

ARTICLE VI - Animals

Sec. 7-6-10. - Dog license and current inoculations required.

- (a) The owner, possessor or keeper of any dog within this Town shall purchase an annual license for such dog from the Town Clerk on or before March 1 of each year or on or before the expiration date of such license or within thirty (30) days after the dog reaches the age of three (3) months. Dogs purchased, obtained or otherwise acquired, or located in Town subsequent to the first day of March in any calendar year shall be licensed within thirty (30) days after such acquisition or location.
- (b) The owner, possessor or keeper of any dog within this Town shall have such dog at all times effectively inoculated with a vaccine approved by the State Department of Public Health and Environment for use in the prevention of rabies, so that such inoculation shall provide immunity from such disease.
- (c) The owner, possessor or keeper of any dog within this Town shall, upon request, provide proof of inoculation required by this Section to the Town's animal control provider or law enforcement or to the Town Clerk's office at the time of license application.

(Ord. 333 §1, 2000; Ord. 610, §1, 2013)

Sec. 7-6-20. - Definitions.

As used in this Article, the following definitions shall apply:

Cat shall mean a cat over six (6) months of age.

Dog shall mean a dog over six (6) months of age.

Keeper means a person who has custodial or supervisory authority or control over an animal.

Owner. Where ownership of an animal is shared, all owners shall be jointly and severally liable. The owners may be liable even if the animal was in possession of a keeper at the time of the offense.

(Ord. 516 §1, 2007; Ord. 527 §§1, 2, 2008)

Sec. 7-6-30. - License application.

Each application for dog license shall be made to the Town Clerk upon a form provided for that purpose, and it shall be accompanied by a certificate from a duly licensed veterinarian showing that the dog is inoculated as required by Subsection 7-6-10(b) of this Code.

(Ord. 333 §1, 2000; Ord. 610, §2, 2013)

Sec. 7-6-40. - License tags.

Upon application for a dog license, the furnishing of the required certificate of inoculation and the payment of the required fee, the Town Clerk shall issue a dog license which shall be numbered, together with a metal tag bearing the same number as the license, which tag shall be securely attached to the collar to be worn at all times by the dog so licensed.

(Ord. 333 §1, 2000)

Sec. 7-6-50. - Lost or destroyed tags.

If a dog tag is lost or destroyed, the license holder may obtain a duplicate tag from the Town Clerk upon paying a fee to be established by the Town Clerk.

(Ord. 333 §1, 2000)

Sec. 7-6-60. - Dog pound.

The Board of Trustees shall have the right to establish a dog pound for the Town to be operated by Town personnel, or to contract with a public or private person or organization for the operation of a dog pound for and on behalf of the Town.

(Ord. 333 §1, 2000)

Sec. 7-6-70. - Impounded dogs.

It is lawful for any authorized dog catcher and all police officers to impound any dog which is not wearing a dog tag as herein provided and any dog which they reasonably feel to be in violation of any of the provisions of this Article, whether such dog is wearing a dog tag or not. It is lawful for the dog catcher or any police officer to go upon private property for the purpose of catching any dog to be impounded.

(Ord. 333 §1, 2000)

Sec. 7-6-80. - Court proceedings.

If a dog is impounded, it shall be the duty of the dog catcher or any police officer to immediately institute proceedings in the Municipal Court on behalf of the Town against the owner, possessor or keeper, charging a violation of the appropriate Section of this Code. Nothing herein contained shall be construed as preventing the dog catcher, any police officer or any citizen from instituting a proceeding in the Municipal Court for violation of this Article where there is no impoundment.

(Ord. 333 §1, 2000)

Sec. 7-6-90. - Notice of impoundment.

As soon as practicable after the date of impoundment, notice of such impoundment shall be personally served upon 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 dog catcher shall cause to be posted at the Town Hall for three (3) consecutive days a notice of impoundment, which notice shall describe the dog, set forth the date of impoundment and set forth the location from which the dog was taken up.

(Ord. 333 §1, 2000; Ord. 468 §3, 2005)

Sec. 7-6-100. - Disposition of impounded dogs.

If an impounded dog has not been claimed within three (3) days from first notice of impoundment, the dog may be disposed of in any humane manner prescribed by the dog catcher or by persons so authorized to do so by the Board of Trustees.

(Ord. 333 §1, 2000; Ord. 468 §4, 2005)

Sec. 7-6-110. - Redemption from pound.

Any owner, possessor or keeper of a dog desiring to redeem such dog from the pound shall pay the Town such sums as has been or will be charged the Town by the impoundment facility for impoundment, room and board and other services, and further shall pay the Town all license or rabies inoculation fees provided for in this Article.

