

## Chapter 6.03

### ANIMAL CONTROL

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#### **6.03.010** **Definition of Terms.**

As used in this chapter, unless the context indicates otherwise:

- A. “Abandon” means the knowing or reckless desertion of an animal by its owner or

the causing of the animal to be deserted by its owner, in any place, without making provisions for the animal's adequate care. An animal left without adequate care for three or more days shall be *prima facie* evidence that the animal has been abandoned.

- B. "Animal" includes but is not limited to dogs.
- C. "Animal Control Authority" or "Poundmaster" means the person, entity, association or corporation, appointed or authorized by the City for enforcement of the animal control laws, shelter and welfare of animals within the City of Benton City.
- D. "Animal Control Officer" refers to that person employed by or under contract to the City to enforce the provisions of this Title.
- E. "At Heel." A dog shall be deemed to be "at heel" during such times as the dog is positioned and controlled in such a manner so as to remain within a distance of two feet from its owner or other competent person having charge of such dog.
- F. "At Large" means off the premises of the owner or upon the public streets, alleys, public grounds, school grounds or parks within the city. A dog shall not be deemed at large if:
  - 1. It is attached to a leash or chain of sufficient strength to restrain the dog and not more than eight feet in length, when said leash or chain is held by a person competent to restrain and control the dog off the owner's premises;
  - 2. It is properly restrained within a motor vehicle or housed in a veterinary hospital;
  - 3. It is accompanied by and "at heel" beside the owner or a competent responsible person;
  - 4. The dog or dogs are left unattended on the owner's premises, and it or they shall be so confined, tied or restrained as to be unable to range beyond the owner's premises.
- G. "Commercial Kennel" means any lot, premises, building or structure where four or more dogs over six months of age are kept.
- H. "Competent Person" means any person who, by reason of age and physical ability, and training, is capable of maintaining control of an animal to the extent required by this chapter.
- I. "Dangerous Dog" means any dog that:
  - 1. Has inflicted severe injury on a human being without provocation;
  - 2. Has killed a domestic animal or livestock animal without provocation; or
  - 3. Has been previously found to be potentially dangerous, the owner having received notice of such and the animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals.
- J. "Dog" means and includes female, neutered female, male and neutered male dogs.

- K. "Domestic Animal" means a tame animal in the house or home, or on the property, living with or used by people for companionship, work, and a food source.
- L. "Health Officer" includes any person designated as such by the Benton-Franklin district health office, or any other person designated as such by the City Council.
- M. "Livestock" includes, but is not limited to, horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, water fowl, game birds and other species designated as "livestock" by statute.
- N. "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of an animal for three consecutive days or more. An animal is deemed to be harbored if it is fed or sheltered for three consecutive days or more and knowingly permitted to remain on the premises occupied by that person. If the owner of the animal is a juvenile, a parent or other custodian of such juvenile shall for the purposes of this chapter, be treated as the owner of the animal.
- O. "Person" includes any person, partnership, corporation, trust or association of persons.
- P. "Potentially Dangerous Dog" means any dog that when unprovoked:
  - 1. Inflicts injury on a human or a domestic animal or livestock;
  - 2. Chases or approaches a person upon the streets, sidewalks, any public grounds, or upon private property other than that of the animal's owner, in a menacing fashion or apparent attitude of attack; or
  - 3. Has a known propensity, tendency, or disposition to attack, or to cause injury or otherwise to threaten the safety of humans or domestic animals.
- Q. "Potentially Dangerous Wild Animal" means one of the following types of animals, whether bred in the wild or in captivity, and any or all hybrids thereof:
  - 1. Class mammalia.
  - 2. Order carnivore.
  - 3. Family felidae, only lions, tigers, captive-bred cougars, jaguars, cheetahs, leopards, snow leopards, clouded leopards, bobcats, and wild cats.
  - 4. Family canidae, wolves, excluding wolf-hybrids.
  - 5. Family ursidae, all bears.
  - 6. Family hyaenidae, such as hyenas.
  - 7. Order perissodactyla, only rhinoceroses.
  - 8. Order primates, all nonhuman primate species.
  - 9. Order proboscidae, all elephant species.
  - 10. Class reptilia.
  - 11. Order squamata.

12. Family atractaspididae, all species.
  13. Family colubridae, only dispholidus typus.
  14. Family elapidae, all species, such as cobras, mambas, kraits, coral snakes, and Australian tiger snakes.
  15. Family hydrophiidae, all species, such as snakes.
  16. Family varanidae, only water monitors and crocodile monitors.
  - 17 Family viperidae, all species, such as rattlesnakes, cottonmouths, bushmasters, puff adders, and gaboon vipers.
  18. Order crocodilia, all species, such as crocodiles, alligators, caimans, and gavials.
- R. "Poundmaster" means the Chief Officer appointed by the Mayor for the enforcement of animal control laws and regulations. The Poundmaster may include or employ deputies.
- S. "Proper Enclosure" means, while on the owner's property, a dangerous, or potentially dangerous animal shall be securely confined indoors or in an outside securely enclosed and locked pen or structure, resistant to tunneling, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides not less than five feet high and a secure top, and shall provide protection from the elements for the animal. The requirement for a secure top on the enclosure may be waived by the poundmaster upon showing that it is unnecessary. This section shall not apply to guard dogs or watch dogs utilized to secure premises enclosed by a fence or wall not less than five feet high and resistant to tunneling, located within an industrial or commercial zone.
- T. "Severe Injury" means any physical injury that results in death, broken bones or disfiguring lacerations requiring one or more sutures or cosmetic surgery.
- U. "Veterinary Hospital" means a public establishment regularly maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injuries of animals.
- V. "Welfare check" means tending to the well being of an animal.

