

CHAPTER 10

ANIMALS AND FOWL.

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Article I. Animals, Except for Dogs and Cats.

10-101. Applicability of article to dogs, cats or caged birds, etc.

The provisions of this Article shall not apply to dogs, cats or caged birds maintained within the dwelling house of a person owning or keeping the same.
(Code 1973, 5-18; Ord. No. 1759)

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10-102. Keeping of animals prohibited; exceptions.

It shall be unlawful for any person to keep, harbor or maintain within the City of Hastings any wild or domesticated animal, reptile or fowl, except as follows:

- (1) Dogs and cats may be kept, harbored and maintained within the City as provided in this Chapter.
- (2) Horses, ponies, llamas, donkeys, mules, sheep, swine, goats, cattle, chickens and ducks may be kept, harbored and maintained within the City with a special use permit as provided in the chapter on zoning; horses and ponies may be ridden within the City subject to any limitations contained in this Chapter.
- (3) Canaries, parakeets, parrots, fish, hamsters, gerbils, guinea pigs, white mice or rabbits may be kept, harbored and maintained within the City so long as they are confined within a residence structure or other building.
- (4) Raptors kept by a person licensed under the laws of the State of Nebraska and in accordance with federal regulations may be kept, harbored and maintained within the City.
- (5) Live bait, such as earthworms, minnows and crayfish, may be kept within the City for sale or for use.
- (6) Amphibians and non-venomous reptiles may be kept within the City as long as they are confined within an owner's dwelling unit or escape-proof enclosure compatible with the animals' welfare, and provided that all amphibians and non-venomous reptiles that are not native to Nebraska are registered with the Animal Control Officer on forms provided by the Animal Control Officer and a registration fee in the amount of five dollars (\$5.00) per animal is paid.
- (7) The prohibitions of this Section shall not operate to prevent the keeping of prohibited animals by primary, secondary and post-secondary educational institutions for educational purposes.
- (8) The prohibitions of this Section shall not operate to prevent the temporary storage or display of animals adjacent to and for use in connection with any veterinary clinic, packing plant, livestock sale yard, zoo, circus, rodeo, horse racing track, parade, county fair, or by a humane society or the City of Hastings Health Department.

(9) Upon the annexation of lands into the City where sheep, goats, cattle, horses, ponies, llamas, swine or fowl are kept, the person keeping said animals shall be allowed 30 months from the date of annexation to remove said animals, or to otherwise bring their property into compliance with this Section. During such time, the person granted said extension shall not:

(a) Expand or enlarge the area within which the animals are kept; or

(b) Increase the number or types of animals that are being kept there on the effective date of the annexation ordinance.

(Code 1973, 5-1; Ord. Nos. 1759; 3019-7/87, 3381-3/1994 and 4238-11/2009)

10-103. Horses -- Prohibited on private and public property; exceptions thereto.

It shall be unlawful for any person who owns or is in charge of a horse to allow the horse to go upon any City park or public property other than the improved portion of the public streets and alleys within the City without a permit or consent from the City Council for such accepted usage and it shall be unlawful for any person to permit a horse owned by him or in his charge to go upon private property within the City of Hastings without the consent of the owner or occupant of said private property.

(Code 1973, 5-1.1; Ord. No. 2749)

10-104. Livestock -- Sale yards or stockyards.

Pens, cages, hutches, sheds, yards or any other area or enclosure used for confinement of animals or fowl within the City maintained by any livestock sale yard or railroad stockyard or not specifically banned from the City by Section 10-102, shall be kept in a clean and orderly manner so as not to become a menace or a nuisance to the neighborhood in which it is located.

(Code 1973, 5-2; Ord. No. 1759)

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10-105. Running at large.

No person having the charge, custody or control of any animal not specifically banned from the City, as provided by Section 10-102, or having charge, custody and control of any fowl of any kind, shall permit such animal or fowl to run at large in any of the public ways or upon the property of another within the City, or shall permit the same to be tethered or staked out in such a manner as to allow the animal to reach or pass into any public way or to reach or pass upon the property of another. The Mayor and Council hereby find and determine that animals or fowl so running at large upon the public ways or upon the property of another is a public nuisance and is hereby declared to be such.
(Code 1973, 5-3; Ord. No. 1759)

Reference: Neb. Rev. Stat. 1943, Section 16-235.

10-106. Impounding of animals other than dogs -- Authorized.

Every police officer or other duly authorized humane officer or animal officer is authorized to apprehend any animal found running at large and to impound such animal in an animal shelter designated by the Mayor and Council for such purpose; Provided, that if the owner is known, the officer may at his discretion return the animal to its owner and shall cite the owner or owners for violation of the provisions of this Code.
(Code 1973, 5-4; Ord. No. 2395)

10-107. Same -- Notification of owners; redemption.

Not later than five days after the impounding of any animal, the owner shall be notified or if the owner of the animal is unknown, written notice shall be posted for five days at three or more conspicuous places in the City describing the animal and the place and time of apprehension. The owner of any animal so impounded may reclaim such animal upon payment of all costs and charges incurred by the City for impounding and maintenance of the animal. The charges therefor, as set forth in the most recent Council fee resolution, shall be paid to the City Clerk or his representative.