(Ord. 333 §1, 2000)

Sec. 7-6-120. - Interference.

It is unlawful for any person to interfere with, molest, hinder or prevent the dog catcher or his or her assistants from discharging their duties under this Code.

(Ord. 333 §1, 2000)

Sec. 7-6-130. - Dog running at large.

No owner or keeper of any dog shall permit such dog to run at large anywhere out of doors in the Town. This regulation shall apply to all public places and to all private property. No owner or keeper of any dog shall permit such dog to be out of doors in any place unless the dog is on a leash held by a person able to control the dog. Leaving an unattended dog fastened to a leash, chain or trolley shall not be deemed to comply with the requirements of this Section. A dog may be left unattended out of doors in a yard with a fence adequate to prevent the dog from leaving the yard.

(Ord. 333 §1, 2000)

Sec. 7-6-140. - Strict liability.

For the purpose of prosecution for violation of this Article, 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 Article at the time and place charged, it being the purpose and intent of this Article to impose strict liability upon the owner, possessor or keeper of any dog for the actions, conduct or condition of such dog.

(Ord. 333 §1, 2000)

Sec. 7-6-150. - Rabies inoculations for cats.

No person shall own or keep a domesticated cat over three (3) months of age unless such cat is currently inoculated against rabies.

(Ord. 333 §1, 2000)

Sec. 7-6-160. - Prohibited animals.

(a) No person shall own, possess, harbor, and sell or in any other manner traffic in the following species of animals:

- (1) All poisonous snakes and poisonous reptiles and all nonpoisonous snakes with a length greater than six (6) feet;
- (2) Gorillas, chimpanzees, orangutans, baboons and any other primates;
- (3) Any species of feline not falling within the categories of ordinary domesticated house cats;
- (4) Bears of any species;
- (5) Raccoons, porcupines, skunks or badgers;
- (6) Foxes, wolves, coyotes or other species of canines other than dogs.
- (7) Any fowl other than backyard chickens, including ducks, quail, geese, turkeys, or pigeons, other than in an agricultural zoning district.
- (8) Any rooster other than in an agricultural zoning district.
- (9) Any backyard chicken hens unless such backyard chicken hens are owned, possessed or kept in conformity with the regulations of this Subsection (9).
 - (A) No more than six (6) chicken hens are permitted per parcel.
 - (B) Backyard chicken hens are allowed only in the rear or backyard of any lot in a residential zoning district or the rear or backyard of a residential use in all other zoning districts.
 - (C) Backyard chicken hens may not free range and are restricted to the coop and run.
 - (D) All backyard chicken hens are kept at all times (other than when in a run) in a hen coop and run that meets the following requirements:
 - (i) Is predator-proof with a solid top (for coop) and fully caged top (for run) and is reinforced on the bottom to prevent predator animals from digging under the coop or run.
 - (ii) Has fresh, accessible, non-frozen water supply for the chicken hens at all times.
 - (iii) Is limited to a maximum of one hundred twenty (120) square feet (includes coop space and chicken run).
 - (iv) Provides at least four (4) square feet of space per chicken for the

coop and run.

- (v) Is no taller than seven (7) feet at the highest point of the roof.
 - (vi) Is not located between the rear of the structure and the front yard lot line.
 - (vii) Complies with the accessory structure setback requirements, described in Article II of Chapter 16 of this Code, for the zone district in which the coop is located.
 - (viii) Is regularly cleaned to control dust, odor, and waste and must not constitute a nuisance, safety hazard, or health problem to surrounding properties.
- (E) No slaughtering of any chicken hens is allowed.
- (F) Chicken feed must be stored at all times in a resealable, airtight, metal, rat-proof container to discourage attracting mice, rats, and other vermin.
- (b) Exceptions: The provisions of this Section shall not apply to any bona fide zoo, circus or carnival licensed by the Town or any bona fide research institute using wild, exotic or dangerous animals for scientific research.
- (c) At large: It shall be the duty of the Animal Control or Health Officer to apprehend, or cause such animal to be removed from the Town, any wild animal prohibited by this Section that may be impounded and released in wild areas outside of the Town which are representative of the animal's natural habitat, or humanely destroyed as the Animal Control or Health Officer in his or her discretion shall determine, subject to applicable state and federal law. The Animal Control or Health Officer may use any tranquilizer gun or other firearm to subdue or destroy any wild or dangerous animal that is determined by the Animal Control or Health Officer in his or her discretion to be of danger to either itself or to the public.

