dakota Animal Industry Board and shall cooperate with said board to perform its functions under SDCL § 40-12.

(a) REPORT OF SUSPECTED CASES (VETERINARIANS)

Veterinarians within the City receiving information or reports of suspected rabies in wild animals or domestic animals shall report such information to any Animal Control Officer or designee in the City.

(b) REPORT OF SUSPECTED CASES: PHYSICIANS

Physicians within the City, immediately upon treatment of any person bitten by an animal, shall report such information to Box Elder Police Department.

90.052 DESTRUCTION OF RABID ANIMALS.

Any animal displaying symptoms or characteristics of rabies may be destroyed by the Animal Control Officer, a law enforcement officer, an agent/officer of a humane society, or a veterinarian.

90.053 INVESTIGATION

For the purpose of discharging the duties imposed by this ordinance and to enforce the provisions thereof, any Animal Control Officer, or their appointed designee, is empowered to enter upon any premises upon which an animal is kept or harbored and to demand the extradition by the owner of such animal, the license, or a valid rabies certificate for said animal. It is further provided that the Animal Control Officer, or their appointed designee, may enter upon the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal if there is probable cause to believe an animal or animals have been treated inhumanely.

90.054 QUARANTINE FOR OBSERVATION.

- (A) When any person owning or harboring an animal has been notified that the animal has bitten or attacked any person, and has no confirmable rabies vaccination history, the owner must within 24 hours place the animal under the care and observation of the Animal Control Officer, their designee and/or a licensed veterinarian for a period of not less than ten (10) days. However, in those cases when the owner has a current rabies vaccination for the animal, the Animal Control Officer may, if he or she feels the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's premises. In this case, the owner must sign a statement that he or she understands the responsibility and will assume the liability that is involved with the quarantine of an animal that has bitten. The quarantined animal must at all times be available for inspection during the quarantine.
- (B) At the end of the ten-day observation period the animal shall be examined by a veterinarian and/or qualified professional, and if cleared, may be reclaimed by the owner. The owner must pay the expense incurred incidental thereto.

- (C) Any animal quarantined for observation, showing active signs of rabies, suspected of having rabies, or known to have been exposed to rabies shall be confined under competent veterinarian observation for such time as may be deemed necessary to determine a diagnosis.
- (D) When an animal under quarantine has been diagnosed as being rabid or suspected by a licensed veterinarian as being rabid and dies while under such quarantine, the Animal Control Officer or designee shall ensure that the head of the animal shall immediately be sent to a competent laboratory for pathological examination. The Animal Control Officer or designee shall notify the proper public health officer to report human contacts with, and the diagnosis made on, the animal.
- (E) Any animal that has bitten or attacked that cannot be captured, and has no confirmable rabies vaccination history, may be destroyed in such a manner that the head is not damaged and can be immediately submitted by the Animal Control Officer or designee to a competent laboratory for pathological examination. The Animal Control Officer or designee shall notify the proper public health officer to report human contacts with, and the diagnosis made on, such animal.
- (F) Every unvaccinated animal bitten by another animal showing positive symptoms of rabies shall be forthwith destroyed or shall, at the owner's option and expense, be held for observation for not less than six (6) months under direct supervision of a veterinarian, and the animal is to receive a rabies vaccination one (1) month prior to its release from observation.
- (G) Every owner having knowledge that his animal has bitten or is suspected of biting a human being, shall forthwith report the same to the Box Elder Police Department for disposition of said animal under the provisions of the ordinance.
- (H) Animal Reclaim & Financial Responsibility for Rabies and/or Impoundment
- (1) In addition to the following regulations, the Finance Office is empowered to create polices and procedures for billing and collection of fee's, fines and services rendered, relating to animal control and redemption of animals.
 - (2) Furthermore, the Finance Office may use any legal remedy permitted under state law to recover fines, fee's and expenses incurred by the City in regards to animal control.
 - (3) The owner of any animal impounded must comply with the following in order to reclaim their animal.
 - (a) Upon impoundment of an animal, the owner becomes financially responsible for any fee's, fines and expenses incurred by the City for such impoundment.
 - (b) If the animal redeemable and is approved from release, the impounding agency will notify the Animal Control Officer (ACO).