Whenever a type or breed of animal is described in this chapter, it includes any hybrid, cross breed or mixed breed of such animal to any degree that the type or breed can be identified by the animal's appearance, behavior or pedigree.

Whenever a power is granted to, or a duty is imposed upon the Poundmaster or other public officer, the power may be exercised or the duty performed by an agent of the officer or by any person duly authorized unless this chapter expressly provides otherwise.

All other words and phrases used in this chapter will have their commonly accepted meanings (Ord. 841, October 2008.).

**6.03.030    Animals Injuring Property Unlawful.**

It is unlawful for any owner to suffer or permit any dog or other animal to trespass on private or public property so as to damage or destroy any property or thing of value, kill, maim or disfigure another's animal or livestock, or to deposit fecal matter on any property not that of his owner, and the same is declared to be a nuisance and any such dog or other animal may be seized and impounded (Ord. 841, October 2008.).

**6.03.040 Stray Animal a Nuisance.**

Any stray dog or animal running at large within the City is declared to be a nuisance and any such stray dog or animal may be seized and impounded. For the purpose of this section, "stray dog" or "stray animal" means and includes any dog or animal appearing or remaining in a neighborhood or any public place without an apparent home (Ord. 841, October 2008.).

**6.03.050 Dog Control.**

- A. No dog, licensed or not, shall be permitted to roam or stray or be off its owner's premises unless it is at all times under the control of a person. It is the owner's responsibility to do all things reasonably necessary to ensure compliance with this section; that a dog is found away from its owner's premises and not under the control of a responsible person shall be prima facie evidence of a violation of this section.
- B. Dog Leashes Required. It is unlawful for any owner to cause, permit or allow any dog owned, harbored, controlled or kept by him, in this City, to roam, run at large or stray away from the premises where the same is owned, harbored, controlled or kept, except that while away from said premises, such dog shall at all times be controlled by being "at heel," or by means of a leash not exceeding eight feet in length, by the owner or some duly authorized and competent person; provided, however, that such leash or chain is not required for any dog when otherwise safely and securely confined or completely controlled while in or upon any vehicle. This section shall not apply to dogs which are in special areas which may be designated by the City as dog training areas and so long as the regulations of the City with respect to the use of such areas are complied with, and said dogs are under the custody and control of a competent trainer.
- C. No dog shall be permitted to commit the following offenses on any premises or property, private or public: bite, or attempt to bite any person, destroy private property, scatter refuse, chase vehicles, or commit any nuisance defined in this chapter or any other ordinance or law (Ord. 841, October 2008.).

**6.03.060 Impounding of Animals.**

Any animal off the premises of the owner and not under the control of some person, or which is otherwise in violation of this chapter and subject to impound, shall be impounded (Ord. 841, October 2008.).

**6.03.070 Notice of Impounding.**

Upon seizing and impounding of any dog or other animal, the poundmaster shall give notice of such impounding in substantially the following manner:

- A. If the animal is licensed and is wearing a license tag, or if the identity of the owner is known to or can readily be determined by the poundmaster, then, as soon as reasonably practicable after the animal is impounded, the poundmaster shall notify the owner by telephone or otherwise that the animal has been impounded and may be redeemed as provided in this chapter.
- B. If the owner is known to the poundmaster, but cannot be notified under the provisions of subsection (A) of this section, or if the owner is so notified and does not appear to redeem his animal within twenty-four hours of the time of impounding, then the poundmaster may send, by certified and regular mail, a notice in substantially the following form:

**NOTICE OF IMPOUNDING**

Date: \_\_\_\_\_

TO WHOM IT MAY CONCERN:

I have this day seized and impounded in the City animal shelter at \_\_\_\_\_ Street, an animal described as follows:

Dog \_\_\_\_\_ Other \_\_\_\_\_

Sex \_\_\_\_\_ Color \_\_\_\_\_ Breed \_\_\_\_\_ Approximate Age \_\_\_\_\_

Other Identification \_\_\_\_\_

Name of Owner \_\_\_\_\_

Notice is hereby given that unless said animal is claimed and redeemed on or before \_\_\_\_\_ o'clock \_\_\_\_ M. on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, the same will be sold, adopted or destroyed as provided by ordinance.

Signed \_\_\_\_\_

Poundmaster

- C. If the owner cannot be readily identified, then the poundmaster shall post notice at City Hall in a conspicuous location. Notice shall state the description of the animal and location where the animal was found (Ord. 841, October 2008.)

