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## CHAPTER 6.04

### Dogs

#### **6.04.010 Dog defined.**

As used in this Chapter, the word *dog* means any dog, bitch or whelp over six (6) months of age. (Ord. 152 §1, 1975)

#### **6.04.020 License required.**

The owner, possessor or keeper of any dog within the Town shall secure a license for such dog from the Town Clerk on or before the first day of March of each year or within thirty (30) days after the dog reaches the age of six (6) months. Dogs purchased, obtained or otherwise acquired subsequent to the first day of March in any calendar year shall be licensed within thirty (30) days after such acquisition. New residents of the Town shall have thirty (30) days after becoming such residents to secure a license under this Chapter. (Ord. 152 §2, 1975)

#### **6.04.030 License; fee.**

The annual license fee for dogs within the Town shall be two dollars (\$2.00) for males and spayed females, and five dollars (\$5.00) for unspayed females. Such fee at any time be changed by resolution of the Board of Trustees. (Ord. 152 §3, 1975)

#### **6.04.040 Rabies vaccination required.**

(a) Each owner, possessor or keeper of one (1) or more dogs within the Town shall have each dog inoculated against rabies between January 1 and March 1 of each year or have the inoculation done between January 1 and March 1 on a three-year vaccination program. The owner shall not inoculate against rabies on a two-year program.

(b) The veterinarian administering the inoculation has the ultimate authority to determine whether a one-year or three-year vaccination is given. (Ord. 228 §2, 2001: Ord. 152 §4, 1975)

#### **6.04.050 Rabies vaccination by licensed veterinarian.**

The inoculation required by Section 6.04.040 shall be made by any veterinarian licensed to practice veterinarian medicine in this state. (Ord. 152 §5, 1975)

#### **6.04.060 Rabies vaccination prerequisite to license issuance; license applications.**

Upon application for a dog license, the applicant shall exhibit to the Town Clerk a certificate from a licensed veterinarian that the dog has been inoculated against rabies as required by this Chapter. All applications for licenses shall be made on forms provided by the Town Clerk. (Ord. 152 §6, 1975)

#### **6.04.070 Tags; issuance.**

It shall be the duty of the Town Clerk to deliver or cause to be delivered to each person making application for a license, paying the license fee provided for in this Chapter and presenting the certificate of inoculation required by this Chapter a dog tag for each dog licensed and inoculated. (Ord. 152 §7, 1975)

**6.04.080 Tags; attachment to collar or harness.**

Every owner, possessor or keeper of a dog within the Town shall place upon such dog a collar or harness made of durable material to which the dog tag provided in this Chapter shall be attached. (Ord. 152 §8m 1975)

**6.04.090 Tags; to be worn only by licensed dogs.**

No person shall affix to the collar or harness of any dog or permit to remain so affixed a tag evidencing licensing or rabies inoculation except the dog tag issued to that dog at the time of issuance of its license. (Ord. 152 §9, 1975)

**6.04.100 Tags; records to be kept of issuance; duplicates; transfers.**

The Town Clerk shall keep a record of the date of issue of each dog tag provided for in this Chapter, the person to whom such tag is issued and the number thereof. If the dog tag provided for in this Chapter is lost or destroyed, a duplicate tag may be obtained from the Town Clerk upon the payment of a fee of one dollar (\$1.00). In the event that the ownership or possession of a dog is changed, a new dog tag must be obtained. (Ord. 152 §10, 1975)

**6.04.110 Impoundment generally.**

It is lawful for the Town Marshal and all other police officers to impound any dog which is not wearing a dog tag as provided in this Chapter and any dog which they reasonably feel to be in violation of any of the provisions of this Chapter, whether such dog is wearing a dog tag or not. It shall be lawful for the Town Marshal or any police officer to go upon private property for the purpose of catching any dog to be impounded. (Ord. 152 §11, 1975)

**6.04.120 Impoundment; notice to owner or keeper of dog.**

As soon as practicable after the date of impoundment, the Town Marshal shall send by regular mail or by delivery in person a written notice of such impoundment to the owner, possessor or keeper of such dog if the address of such person is known. If the owner, possessor or keeper of such dog is not known or if his or her address cannot be determined, the Town Marshal shall cause to be posted near or on the west front door of the Town Hall for five (5) consecutive days a notice of impoundment. Whether the notice provided in this Section is mailed, delivered or posted, it shall describe the dog, set forth the date of impoundment and set forth the location from which the dog was taken up. (Ord. 152 §13, 1975)