- (c) The Animal Control Officer shall contact the owner, advising of the animal’s release. At said time the owner will have twenty-four (24) hours to arrange for payment of all expenses regarding the impoundment, to include but not limited to fee’s, fine’s, etc. in order to secure release and redeem the animal from impound.
 - (d) After said twenty-four (24) hour notification period, the City is no longer financially responsible for the animal, and the custody of the animal will be released to the impounding agency, if not redeemed by the owner.
 - (e) When the animal is released to the impounding agency, the agency may at its discretion, adopted the animal out, sell the animal or euthanize the animal.
- (4) If after observation, the animal is redeemable, and owner wishes to redeem the animal, however, cannot at the time meet their financial obligation to the City, the animal owner may make arrangement to make payments to the City as follows:
- (a) Pay one-third (1/3) of the reclamation fee to the Finance Officer prior to redeeming the animal.
 - (b) Sign an agreement with the Finance Officer obligating the animal owner to pay one-half (1/2) of the remaining fee thirty (30) days from the date of redemption, and the final payment within sixty (60) days of redemption of the animal.
 - (c) If the owner fails to meet their financial obligations, the Finance Officer will turn the matter over for collections, and may pursue any legal remedy permitted by law to recover the funds.

VICIOUS, DANGEROUS OR POTENTIALLY DANGEROUS ANIMALS

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90.065 COMPLAINTS.

- (A) An Animal Control Officer and/or the Chief of Police or their designee, shall initiate an investigation to determine whether or not an animal is vicious and/or dangerous or potentially dangerous upon receipt of: a written complaint from a community resident; an oral or written complaint from a physician, veterinarian, agent/officer of a humane society, or law enforcement officer; based upon his or her own observations.

- (B) The Animal Control Officer may impound the animal being investigated at any time during the course of the investigation if the Animal Control Officer, Chief of Police or their designee, determined that the preservation of public safety is best served by impoundment.
- (C) An Animal Control Officer, law enforcement officer, or agent/officer of a humane society may use all necessary means to control a dangerous or vicious animal so as not to immediately jeopardize the health or safety of themselves or others.
- (D) An owner of any animal having knowledge that his or her animal has caused injury, bitten, or is suspected of causing injury or biting a person shall immediately report the incident to the Box Elder Police Department.

90.066 INVESTIGATION.

- (A) The Animal Control Officer, Chief of Police and/or their designee, shall thoroughly investigate each complaint to determine if the animal is vicious, dangerous or potentially dangerous. The Animal Control Officer shall initiate the investigation within two business days (inclusive) of receiving the complaint.
- (B) The Investigator shall consider all relevant factors including, but not limited to, the severity of injury to the victim, statements from the victim and/or witnesses, previous aggressive history of the animal, observable behavior of the animal, the ability of the animal to inflict injury to another animal or person, previous incidents of a similar nature, and circumstances of the incident.
- (C) Upon initiating an investigation to determine whether or not an animal is vicious, the Animal Control Officer, Chief of Police or designee shall notify the owner of the animal that an investigation has begun. The notification shall be made either in person, by first class mail, or by posting the notification upon the front door of the owner's residence.
- (D) An animal does not have to be declared to be vicious, dangerous or potentially dangerous if an injury or damage is sustained to any person who was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or who was teasing, tormenting, abusing, or assaulting the animal or was committing or attempting to commit a crime.
- (E) At the conclusion of an investigation, but before his or her finding is issued, the Animal Control Officer shall review the results of the investigation with the Chief of Police and/or his/her designee.
- (F) At the conclusion of an investigation the Animal Control Officer may find:
 - (1) The animal is not vicious, dangerous or potentially dangerous and, if the animal is impounded and not quarantined for rabies evaluation, release the

animal to its owner upon payment of any impoundment fees and expenses; or

(2) The animal is dangerous or potentially dangerous and order the owner to comply with requirements that the Animal Control Officer, Chief of Police or designee deems reasonable to control the dangerous behavior of the animal and, if the animal is impounded and not quarantined for rabies evaluation, release the animal to its owner upon payment of any impoundment fees and expenses; or