**6.03.080 Redemption of Impounded Animal.**

- A. Unless this chapter requires impounding for a longer period of time, any impounded animal may be redeemed by the owner, or authorized representative of the owner, by payment to the poundmaster of an impounding fee and a boarding fee for each calendar day, or part thereof, the animal has been confined, including the day on which the animal is first impounded. Each fee shall be as set forth by the current City Fee Schedule Resolution provided that the impounding fee shall be increased for the second impoundment and for the third and subsequent impoundments during a twelve month period. If the animal has no valid license tag the owner shall also obtain a license tag for the current year or duplicate tag in accordance with the provisions of this chapter.
- B. Upon receiving payment of all fees due, the poundmaster shall execute a receipt in duplicate, and one shall be delivered to the owner, upon which the owner shall

acknowledge delivery of the animal and one shall be retained by the poundmaster.

- C. If the animal has been declared potentially dangerous or dangerous, the owner must also obtain a permit in accordance with 6.03.320 before such animal can be redeemed by the owner (Ord. 841, October 2008.).

**6.03.100 Disposition of Unclaimed Animals.**

Any impounded dog or other animal that is not claimed or redeemed by its owner within 72 hours (the 72 hours excludes weekends and holidays), the poundmaster may place the animal up for adoption, sell the animal or humanely destroy the animal. The euthanasia and disposal fees are set forth by the current City Fee Schedule Resolution. For the purpose of determining whether the 72 hours has expired, the following methods shall be used:

- A. If the dog or animal is unlicensed or the owner cannot be identified by means of an identicode or other identification implant, the 72 hours shall commence upon impound. Time begins when the poundmaster posts the notice at City Hall in a conspicuous location.
- B. If the owner can be ascertained by identicode or tags or other informational implant, the time shall begin:
  - 1. If notified by telephone, time begins when the telephone contact was made with the owner by poundmaster.
  - 2. If the owner was mailed notice by certified and regular mail, time begins when the notice was mailed. (Ord. 852, January, 2009; Ord. 841, October 2008.)

**6.03.120 Destruction of Animals.**

In the event of an emergency endangering the health or safety of any person, where seizure and impoundment is deemed inadvisable or impracticable, or for humane considerations, the poundmaster or other police officer at his/her discretion may summarily destroy the animal involved (Ord. 841, October 2008.).

**6.03.130 Interference with Officers – Failure to Redeem – Frauds.**

- A. It is unlawful for any unauthorized person to break open, or attempt to break open, the City animal shelter, or to take or let out animals there from, or to take or attempt to take from any officer any animal seized by him in compliance with this chapter, or in any manner interfere with or hinder such an officer in the discharge of his duties under this chapter.
- B. It is unlawful for any person to knowingly refuse to redeem an impounded animal or to obtain an animal from the poundmaster and return it to a former owner without first paying all impound fees.
- C. Any person violating the provisions of this section shall be guilty of a misdemeanor (Ord. 841, October 2008.).

**6.03.140 Warning Notifications.**

The Poundmaster may issue a warning notification for the first offense of letting an animal be at large. If a warning notification is issued, the warning notification

shall be in duplicate. The first copy shall be given to the animal's owner, and the second copy shall be returned to City Hall (Ord. 841, October 2008.).

**6.03.150 Notice of Violations.**

- A. The Poundmaster may issue a warning notification or a notice of violation to an animal's owner for such owner's first violation of the terms of this chapter. If, however, after receiving the violation or warning notification, the animal's owner continues to violate this chapter, the Poundmaster shall on all subsequent offenses issue a notice of violation.
- B. The notice of violation shall either be given directly to the animal's owner or custodian, or to a person of suitable age and discretion, a resident of the household of the owner or custodian. However, if, after making one attempt, the Poundmaster is unable to give the Notice of Violation to the animal's owner or custodian or person of suitable age and discretion, who is a resident of the household of the owner or custodian, the Notice of Violation may be served by mailing it regular and certified mail, return receipt requested, to the animal's owner or custodian at the address appearing on the license form. Service of Notice of Violation shall be deemed completed three days after mailing by certified mail, return receipt requested (Ord. 841, October 2008.).

**6.03.160 Confinement.**

- A. Every female dog in heat shall be kept confined to the owner's property or in a veterinary hospital or boarding kennel so that such female dog cannot come in contact with other animals except for intentional breeding purposes.
- B. Dogs kept outdoors for more than six hours at one time must be provided with a moisture proof and windproof shelter of a size which allows the animal to turn around freely and to easily sit, stand and lie in a normal position and to keep the animal clean, dry and comfortable (Ord. 841, October 2008.).