**6.04.130 Impoundment; procedure for release of dog.**

If a complaint has been filed in the Municipal Court of the Town against the owner, possessor or keeper of any impounded dog for a violation of this Chapter, such dog shall not be released from impoundment except on order from a Municipal Judge or the Board of Trustees. In addition to any penalties which may be assessed by a Municipal Court for a violation of this Chapter, the owner, possessor or keeper shall pay the fees provided for in Section 6.04.150 before any dog is released. (Ord. 152 §14, 1975)

**6.04.140 Impoundment; disposal of unclaimed dogs.**

(a) If the owner, possessor or keeper of an impounded dog has not claimed such impounded dog within five (5) days from the date of impoundment, not counting the first day of impoundment, the dog

may be disposed of in any humane manner prescribed by the Town Marshal or by resolution of the Board of Trustees.

(b) The Board of Trustees or a Municipal Judge may, upon making a finding that such dog constitutes a nuisance, that such dog is a vicious dog or that such dog constitutes a clear and present danger to the citizens of the community, order that such dog be destroyed in a humane manner by the Town Marshal or by persons authorized to do so by the Town Administrator. (Ord. 152 §15, 1975)

#### **6.04.150 Impoundment; redemption fees.**

Any owner, possessor or keeper of a dog desiring to redeem such dog from the pound shall pay the Town the sum of five dollars (\$5.00) as an impoundment fee, together with the sum of one dollar and fifty cents (\$1.50) for each day of impoundment for room and board and any and all license or rabies inoculation fees provided for in this Chapter. Such fee may at any time be changed by resolution of the Board of Trustees. (Ord. 152 §16, 1975)

#### **6.04.160 Interference with Town Marshal or police officer performing duties.**

It is unlawful for any person to interfere with, molest, hinder or obstruct the Town Marshal or any police officer in the discharge of his or her official duties under this Chapter. (Ord. 152 §17, 1975)

#### **6.04.170 Instigating or encouraging dog fights prohibited.**

No person shall cause, instigate or encourage any dog fight within the Town. (Ord. 152 §18, 1975)

#### **6.04.180 Female dogs in heat.**

Any unspayed female dog, while in heat, shall be securely confined during such period in the owner's yard, pen or other enclosure. Such yard, pen or other enclosure shall be so constructed or situated as to prevent other dogs from gaining access to such yard, pen or other enclosure. (Ord. 152 §19, 1975)

#### **6.04.190 Running at large prohibited.**

It is unlawful for any owner, possessor or keeper of any dog in the Town to permit the same to run at large within the Town. A dog shall be deemed to be running at large when off or away from the premises of such owner, possessor or keeper, or his or her agent or servant or a member of his or her immediate family, either by leash, cord or chain, not more than ten (10) feet in length. (Ord. 152 §20, 1975)

#### **6.04.200 Vicious dogs.**

No person shall own, keep, possess or harbor a vicious dog within the Town. For the purposes of this Section, a *vicious* dog is defined and declared to be a dog that unprovokedly bites or attacks human beings or other animals either on public or private property, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack upon the streets, sidewalks or any public ground or place. (Ord. 152 §21, 1975)

#### **6.04.210 Confinement of biting dogs.**

The owner, possessor or keeper of any dog which has bitten or is suspected to have bitten any person or which is suspected of having rabies shall immediately notify the Town Marshal or any police officer of such fact. (Ord. 152 §22, 1975)

#### **6.04.220 Establishment and operation of pound.**

The Board of Trustees may, by resolution at any time, establish a dog pound for the Town to be operated by Town personnel, or may contract with a city or town within ten (10) miles of the Town, or with a public or private person or organization for the operation of a dog pound for and on behalf of the Town. (Ord. 152 §12, 1975)

#### **6.04.230 Notice or knowledge of violation not necessary for prosecution of owner or keeper.**

For the purpose of prosecution for violations of this Chapter, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or keeper of the dog in question that such dog was violating any of the provisions of this Chapter at the time and place charged, it being the purpose and intent of this Chapter to impose strict liability upon the owner, possessor or keeper of any dog for the actions, conduct and condition of such dog. (Ord. 152 §23, 1975)

#### **6.04.240 Violation; penalty.**

Violation of any of the provisions of this Chapter or failure to comply with the conditions thereof shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding three hundred dollars (\$300.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable under this Chapter. (Ord. 152 §24, 1975)

### **CHAPTER 6.08**

#### **Keeping of Hard-Hoofed Animals and Fowl**

##### **6.08.010 Definitions.**

For the purposes of this Chapter, the words set out in this Section shall have the following meanings:

*Animal* or *animals* includes any cattle, horses, mules, sheep, goats, swine or other hard-hoofed animals.