(3) The animal is vicious and order the owner to comply with the requirements for vicious animals and, if the animal is impounded and not quarantined for rabies evaluation, release the animal to its owner within seven (7) calendar days upon the owner providing proof of compliance and payment of any impoundment fees and expenses; or

(4) The animal is unredeemably vicious and order the animal to be destroyed. The owner is responsible for payment of any impoundment fees and expenses and the costs for destroying the animal.

(G) If the Animal Control Officer, Chief of Police or designee cannot with due diligence

locate the owner of an animal that has been impounded pursuant to this section within seven (7) calendar days (inclusive), or if the owner of the animal has been notified that the animal has been determined to be dangerous or vicious but has not secured the release of the animal within ten (10) calendar days (inclusive) of notification (exclusive of the time of appeal to the Council), then the Animal Control Officer may cause the animal to be destroyed.

**90.067 NOTIFICATION OF FINDING THAT AN ANIMAL IS VICIOUS OR
DANGEROUS.**

(A) The Animal Control Officer, Chief of Police or designee shall notify the owner within three (3) business days after concluding the investigation and issuing the finding concerning the animal's designation as a dangerous, potentially dangerous or vicious animal. This notification may be in person and/or by certified mail and shall provide the specific restrictions and conditions for keeping the animal if the animal has been found to be potentially dangerous for removing the animal from the city's jurisdiction if the animal has been found to be vicious or dangerous. The notice shall inform the owner that he or she may request a hearing to contest the finding and shall contain instructions on how to appeal the finding. Such a request for hearing shall be filed in writing with the Finance Officer within seven (7) calendar days (inclusive) of receipt of notification.

(B) The Animal Control Officer, Chief of Police or designee shall notify the complainant within three (3) business days after concluding the investigation and issuing the finding concerning the animal's designation as a dangerous or vicious animal. This notification may be in person and/or by first class mail and shall provide the specific

action to be taken if the animal has been found to be dangerous or vicious. The notice shall inform the complainant that he may request a hearing to contest the finding and shall contain instructions on how to appeal the finding. Such a request for hearing shall be filed in writing with the Finance Officer within seven (7) calendar days (inclusive) of receipt of notification.

- (C) The Animal Control Officer, Chief of Police or designee shall notify the Finance Officer within three (3) business days after concluding the investigation and issuing the finding concerning the animal's designation as a dangerous or vicious animal. The notification shall describe the animal and specify any requirements or conditions placed upon the animal or owner.
- (D) Failure of either the owner or the complainant to request a hearing within the prescribed time shall result in the Animal Control Officer's, Chief of Police or designee's finding being a final determination.