**6.03.165 Dog Tethering Safety Standards.**

- A. Any dog that is restrained outside by a tether must only be restrained for a period of time that is not reckless and in compliance with this section.
  - 1. The dog shall not be tethered in a manner that results, or could reasonably result, in the dog becoming frequently entangled on the restraint or another object.
  - 2. If there are multiple dogs tethered, each dog must be on a separate tether and not secured to the same fixed point.
  - 3. The tether must allow the dog to sit, lie down, and stand comfortably without the restraint becoming taut and allow the dog a range of movement.
  - 4. A dog shall not be tethered if it is ill, suffering from a debilitating disease, injured, in distress, in the advanced stages of pregnancy, or under six months of age.
  - 5. A tethered dog must have access to clean water and necessary shelter that is safe and protective while tethered. The shelter and water vessel must be



constructed or attached in such a way that the dog cannot knock over the shelter or water vessel.

6. A dog shall not be tethered in a manner that results in the dog being left in unsafe or unsanitary conditions or that forces the dog to stand, sit, or lie down in its own excrement or urine.
  7. A dog shall not be tethered by means of a choke, pinch, slip, halter, or prong-type collar, or by any means other than with a properly fitted buckle-type collar or harness that provides enough room between the collar or harness and the dog's throat to allow normal breathing and swallowing.
  8. The weight of the tether shall not unreasonably inhibit the free movement of the dog within the area allowed by the length of the tether.
  9. The dog shall not be tethered in a manner that causes the dog injury or pain.
- B. The provisions of subsection (A)(1) through (4) of this section do not apply to a dog that is:
1. Tethered while it is receiving medical care or treatment under the supervision of a licensed veterinarian or is being groomed;
  2. Participating temporarily in an exhibition, show, contest, or other event in which the skill, breeding, or stamina of the dog is judged or examined;
  3. Being kept temporarily at a camping or recreation area;
  4. Being cared for temporarily after having been picked up as a stray or as part of a rescue operation;
  5. Being transported in a motor vehicle or temporarily restrained or tied after being unloaded from a motor vehicle;
  6. Being trained or used by a federal, state, or local law enforcement agency or military or national guard unit; or
  7. In the physical presence of the person who owns, keeps, or controls the dog.
- C. Each incident involving a violation of this section is a separate offense. A person who violates this section is subject to the following penalties:
1. A first offense shall result in a correction warning being issued requiring the offense to be corrected by the person who owns, keeps, or controls the dog within five (5) days after the date of the warning being issued in lieu of an

infraction unless the offense poses an imminent risk to the health or safety of the dog or the dog has been injured as a result of the offense.

2. A second offense shall be a civil violation with a monetary penalty in the amount of One Hundred and Twenty-Five Dollars (\$125.00).
3. A third or subsequent offense is a civil violation with a monetary penalty in the amount of Two-Hundred Fifty Dollars (\$250.00). (Ord. 980, 2018)

**6.03.170 Crimes Against Animals.**

- A. Any person who, with the intent to deprive or defraud the owner thereof, takes, leads away, confines, secretes, or who conceals the identity by obscuring, altering or removing any collar, tag, license, tattoo or other identifying device or mark on any dog or other domestic animal shall be guilty of a gross misdemeanor.
- B. Any person who willfully molests provokes or mistreats any animal or willfully opens any door or gate or unleashes any animal for the purpose of allowing it to leave its owner's property or to be at large shall be guilty of a misdemeanor.
- C. Any person who shall willfully injure, torture, torment, mutilate, neglect, or deprive of the necessary food or water, or who shall overdrive, overload, overwork, or work when disabled, cruelly beat, mutilate, or cruelly kill any dog or other animal, or cause or procure an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of the necessary food and water, cruelly beaten or killed or who shall kill or wound any domestic animal by use of any gun, club, knife, bow and arrow or other weapon which may be used for the purpose of inflicting injury or death to any such animal, shall be deemed guilty of a gross misdemeanor. Any owner of an injured, ill, malnourished, neglected or mistreated animal shall provide necessary veterinary care or aid of such animal as may be necessary, as determined by the poundmaster, provide for the recovery of or relief from unnecessary suffering of the animal.
- D. Any person who shall maliciously kill, maim or disfigure another's animal, or maliciously administer poison to any such animal, or expose any poisonous substance with intent that the same should be taken by such animal, or commit any other act or omission by which unjustifiable pain, distress, suffering or death is caused or permitted to any animal or animals, whether the acts or omission herein contemplated be committed either maliciously, willfully or negligently, or knowingly permit such act or omission, or shall cause or procure the same to be done shall be deemed guilty of a gross misdemeanor.
- E. It is unlawful for any person to abandon any domestic animal by dropping off or leaving such animal on the street, road or highway, or in any other public place, or on the private property of the owner another, including unauthorized abandonment at an animal shelter.
- F. This section does not apply to the killing of any animal by a police officer, Poundmaster, a licensed veterinarian, the owner of such an animal or a person

authorized by him to destroy such animal; provided, however, that the death of such an animal is accomplished in a humane manner and for lawful purpose.

- G. Every person, firm or corporation convicted of violating this section shall be subject to the penalties provided in Section 1.16.010 (Ord. 841, October 2008.).