*Fowl* includes chickens, ducks, geese, turkeys, guineas, pigeons and like fowl.

*Person* means any person, persons, firm, partnership, corporation or association. (Ord. 145 §1, 1972)

##### **6.08.020 Animals prohibited.**

(a) No person shall permit an animal, rabbit or fowl kept or maintained by such person to be at large within the corporate limits of the Town.

(b) No person shall keep or maintain any animal, rabbit or fowl within the corporate limits of the Town, except as provided in this Chapter. (Ord. 145 §2, 1972)

##### **6.08.030 Abatement period.**

Any person who, upon the effective date of the ordinance codified in this Chapter, is keeping or maintaining an animal, rabbit or fowl, as defined in this Chapter, within the corporate limits of the Town may, within one hundred twenty (120) days after the effective date of the ordinance codified in this

Chapter, register with the Town Clerk the number and kind of such animals, rabbits or fowl kept or maintained and shall thereafter have five (5) years in which to rid such premises of all such animals, rabbits or fowl. Failure to register such animals, rabbits or fowl shall be deemed a waiver of any right to maintain such animals, rabbits or fowl during such abatement period. No such animals, rabbits or fowl kept or maintained within the corporate limits of the Town as of the effective date of the ordinance codified in this Chapter and registered with the Town Clerk that dies or is sold shall be replaced during the five-year abatement period. The number of such animals, rabbits or fowl kept or maintained upon such premises shall not be increased during such five-year period. Such abatement period shall be available only to persons keeping such animals, rabbits or fowl upon the effective date of the ordinance codified in this Chapter. Any right to maintain such animals, rabbits or fowl during such abatement period shall not be transferable. (Ord. 145 §3, 1972)

#### **6.08.040 Exceptions.**

(a) This Chapter shall not be applicable to the display of animals, rabbits or fowl by entrants in any show or fair authorized by the Town, nor to the temporary maintenance by a veterinarian of animals, rabbits or fowl during the time necessary for treatment.

(b) Any person who considers the provisions of this Chapter unreasonable in his or her instance may apply to the Board of Trustees for a "hardship exception." Such exception shall, if granted, allow the applicant to keep and maintain animals, rabbits and fowl under his or her control within the corporate limits of the Town. In determining whether such exception shall be authorized, the Board of Trustees shall be guided by the following conditions:

- (1) The size of the premises;
- (2) The population density of the area; and
- (3) The health, peace and welfare of neighbors of the applicant. (Ord. 145 §4, 1972)

#### **6.08.050 Sanitary regulations and inspections.**

The premises upon which animals are kept during the five-year abatement period, and the premises to which the hardship is granted shall be maintained in a sanitary condition and shall at all reasonable hours be subject to inspection by representatives of the Otero County Health Department. It is unlawful for any person to refuse such inspection. (Ord. 145 §5, 1972)

#### **6.08.060 Liability.**

Any person who allows an animal, rabbit or fowl kept or maintained by such person to be at large within the corporate limits of the Town shall be liable for any damages caused by such animal, rabbit or fowl while at large. (Ord. 145 §6, 1972)

#### **6.08.070 Violation; penalty.**

Violation of any of the requirements of this Chapter or failure to continue to comply with any condition set forth in this Chapter shall constitute a misdemeanor and, upon conviction thereof, shall be punishable by a fine not exceeding three hundred dollars (\$300.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable under this Chapter. (Ord. 145 §7, 1972)

## **CHAPTER 6.12**

### **Animals Creating Nuisance**

#### **6.12.010 Responsibility of owners to control animals; nuisance designated.**

It is unlawful for any owner to fail to exercise proper care and control of his or her animals to prevent them from becoming a public nuisance. Excessive, continuous or untimely barking, molesting passersby, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds or trespassing upon private property in such manner as to damage property shall be deemed a nuisance. (Ord. 182 §1, 1982)

#### **6.12.020 Violation; prima facie evidence.**

Sustained or continuous barking for a period of one (1) minute shall be prima facie evidence of a violation of Section 6.12.010. (Ord. 182 §2, 1982)

#### **6.12.030 Violation; penalty.**

Any person violating any of the provisions of this Chapter shall be punished by a fine not exceeding three hundred dollars (\$300.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. (Ord. 182 §3, 1982)