

## **ARTICLE II. DOGS, CATS AND OTHER ANIMALS<sup>1</sup>**

### **Sec. 5-20. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal* means any live, vertebrate creature, domestic or wild, except homo sapiens.

*Animal control division* means the review and enforcement authority under the supervision of animal control officer (in direct cooperation with the police department whenever requested) and empowered to administer this article.

*Animal control officer* means any person employed or appointed by the City who is authorized to investigate and enforce violations relating to animal control or cruelty under the provision of this Ordinance.

*Animal shelter* means any facility operated by a humane society or municipal agency, or its authorized agents, for the purpose of impounding or caring for animals held under the authority of this title or state law.

*At large* means any animal that is not on its owner's property and not leashed.

*Bite injury* means any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, or other piercing of the skin.

*Dangerous dog* means:

- (1) Any dog that has caused a bite injury and is not a vicious dog;
- (2) Pit bulldogs, dogs belonging to the breed of dogs commonly referred to as pit bull dogs, American Pit Bull Terrier, American Staffordshire Terrier, Bull Terrier, Chow Chow, Doberman Pincher, Rottweiler, Shar Pei, Staffordshire Bull Terrier, Wolf Hybrids, Cane Corso and any type or breed used as guard or attack dogs, shall be considered prima facie as dangerous dogs under the terms and provisions of this section.

*Director* means the Director of the Department of Animal Control.

*Domestic animal* means an animal of a tamed species commonly kept as pets.

*Enclosure* means a fenced or walled area having a fence or wall height of at least six (6) feet suitable to prevent the entry of young children and suitable to confine a dog.

*Feral dog* means a dog that has escaped from domestication and become wild, dangerous or untamed.

*Impoundment* means seizing and confining a dog by any police officer, animal control officer or any other public officer under the provisions of this Ordinance.

*Muzzle* means a device constructed of strong, soft material or of metal, designed to fasten over the mouth of a dog that prevents the dog from biting any person or other animals and that does not interfere with its respiration.

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<sup>1</sup>Editor's note(s)—Ord. No. 614, § 1, adopted July 5, 2006, repealed the former Art. II., §§ 5-20—5-43. Ord. No. 615 enacted a new Art. II as set out herein. The former Art. II pertained to dogs and derived from Ord. No. 270, adopted May 7, 1968; Ord. No. 432, adopted April 21, 1992; Ord. No. 494, adopted Oct. 15, 1996; Ord. No. 503, adopted Jan. 21, 1997; Ord. No. 386, adopted Feb. 2, 1988 and Ord. No. 495, adopted Oct. 15, 1996.

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*Owner* means any person, partnership or corporation having a right of property in an animal, or who keeps or harbors a dog, or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on any premises occupied by him or her.

*Performing-animal exhibition* means any spectacle, display, act or event, other than a circus, in which performing animals are used.

*Pet* means any animal kept for pleasure rather than utility.

*Pet store* means any place of business which sells birds, fish, reptiles or mammals intended for use as pets; however, this shall not include commercial and hobby breeders.

*Potentially dangerous dog* means a dog that while *at large*;

- (1) behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or domestic animal;
- (2) causes injury to a *domestic animal*.

*Provocation* means any action or activity, whether intentional or unintentional, which would be reasonably expected to cause a normal dog in similar circumstances to react in a manner similar to that shown by the evidence.

*Public nuisance* means any animal which:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Trespasses on school grounds, city parks or private property;
- (4) Repeatedly runs at large;
- (5) Damages private or public property;
- (6) Barks, whines, scream or howls in an excessive, continuous or untimely fashion;
- (7) Defecates or frequently urinates on public property or private property of one other than its owner;
- (8) Is allowed by its owner to become a nuisance to people or other animals.

*Restraint* means the condition of securing any animal, by a leash or lead of less than four (4) feet; within the fenced real property limits of its owner; or by tethering in such a way that the animal is within the real property limits of its owner.

*Running at large* means any animal not under restraint.

*Sanitary condition* means a condition of good order and cleanliness to minimize the possibility of disease transmission.

*Serious physical injury* means disfigurement, protracted impairment of health, or impairment of the function of any bodily organ.

*Veterinary hospital* means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

*Vicious animal* means any animal, except dogs, that constitutes a physical threat to human beings or other animals.