90.068 APPEAL OF FINDING.

- (A) The Council shall have the authority to review findings made by the Investigator. The Council shall convene as it deems necessary to hear appeals from an investigators findings.
- (B) If the owner or complainant files a written request as described in 90.067, the Council shall hold a hearing, preferably at a regular Council meeting, not less than two (2) nor more than ten (10) business days after the day of receipt of the appeal. The purpose of the hearing shall be to uphold, overturn, or modify the investigators finding. The Finance Officer, or his or her designee, shall provide notice of the date, time, and location of the hearing to the owner, the complainant, and the investigator a minimum of two (2) calendar days prior to the hearing. The notification shall be made either in person, by first class mail, or by posting the notification upon the front door of the residence of the owner or complainant.
- (C) At the hearing, all interested persons shall be given the opportunity to present evidence on the issue of the finding. Criteria to be considered in the hearing shall be all relevant factors including, but not limited to, the severity of injury to the victim, statements from the victim and/or witnesses, previous aggressive history of the animal, observable behavior of the animal, the ability of the animal to inflict injury to another animal or person, previous incidents of a similar nature, and circumstances of the incident.
- (D) The Council shall issue a determination upholding, modifying, or overturning the investigators finding. This determination may be issued at the hearing or within three (3) calendar days after the hearing.
- (E) A determination by the Council upholding the finding that the animal is vicious shall subject the animal and its owner to the provisions of 90.069 below. A determination that the animal is unredeemably vicious shall result in the animal being destroyed

no sooner than five (5) calendar days after the hearing.

- (F) Failure of either the owner or the complainant to file an appeal to the Circuit Court within the five (5) calendar days after the Council's determination shall result in the investigators finding being a final determination.

90.069 REMOVAL OF A VICIOUS ANIMAL.

- (A) It is deemed a violation or dangerous of this chapter, and is hereby declared to be a public nuisance, for any person to keep within the city's jurisdiction an animal found to be vicious after the date of the investigators final determination.
- (B) It is deemed a violation of this chapter for any owner to possess an unredeemable vicious animal. All animals determined to be unredeemably vicious or dangerous shall be destroyed.
- (C) It is deemed a violation of this chapter for any owner of a vicious , dangerous or potentially dangerous animal to fail to comply with the requirements and conditions set forth in this section. Any vicious animal found by an Animal Control Officer, Chief of Police or designee to be in violation of this Section shall be immediately seized and destroyed.
- (D) Upon the third violation of this section by one owner, the Finance Officer shall refuse to issue that owner any future pet licenses.

90.070 RETROACTIVITY.

No animal may be declared to be a vicious animal based solely on the animal's activity prior to the effective date of this chapter. However, the activity, including but not limited to substantiated reports of bites or aggressive behavior, may be considered during an Animal Control Officer's investigation.

90.071: EXEMPTION FROM THIS SECTION:

Law enforcement and all similar persons or organizations authorized by the City are excluded from the provisions of this chapter.

90.072: ANIMAL RECLAIM & FINANCIAL RESPONSIBILITY

- (A) In addition to the following regulations, the Finance Office is empowered to create polices and procedures for billing and collection of fee's, fines and services rendered, relating to animal control and redemption of animals. Furthermore, the Finance Office may use any legal remedy permitted under state law to recover fines, fee's and expenses incurred by the City in regards to animal control.

(B) The owner of any animal impounded must comply with the following in order to reclaim their animal.

- (1) Upon impoundment of an animal, the owner becomes financially responsible for any fee's, fines and expenses incurred by the City for such impoundment.
- (2) If the animal redeemable and is approved from release, the impounding agency will notify the Animal Control Officer (ACO).
- (3) The Animal Control Officer shall contact the owner, advising of the animal's release. At said time the owner will have twenty-four (24) hours to arrange for payment of all expenses regarding the impoundment, to include but not limited to fee's, fine's, etc. in order to secure release and redeem the animal from impound.
- (4) After said twenty-four (24) hour notification period, the City is no longer financially responsible for animal, and the custody of the animal will be released to the impounding agency, if not redeemed by the owner.
- (5) When the animal is released to the impounding agency, the agency may at its discretion, adopted the animal, sell the animal or euthanize the animal.

(C) If the animal owner that wishes to redeem the animal, cannot at the time meet their financial obligation to the City, the animal owner may make arrangement to make payments to the City as follows:

- a. Pay one-third (1/3) of the reclamation fee to the Finance Officer prior to redeeming the animal.
- b. Sign an agreement with the Finance Officer obligating the animal owner to pay one-half (1/2) of the remaining fee thirty (30) days from the date of redemption, and the final payment within sixty (60) days of redemption of the animal.
- c. If the owner fails to meet their financial obligations, the Finance Officer will turn the matter over for collections, and may pursue any legal remedy permitted by law to recover the funds.