**6.03.175 Removal of Animal – Notice.**

If a law enforcement officer or Poundmaster has probable cause to believe than an owner of a domestic animal has violated BCMC 6.03.170 and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of the poundmaster (RCW 15.62.085). An officer may remove an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition. In all cases, the officer shall make a good faith effort to notify the owner prior to the animal's removal. If contact cannot be made, notice shall be given posing the place of the seizure, by delivering to a person residing at the place of seizure, or by registered mail if the owner is known (Ord. 841, October 2008.).

**6.03.180 Duties Upon Injuries or Death of an Animal.**

It shall be the duty of every person operating or driving a vehicle involved in an accident resulting in an injury or death to a dog or other animal to report the same immediately to the poundmaster by telephone, and to report the same in writing within twenty-four hours after the occurrence of such accident to the poundmaster, giving the relevant information concerning the accident, the report to be made on forms provided by the poundmaster (Ord. 841, October 2008.).

**6.03.190 License – Dogs, Required.**

Except as provided in Section 6.03.260, no person may keep, harbor or permit to be kept any dog over seven months of age unless it is licensed.

- A. Licenses will be issued annually by the City. The license fee must be paid after January 1st of each year but before expiration of the existing license. Each license is valid until the final day of January of the following year.
- B. Before a license is issued for any dog, the owner must prove, by a certificate of vaccination signed by a licensed veterinarian that the dog has been vaccinated against rabies at the time of licensing; provided, however, the animal control officer may issue a temporary ten (10) day license contingent upon the owner securing a veterinarian's certificate of vaccination required under this chapter prior to the expiration of the temporary license and further providing that all license fees, including late fees, have been paid. If a certificate is not presented within ten (10) days, it shall be another separate violation of this chapter for each day over ten (10) days that proof is not presented.
- C. A veterinarian's certificate is necessary to prove that a dog has been neutered or spayed.
- D. Newly acquired dogs over the age of seven months must be vaccinated and licensed within 30 days of acquisition.

E. Fees for licenses will be established by the current City Fee Schedule Resolution from time to time and must be paid before the license is issued.

F. No license is required of non-residents staying temporarily within the City for not more than thirty days. Licenses must be obtained within thirty days of the owners establishing residence within the City.

G. Any dog reaching seven months of age before the last day of February must be licensed by that date (Ord. 841, October 2008.).

**6.03.200 License – Receipts and Tags.**

A. License receipts shall provide space for the following information: sex, color, breed, other identifying marks (if any), approximate age, date and serial number of vaccination, name and address of owner, date of issuance, and amount of license fee.

B. License tags shall bear numbers corresponding with those of the license receipts and indicating the expiration date of such license. The shape of the tags shall vary from year to year, and they shall be of a suitable size (Ord. 841, October 2008.).

**6.03.210 License Procedures - Receipts and Tags.**

Upon the payment of the license fee and fulfillment of the licensing requirements, the original of the receipt, together with a license tag as provided for in this chapter, shall be delivered to the applicant. A copy shall be retained by the City and a copy delivered to the poundmaster (Ord. 841, October 2008.).

**6.03.220 License Procedures - Affixing Tags.**

The owner shall cause a valid license tag to be permanently affixed to the collar of the animal so that such license tag is in such a position that it may be easily seen by the animal control officer. The owner shall cause the tag to be worn by such animal at all times (Ord. 841, October 2008.).

**6.03.230 License – No Cost For Adopted Animals.**

The poundmaster is authorized to issue a no-cost animal license for an impounded, stray animal upon its adoption under the approved process. All other license requirements shall apply. Such license shall only be valid until the final day in February in the year following the year of issuance (Ord. 841, October 2008.).

**6.03.240 License Tags Not Transferable.**

License tags shall not be transferable. No refund shall be made of any dog license fee for any reason (Ord. 841, October 2008.).

**6.03.250 Kennels - Licensing Provision - Commerical Kennels.**

No person, firm or corporation shall maintain a commercial kennel within the City without having a current Category A business license and valid commercial kennel license posted in plain view on the premises. The City Clerk shall issue an annual business license and commercial kennel licenses upon the payment of an annual fee as established by the current City Fee Schedule Resolution and upon receipt of an annual Certificate of Inspection from the Code Enforcement Officer. No

license shall be issued for a commercial kennel located in violation of any zoning regulations governing the location of commercial kennels, or operated in violation of any other law (Ord. 841, October 2008.).

**6.03.255 Kennel – Standards And Inspection – Commercial Kennels.**

- A. Construction and maintenance. All facilities shall be so constructed and maintained as to provide comfort and safety for animals. All areas of the premises shall be maintained in a clean and orderly condition, free of objectionable odors. All facilities shall comply with applicable state and municipal laws, ordinances and regulations.
- B. Ventilation. Adequate heating and cooling shall be provided for the comfort of the animals, and the facility shall have sufficient ventilation in all areas. Kennels and animal shelters must provide for a minimum of three air changes per hour.
- C. Lighting. Proper lighting shall be provided in all rooms utilized for the care and confinement of animals. Outside lighting shall be adequate to identify the building and to assist the animal caregivers and clients.
- D. Water. Potable water shall be provided.
- E. Basic sanitation. Any equipment, instruments or facilities used in the confinement and treatment of animals shall be clean and sanitary at all times to protect against the spread of diseases, parasites and infection.
- F. Waste disposal. Covered waste containers, impermeable by water, shall be used for the removal and disposal of animal and food wastes, bedding, animal tissues, debris and other waste.