*Vicious dog* means:

- (1) Any dog which has shown a propensity, tendency, or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

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- (2) Any dog which when unprovoked bites, inflicts injury, assaults, or otherwise attacks a human being or domestic animal on public or private property, or chases or approaches a person upon the streets, sidewalks or on any public grounds in a menacing or terrorizing manner or apparent attitude of attack.
  - (3) Any dog which is owned or harbored primarily or in part for the purpose of dogfighting or any dog trained for dogfighting.
  - (4) Notwithstanding the above, no dog may be considered a vicious dog if an injury or damage is sustained by a person who at the time of such injury or damage was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was teasing, tormenting, abusing, or assaulting the dog or was committing or attempting to commit a crime. No dog may be considered vicious if an injury or damage was sustained by a domestic animal which at the time of such injury or damage was teasing, tormenting, abusing, or assaulting the dog. No dog may be considered vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.
  - (5) Vicious dog shall not include:
    - (a) A police dog while being used to assist law enforcement officials in the performance of their official duties;
    - (b) A dog attempting to prevent a trespass or other criminal offense on the property of its owner, keeper or harborer.
  - (6) Menacing fashion means that the dog would cause a reasonable person being chased or approached to believe that the dog would attempt to cause physical injury to that person.

(Ord. No. 615, § 1, 7-5-06)

### **Sec. 5-21. Enforcement.**

- (a) The civil and criminal provisions of this article shall be enforced by the division of animal control and the city police department.
- (b) Any police officer or animal control officer having probable cause that a person has violated a section of this article may, in lieu of obtaining a misdemeanor warrant for arrest of such suspect, issue to the person a written citation requiring the person to appear at a date and time in the municipal court to answer the charge or charges specified in the citation.
- (c) It shall be a violation of this article to interfere with an animal control officer in the performance of his duties.

(Ord. No. 615, § 2, 7-5-06)

### **Sec. 5-22. Animals running at large prohibited.**

- (a) *Prohibited.* It shall be unlawful for the owner of any animal to permit it to run at large within the corporate limits of the city.
- (b) *Impoundment of animals at large.* Animals running at large may be impounded as provided elsewhere herein.

(Ord. No. 615, § 3, 7-5-06)

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### **Sec. 5-23. Keeping of animals within city limits.**

- (1) *Keeping animals near residences prohibited: exemption for dog and cats.* It shall be unlawful for any person to keep or maintain any fowl or any livestock animals.
- (2) *Swine prohibited;* It shall be unlawful for any person to raise or keep hogs and pigs within the corporate limits of the city.

The above provision notwithstanding the owner of any residence in the City of Kosciusko may keep no more than one (1) potbellied pig having a weight of less than fifty (50) pounds as a pet in said residence and on the grounds adjacent to said residence.

- (3) *Number restricted.* It shall be unlawful for any person to have in their possession or on their property more than five (5) animals in any combination that exceeds a total of five (5) such animals over the age of three (3) months in any area zoned other than agricultural.

The above restrictions notwithstanding, however, any owner of dogs that has a kennel with a concrete floor and cyclone fencing on the date of this article may have not more than eight (8) dogs in said kennel over the age of three (3) months in any area zoned other than agricultural. Any such owner shall fully comply with all of the other terms and provisions of this article.

(Ord. No. 615, § 4, 7-5-06; Ord. No. 642, § 1, 12-18-12)

### **Sec. 5-24. Responsibility of owner generally.**

- (a) An Owner must:
  - (1) Exercise proper care and control of his animals including, but not limited to, dogs or cats;
  - (2) Prevent them from becoming a public nuisance, as defined in section 5-20
  - (3) Comply with the standards set out next below and all other provisions of this article.
- (b) It shall be unlawful for any lot or stall or stable or other place where animals are being kept in an unclean, filthy, or unsanitary condition. All lots, stalls, stables, pens, yards, and other places where potbellied pigs, dogs, cats or other animals are kept for any purpose whatsoever, anywhere in the city, shall be kept clean and wholesome by removal of all offensive matter and by suitable cleansing and disinfecting as often as may be necessary, which care is hereby required and made the duty of every person having, owning or controlling such places.
- (c) The owner of every animal, including, but not limited to, cats and dogs, shall remove any fecal matter deposited by such animals on public walks, streets, recreation areas or private property of another. It shall be unlawful for the owner of any property to allow unsanitary or malodorous conditions to develop on his property due to the keeping, maintaining, owning, or harboring of animals. Yards, pens, premises, and animals shall be kept free of insect infestations.
- (d) Animal pens or enclosures shall be large enough to provide reasonable freedom of movement to the animals contained therein,
- (e) No owner of an animal shall abandon such animal or fail to maintain such animal in a healthy condition or to provide appropriate veterinary treatment immediately if ill.
- (f) No owner shall fail to provide his animals with sufficient good and wholesome food and water, proper shelter, and protection from the weather and to generally provide humane care and treatment.