The owner of any animal so impounded, shall be responsible for the payment of these charges, not to exceed the keeping charge of fourteen days, whether the owner reclaims any such animal or not.
(Code 1973, 5-5; Ord. No. 2395)

10-108. Same -- Disposition of unclaimed or infected animals.

It shall be the duty of the animal officer to keep all animals impounded for a period of six days. If at the expiration of six days from the date of notice such animal shall not have been redeemed, it may be disposed of as determined by the Director of Environmental Health. Any animal which appears to be suffering from rabies, mange or other infectious or dangerous disease shall not be released but shall be destroyed.
(Code 1973, 5-6; Ord. No. 2395)

10-109. Vicious animals.

(1) It shall hereby be the right of the animal officer to kill any animal of vicious or rabid characteristics when capture is deemed impossible because of the danger involved. In no instance shall such an animal be destroyed by damage to the head. Such instances shall be reported immediately to the health department of the City, and the head of the animal shall be shipped to the state health department laboratories or other reliable laboratory for examination.

(2) Subject to subsection (3) below, any animal that bites or scratches a human so as to break the skin shall be immediately impounded in the animal shelter or with a veterinarian and placed under observation for a period of ten days, and the owner shall pay all required fees before the animal can be released. The owner shall pay all such required fees whether or not the owner claims the animal or whether or not the animal is released. If the animal is diagnosed as being positively rabid during this period, it shall be destroyed. If any animal so under observation should die for any reason, the head shall be shipped to the state health department laboratories or other reliable laboratory for examination. The Director of Environmental Health shall institute appropriate action in the county court to recover all costs and fees as provided for in this section and in Section 10-210.

(3) All or any part of the ten day observation period described in subsection (2) above may be waived at the discretion of the animal officer if the animal is properly licensed and the owner of the animal presents satisfactory evidence that the animal has been vaccinated against rabies.
(Code 1973, 5-7; Ord. No. 2395 and 3436-10/94)

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10-110. Cruelty to animals.

No person shall cruelly, inhumanely or unnecessarily beat, overwork or insufficiently shelter or feed any animal within the City.

Any person operating a vehicle upon any street, alley, or other public thoroughfare in the City of Hastings, whose vehicle collides with any cat, dog, or other domestic animal so as to kill or temporarily or permanently incapacitate such animal, shall immediately notify the City Police Department of such incident. Failure to so notify said authorities within one hour after such incident shall constitute a misdemeanor punishable by fine of up to \$100.00.

(Code 1973, 5-9; Ord. No. 1759 and 2960-1/86)

Reference: Neb. Rev. Stat. 1943, Sections 16-210, 28-1001 to 28-1003.

10-111. Collision of vehicle with cat, dog or domestic animal; reporting requirements.

Any person operating a vehicle upon any street, alley, or other public thoroughfare in the City, whose vehicle collides with any cat, dog, or other domestic animal so as to kill or temporarily or permanently incapacitate such animal, shall immediately notify the City Police Department of such incident. Failure to so notify said authorities within one hour after such incident shall constitute a misdemeanor punishable by fine of up to \$100.00.

10-112. Destroying, injuring, etc., animals prohibited; exceptions.

No person shall kill or injure any animal or attempt to kill or injure any animal by the use of firearms, stones, clubs, poison or in any other manner within the City unless the animal is deemed vicious or dangerous and cannot be captured without danger to the persons attempting to effect such capture. This section shall not apply to the operation of the animal shelter where animals are destroyed according to the provision set forth in this Chapter; nor shall this section apply to the destruction of rodents or other animals or birds considered pests or a menace; or slaughterhouses where animals or fowl are slaughtered humanely for food.

(Code 1973, 5-10; Ord. No. 1759)

Reference: Neb. Rev. Stat. 1943, Section 28-1002.

10-113. Treatment of crated poultry.

No person shall permit any poultry to be crated for longer than eight hours unless the poultry has been supplied with water and feed; nor shall such person permit any crated poultry to be exposed to the sun, extreme heat or cold; except, that which is being transported within the City.

(Code 1973, 5-11; Ord. No. 1759)

10-114. Sale, etc., of baby poultry.

No person shall display, give away, distribute or sell natural colored or artificially colored baby poultry as pets or novelties. This section shall not be construed to prohibit the display or sale of baby poultry when such poultry is provided with proper brooder facilities by hatcheries or businesses engaged in the business of selling the same to be raised for food.

(Code 1973, 5-12; Ord. No. 1759)

10-115. Stallions, jacks or bulls.

No person who is the owner or keeper of any stallion, bull or jack shall permit any such stallion, bull or jack, except in an enclosed building or stockade where the same is not exposed to public view, to be bred to any mare, cow or jenny.

(Code 1973, 5-13; Ord. No. 1759)

10-116. Keeping in proximity to dwellings.

No person, whether as owner, bailee, keeper or custodian, shall keep or maintain any animal, fowl or bird not specifically banned from the City by the terms of this Article closer than one hundred fifty feet from any part of any building used by another as a residence or place of dwelling.