Disposal facilities shall be so operated as to minimize insect or other vermin infestation, and to prevent odor and disease hazards or other nuisance conditions.

- G. Animal housing areas. Any facility confining animals shall have individual cages, pens, exercise areas or stalls to confine said animals in a comfortable, sanitary and safe manner.
- H. Runs and exercise area. All runs and exercise pens shall be of adequate size to allow comfort and exercise. Runs and exercise pens shall provide and allow effective separation of adjacent animals and their waste products, and shall be constructed in such a manner as to protect against escape or injury. Floors of runs shall be of impervious material.

The facility shall use refrigeration and employ a procedure for the prompt, sanitary and esthetic disposal of dead animals which complies with all applicable state, county and municipal laws, ordinances and regulations (Ord. 841, October 2008.).

**6.03.260 Kennel - Dog Licensing and Vaccination Requirements.**

- A. Any dog kept in a licensed kennel need not be individually licensed, provided that at all times when not securely confined in the kennel the dog is kept on a suitable leash.
- B. A kennel license shall cause all dogs over six months of age kept in that kennel to

be vaccinated against rabies. Any dog for which evidence of such vaccination cannot be produced, shall be impounded (Ord. 841, October 2008.).

**6.03.270 Altering, Counterfeiting or Transfer of Tags Unlawful.**

It is unlawful to counterfeit or alter any license, license receipt or license tag provided for in this chapter, or to take from any animal a license tag legally placed upon that animal with the intent to place it upon another animal, or to place upon an animal a license tag not validly issued for such animal (Ord. 841, October 2008.).

**6.03.280 Animal Bites - Impounding.**

- A. Every animal bite shall be reported to the Benton-Franklin District Health Department Health Officer who shall investigate the case and may order the offending animal to be impounded at any time during the ten days next following the date of the bite. If the animal is impounded and after ten days next following the date of the bite no rabies is present or suspected, the animal may be released to the owner upon payment of any impounding, boarding and license fees, and compliance with the licensing and rabies vaccination provisions of this Chapter. If rabies is present or suspected by the Health Officer, the animal shall be destroyed and the head preserved for laboratory confirmation of the diagnosis.
- B. If the Health Officer orders an animal impounded at any time during the ten days next following the date of a bite, the owner of the animal may request the impounding to be at a licensed veterinarian's establishment at his own expense (Ord. 841, October 2008.).

**6.03.290 Health Officer to Quarantine.**

It shall be the duty of the Health Officer to cause to be quarantined any animal within the City, which he/she has grounds to suspect of being infected with the disease of rabies. Whenever any human being has been bitten by a dog and there is no reason to suspect that the animal is rabid, at the discretion of the Health Officer, the animal involved may be restricted for ten days for observation in such manner as to prevent contact with other animals or humans except for its caretaker (Ord. 841, October 2008.).

**6.03.300 Notice of Quarantine.**

- A. Any quarantine of an animal shall be initiated by delivering to the owner or keeper of any such animal a written notice of such quarantine which shall prescribe the duration of the same, provided that the period of said quarantine shall not exceed ten days unless it shall be determined that the existence of such disease is present. The delivery of the notice of quarantine to an adult residing upon the premises where such animal is kept, shall be considered as delivery of the notice to the owner or keeper. Any such animal so quarantined shall be impounded, provided that, in the discretion of the health officer, said animal may be quarantined upon the premises of the owner or any other person during such time as the provisions of the quarantine are strictly kept.
- B. During the period of any quarantine made under the provisions of this chapter, the owner or keeper of any animal so quarantined shall not allow said animal to come

in contact with any other animal or person or permit such animal to run at large on any street or public place in the City or upon the premises where quarantined unless said premises be enclosed by a secure fence, nor shall such owner or keeper remove or cause such animal to be removed from said premises without the consent of the health officer. Violation of this subsection shall be guilty of a civil infraction and subject to the penalties assessed therefore. These restrictions shall continue until said animal shall have been released from quarantine. Any animal found running at large as defined in Section 6.03.010, or which has been removed from the premises upon which quarantined, shall be impounded and unless claimed and redeemed by its owner within two days after the expiration of quarantine period may be destroyed by the proper authorities.