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- (g) No owner shall keep or harbor any animal(s) which by loud, frequent, or habitual barking, howling, yelping or other noise or action, disturbs any person or neighborhood within the corporate limits of the city.

(Ord. No. 615, § 5, 7-5-06)

### **Sec. 5-25. Vaccinations.**

- (a) *Required.* Any person owning, keeping, harboring, or having custody of any dog or cat three (3) months of age or older within the city must have that animal vaccinated against rabies and annually thereafter with the approved dosage of an approved anti-rabies virus (vaccine) properly administered by a person legally authorized to do so. It shall be unlawful for any person to own or have in his possession any dog or cat not so vaccinated. Every dog or cat must be vaccinated in accordance with the Compendium of Animal Rabies Vaccines as prepared by the National Association of State Public Health Veterinarians, Inc.
- (b) *Tag-bearing vaccination serial numbers to be worn.* The owner of any dog or cat must see that the animal wears a securely bradded metal tag with the serial number of the vaccination and the year in which the animal was inoculated stamped thereon and shall see that the collar and tag are always worn by the animal.

(Ord. No. 615, § 6, 7-5-06)

### **Sec. 5-26. Determination of Status.**

- (a) The animal control officer and/or police officer may find and declare a dog potentially dangerous, dangerous, or vicious if the officer has probable cause to believe that the dog falls within the definition of "potentially dangerous dog", "dangerous dog" or "vicious dog".
- (1) The written complaint of a person who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of "potentially dangerous dog", "dangerous dog" or "vicious dog": or
  - (2) Dog bite reports filed with the animal control officer as required by city ordinance or state law; or
  - (3) Actions of the dog witnessed by any animal control officer or law enforcement officer; or
  - (4) Other substantial evidence admissible in court.
- (b) The declaration shall be in writing, and shall be served by the animal control officer and/or police officer;
- (1) On the owner if known using one of the following methods;
    - (i) Regular mail to the owner's last known address, or by certified mail directed to the owner at the owner's last known address; or
    - (ii) Personally; or
    - (iii) If the owner cannot be located, Animal Control will place a notice on the property of the owner;
  - (2) Where the owner is not known, the dog will be kept at the city pound for 10 days and then become the property of city.
- (c) The declaration must contain the following information;
- (1) Name and address of the owner of the dog if known that fact.
  - (2) A description of the dog.
  - (3) Whereabouts of the dog.

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- (4) Facts upon which the declaration is based.
  - (5) Restrictions placed upon the dog and when the owner is not known the intended disposition of the dog.
  - (6) Penalties for violation of the restrictions, including possibility of destruction of the animal and fine and imprisonment of owner.
  - (7) Availability of a hearing to contest the declaration by submitting a written request to the Board of Alderman within fifteen days of receipt of the declaration or if notice is given by publication or posting within fifteen days of the earlier of the date the notice first appears in the newspaper of the property is posted.
- (d) A dog may be declared dangerous under this section if the dog has within a twelve-month period attacked and killed a domestic animal. For purposes of this subsection only, a domestic animal does not include any feral animal or does not apply where the attack was upon a domestic animal that was at large or upon a domestic animal that was tormenting or attacking the dog.
  - (e) Dogs shall not be declared potentially dangerous, dangerous, or vicious if the threat, injury, or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner if the dog, or was tormenting, abusing, provoked or assaulted the dog of was committing or attempting to commit a crime.
  - (f) *Notice.* When notice is given by regular mail to the owner's last known address, notice is effective on the third day after the notice was placed in the mail, postage prepaid, to the owner's last known address. When notice is given by certified mail, notice is effective when received; provided however, if certified mail delivery has been refused, notice is effective by posting on owner's property and whenever notice is accomplished by posting the notice is effective and deemed received on the earlier of the day the property is posted.

### **Sec. 5-26A. Potentially Dangerous Dogs.**

- (a) It shall be unlawful to maintain a potentially dangerous dog in violation of this section. Potentially dangerous dogs must be registered with the city annually.
- (b) No person owning, harboring, or having the care or custody of a potentially dangerous dog shall permit the dog to go at large or leave the owner's property unless the dog is securely leashed and muzzled.
- (c) *Spaying/Neutering.* All owners of potentially dangerous dogs must provide proof of sterilization to the Animal Control Officer within 10 days of the dog being declared potentially dangerous by Animal Control. If the dog is in possession of the city, the city will have the dog spayed or neutered at the owner's expense prior to returning the dog to the owner.
- (d) In addition to any other penalty for a violation of this section, a court may revoke the authority of a person to keep a potentially dangerous dog within the city.
- (e) The owner of a potentially dangerous dog may apply to the Director of Animal Control to have the declaration waived after two (2) years upon meeting the following conditions;
  - (1) The owner and offending dog has no subsequent violations of this Chapter of the Code; and
  - (2) The owner of the dog has complied with all the provisions of this act for a period of two (2) years; and
  - (3) The owner provides proof to the Director of Animal Control of successful completion of a behavior

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modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or Veterinary Behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

If the Director finds sufficient evidence that the dog owner has complied with all conditions in this subsection, the application shall be forwarded to the Court to rescind the potentially dangerous dog declaration.