(Ord. 333 §1, 2000; Ord. 468 §5, 2005; Ord. 623 §1, 2017)

Sec. 7-6-170. - Cruelty to animals prohibited.

- (a) No person shall:
- (1) Overdrive, overload, drive when overloaded or overwork any animals;
 - (2) Cruelly beat, cruelly mutilate or torture any animal;

- (3) Needlessly shoot at, wound, capture or in any other manner needlessly molest, injure or kill any animal; or
- (4) Carry, transport or keep in a cruel manner any animal.
- (b) It is a specific defense to a charge of violating Subsection (c) below that the action was necessary to avoid injury to a person or that the animal was not a domesticated animal and the action was necessary to avoid injury to a person or property.
- (c) No person owning or keeping an animal shall keep it under conditions where its enclosure is overcrowded, unclean or unhealthy.
- (d) A person commits cruelty to animals if, having the charge and custody of any animal, such person fails to provide it with proper food, drink or protection from the weather, or abandons the animal.
- (e) In addition to any other remedies, any peace officer or animal control officer may enter upon any private property on which is being harbored or kept any animal that is suspected by such officer to be subject or to have been subject to abuse or cruelty as defined in this Section, and may take such measures as deemed necessary by the officer to alleviate such abuse. The officer shall not so enter the property until after a notice has been posted on the property to be entered for a period of at least forty-eight (48) hours prior to the entry. The notice shall identify the address of the property, shall state the officer's intent to enter the property to alleviate the suspected abuse of an animal and shall state the date and approximate time on which such entry is intended to be made. The owner of the animal shall be responsible for the payment of any charges incurred by the Town in alleviating such suspected abuse.

(Ord. 333 §1, 2000)

Sec. 7-6-180. - Barking dogs.

- (a) It is unlawful for any owner or keeper of a dog to fail to prevent such dog from disturbing the peace of any other person by loud, persistent and habitual barking, howling, yelping or making any other loud, persistent and habitual noise, whether the dog is on or off the owner's or keeper's premises.
- (b) Provocation by the complainant of the dog whose noise is complained of is a defense to such complaint being brought hereunder.

- (c) The Town Code Enforcement Officer and any Town police officer who personally observes a violation of this Section may serve as the complaining party in the prosecution of said violation.
- (d) The Town Code Enforcement Officer and any Town police officer may enter private property on which a violation of this Section is occurring for purposes of capturing and impounding a barking dog when:
 - (1) The Town has received at least one (1) complaint from a private citizen concerning the current violation; and
 - a. The investigating officer is unable to locate and contact the owner or keeper of the dog after reasonably diligent efforts to do so; or
 - b. The owner or keeper of the dog fails to prevent the continuing violation of this Section within two (2) hours after being directed to do so by the Town Code Enforcement Officer or any Town police officer.
 - (2) The Town shall provide notice of any dog impounded pursuant to this Subsection in accordance with Section 7-6-90 of this Code.
- (e) Notwithstanding any provision of this Code to the contrary, when a violation of this Section is a continuing offense, each hour that a violation of this Section occurs may be considered a separate and distinct offense.

(Ord. 333 §1, 2000; Ord. 454A §2, 2004)

Sec. 7-6-190. - Vicious animals.

- (a) It is unlawful for any person to harbor or keep a vicious animal within the Town. Any vicious animal shall be deemed a public nuisance, and may be seized by any police officer or animal control officer of the Town, and upon appropriate complaint and order of the Municipal Court or any other court of competent jurisdiction, may be humanely destroyed or otherwise disposed of, as the Court may determine in the abatement of the nuisance and protection of the public safety. It shall be an affirmative defense to prosecution under this Section that a dog is under the control of a law enforcement agency or the dog is a trained guard dog kept for the protection of property, and restrained by cage, fence or other adequate means from contact with the general public or with persons who enter the premises with the actual or implied permission of the owner or occupant, provided that the premises are posted in a manner sufficient to give reasonable

notice to the public and visitors of the presence of the guard dog. Nothing in this Section shall be construed to prevent the immediate killing of a vicious animal if, under the circumstances, such action is required to protect the public safety.