- C. Whenever any outbreak of rabies occurs, or when rabies has been diagnosed or a rabid dog or animal has been present in the City, it is unlawful for any owner, keeper or handler of an animal to keep or harbor the same within the City limits after the last publication of the notice provided for in subsection (5) of this section, and during the period in said notice prescribed, unless such dog or animal be securely confined at all times by leash or kept in a tight enclosure from which such animal cannot escape. Any animal found running at large in the City during said period shall be impounded and, unless claimed and redeemed by its owner within two days after such impounding, may be destroyed by the proper authorities. Any health or police officer may destroy any animal found running at large within the limits of the City during said period when, after reasonable effort, he shall be unable to impound said animal or after reasonable investigation shall be unable to locate the owner or keeper thereof.
- D. Any animal that has been bitten by a rabid animal must be destroyed. If the owner is unwilling to have this done, the animal (dog only) should be vaccinated and placed in strict isolation for six months or longer. If the animal has been previously vaccinated with an approved vaccine within the time limit approved for such vaccine, re-vaccination and restraint for ninety days shall be carried out.
- E. Upon any outbreak of rabies, or when rabies has been diagnosed within the City limits, or a rabid dog or animal has been found present, and when, in the judgment of the health officer, there is imminent danger of the spread of the disease, such officer shall publish a notice to that effect in the official newspaper of the City for three successive days, and for six weeks after the last publication of said notice the provisions of Section 6.03.120 shall be applicable, provided that the health officer shall have authority, when in his judgment an extension of said six weeks time is necessary to carry into effect the purpose of this chapter, to extend the said six-week period for an additional six weeks or such lesser time as he shall deem necessary by notice given in the manner provided for in this section and to further thereafter and in the same manner continue said six-week or lesser period until, in his judgment, the said strict quarantine herein provided for shall be unnecessary (Ord. 841, October 2008.).

**6.03.310 Potentially Dangerous and Dangerous Animals.**

- A. Declaration. The poundmaster has the authority to declare an animal potentially dangerous or dangerous and require such animal to have a permit in accordance

with this section. The poundmaster may declare an animal potentially dangerous or dangerous if he has probable cause to believe that the animal falls within the definitions set forth in section 6.03.010. If the owner of such animal can be readily determined, the poundmaster shall notify the owner personally or by certified mail of the declaration. If, however, the owner of such animal cannot be readily determined, notification shall be waived.

- B. Impoundment. No person shall have, keep or maintain a potentially dangerous or dangerous animal without first obtaining a permit from the poundmaster. Any animal meeting this definition and found at-large without a permit will be impounded immediately at the expense of the owner. If the owner of such animal can be readily determined, the poundmaster shall notify the owner personally or by certified or regular mail of the impoundment. If, however, the owner of such animal cannot be readily determined, notification shall be by posting at City Hall as provided in Section 6.03.100.
- C. Appeal. Any owner of an animal subject to this section, may appeal the determination of the poundmaster to the Hearing Examiner for determination provided the appeal is made in writing to the City and filed with the City Clerk within ten (10) days of the poundmaster's determination. The hearing shall be scheduled within seven (7) days of the date of service of such notice and the decision of the poundmaster shall be stayed and any impoundment shall continue, at the cost of the owner, pending the appeal.
1. If the Hearing Examiner finds insufficient evidence to support the Declaration, the Declaration shall be rescinded and the restrictions imposed thereby annulled, and any appeal filing fee refunded. All impound fees are the responsibility of the owner of the animal, not animal impound expense and fee(s) shall be assessed against the City or the animal control authority or officer.
  2. If the Hearing Examiner finds sufficient evidence to support the Declaration, he/she shall impose hearing costs on the appellant, restitution if applicable, and may impose additional restrictions on the animal.
  3. Decisions by the Hearing Examiner shall be final and conclusive unless a timely appeal is filed with the Superior Court of Benton County by an aggrieved party within twenty-one (21) calendar days from the date of issuance of the decision and any impoundment shall continue, at the cost of the owner, pending the appeal. An appeal to Superior Court shall be an appeal on the administrative record.
- D. Redemption or Destruction of Animal. An animal impounded under this section shall be returned to its owner if he complies with section 6.03.310 and 6.03.080 within 72 hours after notification of impoundment. If, however, the owner of the impounded animal under this section does not comply with section 6.03.310 and 6.03.080 within 72 hours after notification of impounding, such animal shall be destroyed in an expeditious and humane manner. For purposes of determining whether the 72 hours have expired, the following methods shall be used:



1. If the owner is personally served by the poundmaster, time begins when the owner was personally served;
2. If the owner is mailed notice by certified and regular mail, time begins when the notice was mailed; and
3. If the owner of such animal could not be readily determined by the poundmaster, notice shall be by posting as provided by section 6.03.100 and the time begins at posting as provided by section 6.03.100.

EXCEPTION: Upon execution of Declaration of Removal by the owner, or authorized representative of the owner of the animal and payment of applicable fees including impound fees, the animal may be released by the poundmaster into the custody of the owner, or authorized representative of the owner and the immediate and permanent removal of the animal from the City.