### **Sec 5-26B. Dangerous Dogs**

- (a) It shall be unlawful to maintain a dangerous dog in violation of this section. Dangerous dogs must be registered with the city annually.
- (b) *Keeping of a Dangerous Dog.* Once a dog has been declared dangerous, it shall be kept in a secure Enclosure subject to the following requirements;
  - (1) *Leash.* No person having charge, custody, control, or possession of a dangerous dog shall allow the dog to exit its enclosure unless such dog is securely attached to a leash not more than four (4) feet in length and walked by a person who is both over the age of eighteen and who has the physical ability to restrain the dog at all times. No owner shall keep or permit a dangerous dog to be kept on a chain, rope or other type of leash outside its enclosure unless a person capable of controlling the dog is in physical control of the leash.
  - (2) *Muzzle.* It shall be unlawful for any owner or keeper of a dangerous dog to allow the dog to be outside of its proper enclosure unless it is necessary for the dog to receive veterinary care or exercise. In such cases, the dog shall wear a properly fitted muzzle to prevent it from biting humans or other animals. Such muzzle shall not interfere with the dog's breathing or vision.
  - (3) *Confinement.* Except when leashed and muzzled as provided in this Section, a dangerous dog must be securely confined in a residence or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure must include shelter and protection from the elements and shall provide adequate exercise room, light and ventilation. The enclosed structure must be kept in a clean and sanitary condition and shall meet the following requirements;

The structure must have secure sides of at least six (6) feet and a secure top, which are constructed with cyclone type fencing material of at least nine (9) gauge wire thickness; with a concrete slab at least four (4) inches in thickness and the sides should extend below the slab. The confinement should be ten (10) by ten (10) for one dog and twelve (12) by twelve (12) for more than one dog. Such enclosure shall have a conspicuous sign affixed thereto displaying the words "Dangerous Dog" or "Beware of Dog". No more than three (3) dangerous dogs shall be confined at any single dwelling in the City of Kosciusko.

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- (4) *Indoor Confinement.* No dangerous dog shall be kept on a porch, patio or any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such dog shall be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dog from exiting the structure.
  - (5) *Signs.* All owners, keepers or harborers of dangerous dogs must display in a prominent place on their premises a sign easily readable by the public using the words “Beware of Dog” or “Dangerous Dog”.
  - (6) *Liability Insurance, Surety Bond.* The owner of a dangerous dog is required and must present to the Department of Animal Control proof that he has procured liability insurance or a surety bond in the amount of not less than one hundred thousand dollars (\$100,000) covering any damage or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the city be notified immediately by the agent issuing it if the insurance policy is cancelled, terminated or expires. The liability insurance or surety bond must be obtained prior to the issuing of a permit to keep a dangerous dog. The dog owner shall sign a statement attesting that he shall maintain and not voluntarily cancel the liability insurance policy during the twelve (12) month period for which the permit is sought, unless he ceases to own or keep the dog prior to the expiration date of the permit period. Proof of insurance or surety bond must be provided annually.
  - (7) *Identification Photographs.* All owners, keepers or harborers of dangerous dogs must within ten (10) days of determination provide to the Animal Control two (2) color photographs of the registered dog clearly showing the color and approximate size of the dog.
  - (8) *Microchip.* All owners, keepers or harborers of dangerous dogs must within ten (10) days of determination microchip the dog and provide microchip information to the Director of Animal Control to register the dog as dangerous.
  - (9) *Spaying/Neutering.* All owners, keepers and harborers of dangerous dogs must within ten (10) of determination spay or neuter the dog and provide proof of sterilization to the Director of Animal Control.
  - (10) *Sale or Transfer of Ownership Prohibited.* Sale – No person shall sell, barter or in any other way dispose of a dangerous dog registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog, provided that the owner of a dangerous dog may sell or otherwise dispose of a registered dog to persons who do not reside within the city. Owner must disclose dog’s status as a dangerous dog to anyone to whom the owner transfers custody or care of the dog.
  - (11) *Notification of Escape.* The owner or keeper of a dangerous dog must notify the Department of Animal Control immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.
  - (12) *Failure to Comply.* It shall be a separate offense to fail to comply with the restrictions in this section.