90.073 Conflicting provisions: Any provision of this section that is in conflict with any provision of this title shall be construed in accordance with this section.

LICENSING

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90.100 LICENSE REQUIRED.

It shall be deemed a violation of this chapter for any person to own, keep, maintain, or harbor or to have in his or her custody or under his or her control within the municipal limits of the city any dog or cat over the age of six (6) months without first having obtained a pet license from the City Finance Department or other designee of the Council. No pet license will be required for any pet that arrives and departs from the city within a 30-day period if such dog or cat is licensed in another jurisdiction. A pet license shall not be transferable from owner to owner or from pet to pet.

90.101 LICENSE APPLICATION.

Any person desiring to keep, maintain, or have in his custody or control within the municipal limits of the city any dog or cat shall, within seven (7) days of acquiring such dog or cat and thereafter every two (2) years, submit to the City Finance Department or designee of the Council a pet license application. A valid rabies certificate shall accompany each application, stating the name of the veterinarian who administered the inoculation, the date it was given, and the length of time during which such inoculation will be effective, which shall be at least as long as the license period.

90.102 LICENSE FEE.

(A) Each pet license application shall be submitted with a license fee according to the following schedule:

	Spay or Neuter	None
First pet	\$5	\$10
Second pet	\$5	\$10
Third pet	\$10	\$20
Fourth pet	\$10	\$20

(B) License fees are not refundable. Service dogs shall be exempt from the license fee requirement.

90.103 COLLAR AND/OR IDENTIFICATION REQUIRED.

It shall be the duty of the owner of each licensed dog to place a collar or alternative form of identification on the dog to display the animal license issued to that animal.

90.104 ISSUANCE OF TAG. It shall be the duty of the Finance Officer, or his or her designee, at the time of the issuance of a license under this chapter, to furnish and deliver to the applicant for such license a tag for each pet for which such license is

issued. The number of the license shall be stamped or engraved on the tag. The Finance Officer shall keep a record of all tags issued.

90.105 REPLACEMENT TAG.

In the event of the loss of any tag issued under this chapter, the Finance Officer or his or her designee is hereby authorized to issue another tag upon payment of \$5 upon application being made that such tag has been lost.

90.106 RABIES CERTIFICATE

Every person who keeps, maintains, or has in his control any dog or cat within the City, shall have the dog or cat inoculated for the prevention of rabies. It shall be the duty of the owner of the dog or cat to provide a current rabies certificate for each dog or cat, so owned or kept by him/her; and securely affix a metallic rabies tag furnished by a licensed veterinarian, to a collar, harness or other means to the dog or cat. It shall be unlawful for any person to keep or harbor any dog or cat, over the age of six (6) months without obtaining the rabies certificate from a licensed veterinarian.

90.107 EXEMPTIONS

Hospitals, clinics and other premises operated by a licensed veterinarian for the care and treatment of dogs, cats, or ferrets are exempt from provisions of this ordinance.

IMPOUNDMENT

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90.120 AUTHORITY.

An Animal Control Officer, law enforcement officer, or agent/officer of a humane society may impound any animal found within the city's jurisdiction that is found to be in violation of this chapter. The impoundment shall take place at a location and for a duration as ordered by the impounding officer.

90.121 MICROCHIP IMPLANTATION REQUIRED.

Any animal that has been impounded by the City, and subsequently released to its owner shall be implanted with a microchip prior to its release from impoundment, with

the cost of implantation to be borne by the owner.

90.122 REDEMPTION AND/OR DESTRUCTION OF DOGS OR CATS RUNNING AT LARGE - UNIDENTIFIED

In the event an animal is impounded, the responsible party, shall within three (3) days of impound, by paying the impound and associated fees for care of the animal; and having a current rabies certificate may redeem and obtain possession of a dog or cat that was impounded.