- E. Permit Required. No person shall have, keep or maintain any potentially dangerous or dangerous animal without first obtaining an annual permit from the poundmaster. The fee for such a permit shall be in addition to the regular annual license fee. A permit will only be granted if the applicant has provided and maintains:
1. A proper enclosure to properly and safely confine the animal as determined by the poundmaster;
  2. A conspicuously posted sign on the premises which clearly warns the public and children that there is a potentially dangerous or dangerous animal on the property;
  3. \$250,000 surety bond issued by a surety insurer qualified under RCW 48.28 in a form acceptable to the poundmaster payable to any person injured by the wild, potentially dangerous or dangerous animal; or liability insurance, such as homeowners insurance, issued by an insurer qualified under Title 48 RCW in the amount of not less than \$250,000 with maximum deductible coverage not to exceed \$2,500 in a form requiring notice to the City of cancellation or nonrenewal of such policy not less than 30 days prior to its date of cancellation or expiration, insuring the owner for any personal injuries or property damage inflicted by the animal and (d) proof that all surrounding property owners and occupants have been notified and given an opportunity to comment on the confinement plans.
- F. Exemption to Permit Requirement. An animal that is classified as “potentially dangerous” under the provisions of subsection 6.03.010 (14)(d) may be exempted from the permit requirements of the above subsection (5), provided such animal has passed the Canine Good Citizen (CGC) test of the American Kennel Club (AKC), and received the appropriate certificate from AKC. Such animal shall be retested and passed at least once every two years in order to maintain this exemption.
- G. Control and Confinement. Dangerous and potentially dangerous animal must be muzzled and securely leashed, restrained and under the control of a person physically able to control the animal when away from the property of the owner or

keeper; or, while on the property of the owner, must be securely confined within a "proper enclosure" as defined in section 6.03.010 made of materials strong enough to adequately and humanely confine the dog in a manner which prevents it from escaping the property and to prevent the entry of young children and kept in conformance with requirements in section 6.03.310.

- H. Violations and Regulation. Any person violating the provisions of this section shall be issued a civil violation. No person who, being the owner of any potentially dangerous or dangerous animal, shall keep, harbor or maintain the same on or off his premises in a manner endangering or likely to endanger the safety of persons, property or other animals nor shall he allow the same to run at large within the City. It shall be a defense to any charge under this section involving an alleged potentially dangerous or dangerous animal that the person endangered was committing, was about to commit or had just committed a trespass or crime and that the animal's reaction was a natural result thereof. The poundmaster may petition the Hearing Examiner to determine whether an animal should be destroyed (Ord. 841, October 2008.).

**6.03.320 RCW Sections Adopted – Possession of Potentially Dangerous Wild Animals Prohibited.**

The following sections of the Revised Code of Washington (RCW) pertaining to prohibiting possession potentially dangerous wild animals as now or hereafter amended are hereby adopted by reference as part of this Chapter in all respects through such chapter were set forth in full: RCW 16.30.005; RCW 16.30.010; RCW 16.30.020; RCW 16.30.030; RCW 16.30.040; RCW 16.30.050; RCW 16.30.060; RCW 16.30.070; and RCW 16.30.900 (Ord. 841, October 2008.).

**6.03.330 Animals Disturbing the Peace.**

It is unlawful for any person owning or harboring an animal to allow or permit such animal to cause serious or habitual disturbance or annoyance by frequent or habitual howling, yelping, barking or otherwise noisy conduct, which shall annoy, injure or endanger safety, health, comfort or repose of others. An animal is harbored in violation of this section if, without provocation, it makes noise which can be heard continuously within an enclosed structure off the owner's property (Ord. 841, October 2008.).

**6.03.340 Responsibility of Owner.**

Nothing contained in this chapter shall relieve the owner or owners of any animal from responsibility for any damage committed by such animal, as provided by the law and sections of this chapter (Ord. 841, October 2008.).

**6.03.350 Penalty Provisions.**

- A. Except as to violations of Section 6.03.170, Crimes Against Animals, any person violating any provision of this Chapter, is guilty of a civil infraction. Any violation of Section 6.03.330 shall be subject to a civil violation as provided in RCW 16.30.060. Otherwise, each violation shall be subject to the provisions as set forth in Chapter 9.50 of this code. Unless otherwise stated, such penalty shall be

subject to an increase justified by an aggravated violation, plus all costs and assessments with such penalty doubling for each repeat offense, the following respective violations:

1. Second violation within five years shall result in a double penalty.
  2. Third violation within five years shall result in a triple penalty.
  3. Four or more violations within five years shall result in a quadruple penalty.
- B. Each person is guilty of a separate offense for each and every day during any portion of which any violation of the provisions of this chapter is committed, continued or permitted by any such person and shall be punished accordingly.
- C. Court costs shall be assessed in addition to any other fine, penalty, cost or statutory assessment imposed.
- D. The City, at its election, may divert any civil infraction identified in this Chapter to be heard before the Benton City Hearing Examiner. Assessments of monetary penalties for violations of this chapter shall be assessed by the Hearing Examiner. (Ord. 841, October 2008.)

**6.03.360 License Fees.**

The license fees for dog licenses are set by the most current resolution entitled "City Fee Schedule". In addition to the license fee prescribed, each applicant whose dog is eligible to be licensed on January 1<sup>st</sup> of each year, and who applies after January 31<sup>st</sup> of that year, shall be required to pay a penalty as set by the same said "City Fee Schedule (Ord. 841, October 2008.)."