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Any dog found to be in violation of this Section shall be subject to immediate seizure and impoundment pursuant to 5-26D. In addition, failure to comply with the requirements and conditions set forth in this Ordinance shall result in the revocation of the dog's license and the permit providing for keeping of such dog.

- (c) A dangerous dog owner may apply to the Director of Animal Control to have the declaration waived after three (3) years upon meeting the following requirements;
- (1) The owner and offending dog has no subsequent violations of this Chapter of the Code; and
  - (2) The owner of the dog has complied with all the provisions of this act for a period of three (3) years; and
  - (3) The owner provides proof to the Director of Animal Control of successful completion of a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or Veterinary Behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

If the Director finds sufficient evidence that the dog has complied with all conditions in this subsection, and has sufficient evidence that the dog's behavior has changed, the application shall be forwarded to the Court to rescind the dangerous dog declaration.

### **Sec. 5-26C. Vicious Dogs.**

It shall be unlawful to keep, possess, or harbor a vicious dog within the city limits.

- (a) The provisions of this article shall not apply to a police dog being used to assist one or more Law Enforcement Officers acting in an official capacity
- (b) The Director of Animal Control may order a dog euthanized that has been declared vicious.
- (c) The owner of a dog that the Director declares to be vicious may appeal that determination to the Board of Alderman within ten (10) days of the declaration. If an appeal is timely filed, the order to destroy the animal is suspended pending the final determination of the Board except when the Director declares that public health and safety require the immediate destruction of the animal as in the case of rabies.
- (d) The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal, or euthanasia of said animal. The owner shall pay any other associated costs incurred.

### **Sec. 5-26D. Immediate Impoundment**

- (a) A dog suspected of being potentially dangerous, dangerous, or vicious may be immediately impounded when the Director of Animal Control or the Director's designee determines that immediate impoundment is necessary for the protection of public health and safety.
- (b) If the owner of the dog impounded under subsection (a) of this section is not reasonably ascertainable at the

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time of impoundment, the Director shall immediately notify the owner by mail sent to the owner's last known address postage prepaid which upon the passage of three (3) days be deemed complete or by personal service within five (5) business days after the dog's impoundment.

- (c) The notice of impoundment shall inform the owner of the dog that the owner may request, in writing, a hearing to contest the impoundment. Upon receipt of the notice of impoundment either through personal service or by mail (receipt is complete three (3) days after mailing to the last known address of owner postage prepaid), the owner has five (5) business days to request a hearing by serving on the Director of Animal Control a written request for a hearing.
- (d) Upon request by the owner of the dog for a hearing under subsection (c), a hearing must be held within ten (10) business days after receipt of the request. Notice of the date, time, and location of the hearing shall be provided by regular mail to the dog owner requesting the hearing. The impoundment hearing shall determine if the dog poses a risk to public health and safety or if the dog could be released. If the trier of fact determines the dog does not pose a risk to public health and safety, the dog shall be immediately released back to the owner pending further proceedings either administrative or judicial.
- (e) The owner must pay all the cost of the impoundment and upon request must post sufficient funds to cover the anticipated costs for continued impoundment. In the alternative, the owner may propose a suitable facility where the dog could be contained and maintained at the sole cost of the owner and upon approval of the Director the dog may be impounded at that facility under the terms and conditions set by the Director. Failure to post funds sufficient to pay for the costs of impoundment constitutes a waiver of any rights the owner may have to a hearing under this Section.
- (f) If the owner timely appeals an impoundment or seizure, the owner may also seek review of the Director's determination of boarding costs by filing an appeal with the Board of Alderman within five (5) days after the Director issues a demand for prepayment. The Board or a designee, must review the Director's decision within two (2) business days after receiving the appeal. The owner must provide the Board with information sufficient to show that requiring prepayment of the boarding costs would be a serious financial hardship on the owner. The Board may ask the owner to provide additional information at an informal hearing conducted in person or by phone. The Director must not require the owner to prepay any boarding costs pending the Board's decision. The Board may make any decision the Director could have made such as requiring the owner to prepay boarding costs retroactive to the initial boarding date of the animal, posting a bond, or placing the animal in a suitable facility at the owner's expense. The owner may ask the Board to review the Director's decision regarding the prepayment of boarding as part of its review of the underlying appeal.
- (g) If the owner is successful in appealing the decision to impound the dog, the Director must refund to the owner any costs paid for the impoundment.