The Finance Officer is empowered to establish policies and procedures for payment and recovery of fee's, fines and costs incurred by the City regarding redemption and/or destruction of animals.

An impounded animal shall be released to the owner thereof upon payment to the City Finance Office, of the daily boarding cost plus the cost of any other services rendered (such as veterinary services or microchip implantation) plus an impoundment fee according to the following schedule:

First violation	<u>\$50</u>
Second violation within a 12-month period	<u>\$100</u>
Third and subsequent violation within a 12-month period	<u>\$300</u>

In the event an animal is impounded for other than rabies observation, and/or a dangerous/vicious animal investigation and determination, and the responsible party has not within three (3) days of impound, redeemed the animal; the City is no longer physically or financially responsible for the animal. On the fourth day, animal will automatically be released to the impound agency.

The impound agency, shall then have the right to adopt, sell or euthanize the animal as it sees fit.

The City, its employees, agents and/or impounding agencies may not be held liable actions regarding animals that have been impounded for more than three (3) days and not redeemed by the owner.

90.123 DOGS WITH DESTRUCTIVE HABITS

It shall be unlawful for any person to permit or suffer to run at large within the City, any dog with destructive habits or disposition, which destroys property other than that of his owner, or is in the habit of barking at persons passing along or using the streets and

public sidewalks of the City. The Animal Control Officer, or designee under proper authority is hereby empowered to impound or dispose of any such animal.

90.124 NOTICE TO OWNER.

The Animal Control Officer, law enforcement officer, or agent/officer of a humane society who is impounding an animal shall notify, within 24 hours of an animal being impounded, the owner of the animal if his or her identity and location can be obtained by reasonable means.

90.125 DISPOSITION OF IMPOUNDED ANIMALS.

Any dog or cat found running at large as defined in this ordinance may be taken by the Animal Control Officer or designee and impounded, disposed of or sent to the animal shelter to be confined in a humane manner.

- (A) An impounded animal wearing a license or bearing other means of identification and the owner not immediately identified, shall be impounded for a period of three (3) days, excluding Sundays and holidays and including the day of impoundment.
- (B) An impounded dog not wearing a license or bearing other means of identification shall be impounded for a period of three (3) days, excluding Sundays and holidays and including the day of impoundment.
- (C) If the owner of any impounded animal shall fail to redeem such animal during the impoundment period, then any other person may, upon complying with the provisions of this subchapter, redeem such animal from impoundment and be the lawful owner thereof.
- (D) The Animal Control Officer or his or her designee may dispose of any impounded animal after the impoundment period by any humane means.
- (E) The Animal Control Officer or his or her designee may dispose of any found or impounded animal that is sick or injured or is a feral cat without holding the animal for the entire impoundment period if the animal's condition is such that euthanization is the most humane manner to dispose of the animal.

90.126 RECORDS.

The Animal Control Officer and/or Police Department shall keep accurate records of the investigation, impounding, and disposition of all animals coming into his custody and an accurate record of all animal bites.

PENALTY

90.999 Penalty General

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90.999 PENALTY GENERAL

A violation of any provision of this chapter or any amendment thereto, or failure to perform any act required hereunder may initially be penalized by Civil/Administrative Citation as stated in sections 90.005 - 90.010 and/or Class 2 Misdemeanor. In addition to any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case. Nothing herein to prevent or remedy any violation. Any violation of this Chapter.

BE IT FURTHER ORDAINED by the Common Council of the City of Box Elder that this ordinance shall become effective in accordance to law.

CITY OF BOX ELDER

ATTEST:

Larry Larson, Mayor

Nicole Schneider

First Reading: October 18, 2016
Second Reading: November 1, 2016
Published: November 5, 2016
Effective: November 25, 2016