- (b) *Vicious animal* is defined as an animal that bites or attacks a human or another animal, or approaches a human in an apparent attitude of attack, whether or not an attack actually occurs. Any animal that attacks, injures or kills a chicken hen not on the chicken keeper's property shall not be deemed a "vicious animal" nor shall the owner of such animal be charged with harboring a vicious animal pursuant to this Section 7-6-190. It is the sole responsibility of chicken keepers to ensure their chickens do not leave their property.
- (c) Notwithstanding any other penalty provision of this Code, any person convicted of violating this Section shall be subject to the following minimum penalties:
 - (1) One hundred fifty dollars (\$150.00) for a first conviction.
 - (2) Three hundred dollars (\$300.00) for the second conviction of the same person or the second conviction finding the same animal to be vicious;
 - (3) Five hundred dollars (\$500.00) for the third conviction of the same person; and
 - (4) Five hundred dollars (\$500.00) and a mandatory hearing on the destruction of any animal that is found to be vicious under three (3) separate convictions.

(Ord. 333 §1, 2000; Ord. 468 §6, 2005; Ord. 623 §2, 2017)

Sec. 7-6-200. - Hearing on destruction of vicious animal.

- (a) Upon the filing of a motion for destruction of a vicious animal, the Municipal Court shall set a hearing as soon as practical. The Court or Town Prosecutor shall promptly serve the owner, if known or reasonably discoverable, with written notice of the hearing and a copy of the motion at least five (5) days before the hearing. Service shall be pursuant to C.M.C.R. 204(e), 249(b) and C.R.C.P. 5(b).
- (b) The hearing shall be for the purpose of deciding if the animal is a public nuisance. The Town shall bear the burden of proof at the hearing, by a preponderance of the evidence. If the owner, without good cause, fails to appear at the hearing, at arraignment or at trial, the dog shall be deemed abandoned and, upon proper proof of the public nuisance, may be destroyed or otherwise disposed of consistent with this Section.

- (c) A continuance of the hearing on the motion for destruction, or a stay of the destruction order, may be granted only if the owner posts a bond sufficient to cover the total costs of the impoundment and destruction.

(Ord. 333 §1, 2000)

Sec. 7-6-210. - Rabies inoculations for dogs.

No person shall own or keep a domesticated dog over three (3) months of age unless such dog has current inoculation against rabies.

(Ord. 468 §7, 2005)

Sec. 7-6-220. - Livestock running at large.

It is unlawful for any owner or keeper of any horse, cow or other livestock to fail to keep any such horse, cow or livestock securely fenced, stabled or contained and under such reasonable control as to prevent such horse, cow or livestock from going onto any public property or onto any private property, the owner or tenant of which has not given permission for such entry.

(Ord. 468 §8, 2005)

Sec. 7-6-230. - Impoundment of livestock and disposition.

- (a) In addition to any other penalty or remedy provided for a violation of this Chapter, any Town Community Service Office or other member of the Police Department is hereby authorized to remove and impound any horse, cow or other livestock found running at large in violation of Section 7-6-220 above, and shall impound and keep such animal in a suitable place for disposition as herein provided, and he or she shall, as soon as practical, contact the State Brand Inspector's office to determine the ownership of the impounded animal.
- (b) Before any animal impounded under this Section is released, the owner or other person having lawful custody and claiming such animal shall pay the following fees:
 - (1) Impound fee of twenty-five dollars (\$25.00) per animal.
 - (2) Boarding fee equal to the actual cost to board the animal.
 - (3) The actual costs of publication of notice of sale.

- (4) The actual costs for necessary veterinary care.
- (c) After any animal impounded pursuant to this Section has been boarded for a period of five (5) consecutive days, the Town may advertise the animal for sale by publishing notice in a newspaper of general circulation containing a description of the animal, the date, time and place of sale, and notice that the animal shall be sold to the highest bidder. If there is no bidder at such sale, the Town may sell the animal at private sale. From the proceeds of any sale, the Town shall withhold costs incurred in impounding, boarding and caring for the animal and in publishing and conducting the sale. Any excess proceeds shall be returned to the owner of the animal. If the owner cannot be located or does not claim the excess funds within thirty (30) days after the sale by presenting satisfactory evidence of ownership, the excess shall be considered abandoned, become property of the Town and be deposited in the General Fund of the Town.

(Ord. 468 59, 2005)

Sec. 7-6-240. - Beekeeping restrictions.

- (a) Definitions. The following words, terms and phrases, when used in this Section, shall have meanings ascribed to them in this Section:

Apiary shall mean a place where bee colonies are kept.

Bee shall mean any stage of the common domestic honey bee, *Apis mellifera* species.

Colony shall mean a hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.

Hive shall mean a structure intended for the housing of a bee colony.

Tract shall mean a contiguous parcel of land under common ownership.