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### **Sec. 5-26E. Continuation of Dangerous or Vicious Dogs**

A dog that has been declared potentially dangerous, dangerous, or vicious by any agency or department of this City, another municipality, county, or state shall be subject to the provisions of this Ordinance. The person owning or having custody of any dog designated as potentially dangerous, dangerous, or vicious by any municipality, county, or state government shall notify the Department of Animal Control of the dog's address and conditions of maintenance within ten (10) days of moving the animal into the City of Kosciusko. The restrictions and conditions of any dog declared potentially dangerous, dangerous, or vicious by this City, another municipality, county, or state shall remain in force while the dog remains in the City of Kosciusko.

### **Sec. 5-26F. Reckless Dog Owner.**

- (a) Any person convicted of;
  - (1) a violation of the City of Kosciusko Code of Ordinances Chapter on Animals three (3) or more times in a twenty-four (24) month period; or
  - (2) a violation of this Article two (2) or more times in any five (5) year period, shall be declared a reckless dog owner.
- (b) The Director of Animal Control shall issue a notification of the declaration of Reckless Dog Owner to the person with the following:
  - (1) name and address of the person subject to the declaration, and;
  - (2) the description, violation, and conviction that led to the declaration, and;
  - (3) the name, description, and license number of all dogs subject to the effects of the declaration, and;
  - (4) instructions on appealing the declaration to the Board of Alderman.
- (c) Once declared a reckless dog owner, the city licenses of all dogs owned by the person shall be revoked, and the person shall not own, keep, possess, or harbor a dog for a period of five (5) years from the date of the declaration.
- (d) A person declared to be a reckless dog owner may apply to the Director of Animal Control to have the declaration waived after two (2) years upon meeting the following conditions:
  - (1) The person has no subsequent violations of this Chapter of the Code; and
  - (2) The person has complied with all the provisions of this act for a period of two (2) years; and
  - (3) The person provides proof to the Director of Animal Control of successful completions of a program designated to improve the person's understanding of dog ownership responsibilities and based upon an interview with the Director of Animal Control establishes that understanding.

If the Director finds sufficient evidence that the person has complied with all conditions in this subsection, the Director may rescind the reckless owner declaration subject to conditions that can help to ensure no future violations. If the Director declines to remove the declaration, the person aggrieved may appeal to the Board of

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Alderman within thirty (30) days of that decision. Upon appeal, the person must provide clear and convincing proof that ownership of a dog in the future will be handled responsibly and not in violation of any law of ordinance.

#### **Sec. 5-26G. Penalties.**

- (a) Any person violating this Article shall, upon conviction, be punished by a fine of not less than \$500.00 nor more than \$1000.00, by imprisonment in jail for a term not to exceed 180 days, or by both such fine and imprisonment. This may be labeled a civil fine, in others a misdemeanor and in others the jurisdiction may choose to make violations both a civil offense as well a criminal offense.
- (b) Upon conviction of a violation of this Article, the court may order abatement of the violation and order restitution be paid to any person injured as a result of the violation up to the maximum amount allowed by law.

#### **Sec. 5-26H. Appeals**

- (a) Any person aggrieved by a decision of the Director of Animal Control to declare a dog potentially dangerous, dangerous, or vicious, or to declare a person a reckless dog owner, or to impound a dog, or to have a dog euthanized may appeal the decision to the Board of Alderman within the time limits set forth in above subsections of 5-26. A person aggrieved by a decision of the Board of Alderman may appeal that decision to the courts in accordance with and pursuant to state law and the rules of court.
- (b) If the Director of Animal Control orders a dog to be euthanized for public health or safety reasons other than for rabies, the owner may immediately appeal that decision to the courts and upon a showing of good cause the court may suspend the order to euthanize the dog until the appeal is finally resolved.

#### **Sec. 5-27. Animals running at large impounded.**

- (a) *Authority to seize; confinement period.* An unrestrained dog or an animal constituting a public nuisance shall be taken by the police or animal control officers and impounded in an enclosure or animal shelter kept for that purpose, to be provided and maintained by the city, and there confined in a humane manner. Such an animal shall be kept for at least five (5) days unless sooner claimed by the owner; impounded dogs and cats not suffering from an injury or infectious disease shall be kept for not less than five (5) working days.
- (b) *[Reason for seizure.]* Any potentially dangerous, dangerous, or vicious dog shall be immediately seized by the division of animal control if:
  - (1) The owner does not secure the liability insurance coverage required under section 5-26;
  - (2) The owner does not maintain the dog in a proper enclosure; or

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- (3) The owner willfully or negligently permits the dog outside the dwelling of the owner or outside the proper enclosure and does not have the dog muzzled and under personal physical restraint of the owner.
  - (c) *Notice to owner; redemption.* If by a tag or other means the owner of an impounded animal can be readily identified, the animal control division shall, upon impoundment, notify the owner by telephone or mail. Within five (5) days, the rightful owner of any animal held under this section may obtain said animal upon the payment of an impoundment fee; if the animal is a pet required to be properly vaccinated, licensed and tagged, the owner may obtain the animal upon the payment of an impoundment fee as hereinafter provided. If an unvaccinated pet is claimed by the owner, the city will arrange for the vaccination and or spay/neuter for the animal satisfactory to the animal control director and then the relevant fees will be paid by owner to the city.

An owner reclaiming an impounded animal (or quarantined animal as noted below) shall pay a fee as follows:

Cats and dogs ---

Release fee to owner ----	\$20.00
Vaccination fee if required ----	\$15.00
Spay/Neuter if required ----	\$60.00
Daily housing fee ----	\$ 5.00

*Fees are subject to change*

- (d) *Disposition if not reclaimed by owner; waiver of waiting period.* Any animal not reclaimed by its owner within five (5) days shall become the property of the city and shall be placed in process for adoption to a suitable home for a fee established by the city for a cat or dog or humanely euthanized with an injection under conditions deemed necessary by the animal control director. The five-day waiting period shall be waived for a vicious or feral dog, or for any animal suffering from an infectious disease. Pursuant to section 97-41-3 of Mississippi Code Annotated 1972, an injured or neglected animal may be humanely euthanized without any waiting period. No animal declared potentially dangerous, dangerous, or vicious can be adopted.

Adoption fee -----	\$75.00
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*Fees are subject to change*

- (e) *Additional proceedings against owner authorized.* The owner of an impounded animal may also be proceeded against for any violation of this title.

(Ord. No. 615, § 8, 7-5-06)

State law reference(s)—Impounding; Miss. Code Ann. 1972, § 41-53-11

**Sec. 5-28. Place for keeping impounded animals.**

All impounded animals shall be kept in the city dog pound, or such other place as directed by the animal control officer, for five (5) days, unless earlier claimed, as provided in this article. If an impounded dog has not been claimed within the five (5) days, however, the dog shall be disposed of by euthenization in any humane manner or by sale upon a buyer meeting the vaccination requirement set forth in this article and paying the fees hereinabove set forth. Any such sale or adoption shall be in the discretion of the animal control officer.

(Ord. No. 615, § 9, 7-5-06)

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### **Sec. 5-29. Dangerous, fierce or vicious dogs at large.**

Any dangerous, fierce, or vicious dog found at large that cannot be safely taken up and impounded may be slain by any police officer or animal control officer.

(Ord. No. 615, § 10, 7-5-06)

### **Sec. 5-30. Elimination of animals, when authorized.**

- (a) *Vicious animals or feral or vicious dogs.* When an animal is determined by the supervisor of animal control to be a vicious animal or a feral or vicious dog, that animal may be destroyed by the supervisor of animal control or his designee, provided two (2) of the following requirements are met:
- (1) The animal is running at large or not properly confined or muzzled as described herein.
  - (2) There is no vaccination tag around the animal's neck.
  - (3) Attempts to peacefully capture the animal have been made and proven unsuccessful.
- (b) *[Immediate confiscation of aggressive dogs.]* Any dog that aggressively attacks and causes severe injury or death of any humans shall be immediately confiscated by animal control, placed in quarantine for ten (10) days, and thereafter destroyed in an expeditious and humane manner. "Severe injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.
- (c) *Incurably injured or diseased animals, etc.* It shall be the duty of the police and/or a duly authorized animal control officer to see that any animal suffering from an incurable injury or disease is humanely euthanized with an injection at the animal shelter under the direction of a qualified individual (as defined by the state). In such cases of humane euthanization, reasonable efforts not to exceed forty-eight (48) hours shall first be made to locate the owner of any such injured or diseased animal unless the animal cannot be made comfortable for that period. If the animal is in a continual state of suffering, the euthanization shall be performed immediately. Furthermore, it shall be the duty of the police or an animal control officer (on behalf of the city) as the sole effective means of controlling a public nuisance or health hazard to mercifully end the life of an animal by the discharging of a firearm. An individual may discharge a legal firearm to mercifully end the life of an animal perceived as a threat to them or others (when time will not allow for the individual to contact the police to handle the matter); after such incident, the individual shall be required to contact the police to report the incident and the incident will be subject to investigation by the police as warranted. In the event of an injured or diseased animal, no individual may discharge a firearm to mercifully end the life of the animal in question but rather shall contact the police or animal control to handle the matter as stated above.