- (b) Prohibitions and violations. The keeping by any person of bee colonies in the Town not in strict compliance with this Section is prohibited. It is unlawful and declared to be a nuisance for any person to keep or permit to be kept upon any property he or she owns or occupies any apiary, hive or bee colony except within the rural residential (RR) zone of the Town and in conformity with this Section. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of

bees, or any colony residing in a standard or homemade hive which, by virtue of its condition, has obviously been abandoned by the beekeeper, is unlawful and may be summarily destroyed or removed from the Town.

- (c) Hives. All bee colonies shall be kept in inspectable type hives with removable combs, which shall be kept in sound and usable condition.
- (d) Setback. All hives shall be located at least five (5) feet from any adjoining property with the back of the hive facing the nearest adjoining property.
- (e) Fencing of flyways. In each instance in which any colony is situated within twenty-five (25) feet of a developed public or private property line of the tract upon which the apiary is situated, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least six (6) feet in height consisting of a solid wall or fence parallel to the property line and extending ten (10) feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary.
- (f) Water. Each beekeeper shall ensure that a convenient source of water is available at all times to the bees so that the bees will not congregate at swimming pools, bibcocks, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact. The water shall be maintained so as not to become stagnant.
- (g) Maintenance. Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.
- (h) Queens. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to re-queen the colony. Queens shall be selected from stock bred for gentleness and nonswarming characteristics.
- (i) Colony densities.
 - (1) It shall be unlawful to keep more than eight (8) colonies on any tract within the Town.
 - (2)

For each two (2) colonies authorized under colony densities, subsection (i)(1) above, there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one (1) standard nine and five-eighths (9 $\frac{5}{8}$) inch-depth 10-frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within thirty (30) days after the date it is acquired.

(Ord. 635 §1, 2017)

Editor's note— Ord. 635, §1, adopted May 15, 2017, repealed the former §7-6-240, and enacted a new §7-6-240 as set out herein. The former §7-6-240 pertained to bee-keeping prohibited and derived from Ord. 468 §10, 2005.

Sec. 7-6-250. - Animal excrement.

- (a) When any animal deposits excrement upon any property not belonging to its owner or keeper, including the private properties of others, public streets, parks, sidewalks and alleyways, or the common areas of condominiums, townhouses or apartments, it shall be unlawful for the owner or keeper of such animal to fail to remove and dispose of such excrement promptly and in a sanitary manner. Excrement shall not be deposited in storm sewers or street gutters.
- (b) The accumulation of animal excrement compromises public health and constitutes a threat to the public safety and welfare. It is unlawful and declared to be a nuisance for the owner or keeper of any animal to allow animal excrement to accumulate upon his or her property so as to be a health hazard.

(Ord. 479 §1, 2005)

Sec. 7-6-260. - Rodents; nuisance defined.

- (a) The following rodents are declared to be detrimental and injurious to the public health, safety and welfare of the inhabitants and property, both public and private, of the Town and they are determined and declared a public nuisance: prairie dogs.
- (b) Nothing contained in Subsection (a) above shall be construed or intended to include within the definition of a public nuisance any animal designated by a state or federal agency as an endangered animal under state or federal law.
- (c)

Nothing contained in Subsection (a) above shall be construed or intended to authorize the destruction or removal of an animal declared a public nuisance in violation of any state or federal law, rule or regulation related to any threatened or endangered animal.

(Ord. 508 §2, 2006)

Sec. 7-6-270. - Control of infestation - defined; abatement.

- (a) No owner of any lot, block or parcel within the Town, nor any tenant or agent in charge thereof, shall allow or permit said lot, block or parcel to become or remain infested with prairie dogs or prairie dog nests or burrows; provided, however, that where such nests or burrows are necessary for the maintenance of wildlife listed as threatened or endangered by any state or federal law, rule or regulation, such nests or burrows may be maintained in accordance with such state or federal law, rule or regulation. In addition to being unlawful, any infestation in violation of this Section shall constitute a public nuisance.
- (b) For the purpose of this Section, *infestation* shall mean the presence of more than one (1) prairie dog burrow or nest per nine hundred (900) square feet of ground.
- (c) The Town may pursue any of the cumulative nuisance enforcement alternatives set forth in Article II of this Chapter 7 for any prairie dog nuisance.

(Ord. 508 §2, 2006)

Sec. 7-6-280. - Combined limit on dogs and cats.

No more than three (3) total dogs or cats, or any combination thereof, that are over six (6) months of age, shall be permitted per each dwelling unit or per commercial or industrial property if no dwelling units are present. Any and all owners or keepers of such dogs and cats shall be jointly and severally liable for violation of this Section.

(Ord. 527 §3, 2008)