(Ord. No. 615, § 11, 7-5-06)

### **Sec. 5-31. Registration, requirements and fees for potentially dangerous, dangerous or vicious dogs.**

It shall be unlawful for any person to own, keep or harbor a potentially dangerous or dangerous dog without registering with the City and meeting all requirements stated in Sec. 5-26A and Sec. 5-26B or any section or subsection concerning potentially dangerous or dangerous dogs. It is unlawful for any person to own, keep or harbor a vicious dog in the City of Kosciusko.

(Ord. No. 615, § 12, 7-5-06)

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**Sec. 5-32. Leaving unattended animals inside motor vehicle.**

It shall be unlawful to leave an animal unattended inside a motor vehicle when such action offers reasonable potential for harm to the animal. An animal control officer or any police officer shall have the authority to make such a determination of potential harm and shall have the authority to remove an animal from such a vehicle if force is not required to gain entry. If force is required to gain entry to a locked vehicle, such force shall only be used by a police officer according to the applicable police department policy.

(Ord. No. 615, § 13, 7-5-06)

**Sec. 5-33. Cruelty, abuse, fighting.**

It shall be unlawful to beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate, promote or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans, unless otherwise permitted by law. The animal control officer shall have the authority to take an abused animal into protective custody pending disposition of charges of cruelty or abuse against the owner.

(Ord. No. 615, § 14, 7-5-06)

**Sec. 5-34. Abandonment.**

It shall be unlawful for anyone to knowingly abandon any domesticated animal within the city. Each person knowingly abandons, or willingly permits such abandonment, or aids in the abandonment of any domesticated animal shall be guilty of a misdemeanor.

(Ord. No. 615, § 15, 7-5-06)

**Sec. 5-35. Tethering and chaining of dogs to stationary objects.**

It shall be unlawful, at any time, fasten, chain, tether or tie any dog or cause such dog to be fastened, chained, tethered or tied to a stationary object while such dog is on the dog owner's property, on the property of the dog owner's landlord or on the property of the person having possession, charge, custody or control of such dog unless the dog is on a chain or tether that is at least ten (10) feet in length and attached to a pulley or trolley mounted on a cable which is at least ten (10) feet in length and mounted no more than seven (7) feet above ground level.

(Ord. No. 615, § 16, 7-5-06)

**Sec. 5-36. Keeping wild animals and reptiles prohibited.**

- (a) No person shall keep any wild animal(s) or reptile(s) within the corporate limits of the city.
- (b) No person shall keep or cause to be kept on his premises or in any roadside zoo or pet store any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee.
- (c) The animal control officer is hereby granted the authority to seize any wild animal(s) or reptile(s) kept in violation of this section, federal law or state statutes. Upon conviction of the owner for such offenses and, if seized, the animal control officer shall deliver such wild animal(s) or reptile(s) to the department of wildlife conservation or equivalent state agency. In his discretion, the animal control officer may grant the owner of such animals (twenty-four) 24 hours to remove them from the boundaries of the city to a lawful place if the public safety and welfare will not be jeopardized thereby.

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(Ord. No. 615, § 17, 7-5-06)

**Sec. 5-37. Penalty for violation.**

- (a) Any person who violates this article shall be guilty of a misdemeanor and shall be punished by a fine of not more than two hundred dollars (\$200.00) or to serve not more than ten (10) days in jail, or both.
- (b) In addition to the above, if the dog is a potentially dangerous, dangerous or vicious dog, the court may order the dog impounded until such time as the violator complies with this article for dogs. The costs of such impoundment shall be assessed in the same manner as court costs and any cost set forth in Sec. 5-27.
- (c) If a license for a potentially dangerous or dangerous dog is required by section 5-26A and 5-26B and is not obtained within ten (10) days of any such conviction, the court may order the dog to be humanely destroyed.

(Ord. No. 615, § 18, 7-5-06)

Cross reference(s)—General penalty, § 8-8.

**Sec. 5-38. Dogs in public areas when organized activities are taking place prohibited.**

It shall be unlawful for any person to walk any dog or to have any dog in their possession, whether on a leash or not, in the City of Kosciusko, Mississippi, when any organized activity is taking place.

*Organized activity* shall mean baseball games, softball games, soccer games, football games, flag football games, team practices for any such sports, family reunions, festivals, concerts, parades, and all like events.

In addition thereto, if a person is walking a dog in a public area or has a dog in their possession in a public area and such an organized activity begins subsequent to their arrival, the person owning the dog and/or having control of said dog shall immediately remove said dog from the area.

(Ord. No. 645, § 1, 6-18-13)