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The prohibitions of this Section shall not operate to prevent the keeping of animals by primary, secondary and post-secondary educational institutions for educational purposes or organizations, entities, or persons otherwise duly licensed and regulated by the federal government or State of Nebraska.
(Code 1973, 5-14; Ord. No. 1759 and 4238-11/2009)

10-117. Wild animals and reptiles.

No wild animals or venomous reptiles may be kept within the City; except, that wild animals or reptiles of all types may be kept as otherwise excepted or set forth herein or for exhibition purposes by circuses, zoos and educational institutions.

All other animals, except cats and dogs, kept or maintained within the corporate limits of the City shall be vaccinated against rabies in the manner and at time intervals in accordance with the recommendation of a veterinarian duly licensed in the state.
(Code 1973, 5-15; Ord. Nos. 1759, 2395, 3381-3/94 and 4238-11/2009)

Reference: See Neb. Rev. Stat. 1943, Sections 37-713 to 37-719.

10-118. Report of rabies suspects.

It shall be the duty of every licensed veterinarian to report to the health department his diagnosis of any animal observed by him as a rabies suspect.
(Code 1973, 5-16; Ord. No. 1759)

10-119. Methods of fishing.

It shall be unlawful to take or to attempt to take any fish from any public lake or stream within the City in any manner other than by use of hook and line. Snagging and spearing of fish is hereby expressly prohibited. No person shall discharge into any such public lake or stream any dangerous or deadly weapon including but not by way of limitation, any slingshot, bow and arrow or air rifle.
(Code 1973, 5-17; Ord. No. 1813)

Reference: See 18-115 of this Code.

10-120. Keeping of bees.

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

(a) Apiary shall mean a place where bee colonies are kept.

(b) Bee shall mean any stage of the common domestic honey bee, *Apis Mellifera* Species.

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

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

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

(2) Hives. All bee colonies shall be kept in a hive that is capable of being inspected and with removable combs, which shall be kept in sound and usable condition.

(3) Setback. All hives shall be located at least five feet from any adjoining property with the back of the hive facing the nearest adjoining property.

(4) Fencing of flyways. In each instance in which any colony is situated within 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 feet in height consisting of a solid wall or fence parallel to the property line and extending ten feet beyond the colony in each direction so that all bees are forced to fly at an elevation of at least six feet above ground level over the property lines in the vicinity of the apiary.

(5) Water. Each beekeeper shall ensure that a convenient source of water is available at all times to the

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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.

(6) 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.

(7) 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.

(8) Colony densities.

(a) It shall be unlawful to keep more than the following number of colonies on any tract within the city, based upon the size or configuration of the tract on which the apiary is situated:

(i) One-quarter acre or less tract size - Two colonies;

(ii) More than one-quarter acre but less than one-half acre tract size - Four colonies;

(iii) One-half acre or more but less than one acre tract size - Six colonies;

(iv) One acre or larger tract size - Eight colonies;

(v) Regardless of tract size, where all hives are situated at least 200 feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.

(9) For each two colonies authorized under colony densities, subsection (8)(a) above, there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one standard 9 5/8 inch depth ten 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 30 days after the date it is acquired.
(Ord. No. 2580 and 4257-5/2010)

10-121. Beehives -- Nuisance.

The keeping by any person of bee colonies in the city not in strict compliance with this section is prohibited. 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 deemed a hazard to the health and welfare of the community, is unlawful, and may be removed from the city or turned over to a beekeeper by the development services department or designee.

(Ord. No. 2580 and 4257-5/2010)

Article II. Dogs and Cats.

Reference: Neb. Rev. Stat. 1943, Section 16-206.

10-201. Licensing and registration.

(1) No Person shall own, keep, harbor or maintain any dog or cat within the City unless such animal is licensed and registered as hereinafter provided. All dogs and cats shall be licensed and registered on or before April 1 of each year, provided that no such license shall be issued unless and until the applicant shall have furnished proof that the animal to be licensed has been vaccinated against rabies as required by Section 10-214 of this Code. Such license shall be for the period of April 1 to March 31 of the following year. Licenses for each dog and cat shall be issued by the City Clerk upon payment of the fees therefor as set forth in the most recent Council fee resolution.

(2) The fees provided in the most recent Council fee resolution shall be applicable to owners purchasing dogs or cats, or owners of such animals becoming residents of the City after April 1 of any year. Such license shall not be transferable and no refund will be allowed in case of death, sale or other disposition of the animal. The owner shall state at the time application is made for such license and upon printed forms

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provided for such purpose, his name and address and the name, breed, color and sex of each dog or cat owned and kept by him. The provisions of this section shall not be intended to apply to dogs or cats whose owners reside temporarily, not to exceed thirty days, within the City; provided, that the animals are kept under the control of the owner; nor "seeing-eye" dogs properly trained to assist blind persons when such dogs are actually being used by blind persons for the purpose of aiding them in going from place to place, nor to dogs certified to assist the disabled, nor dogs or cats for a period of four months after they are born.

(3) All unlicensed or untagged dogs or cats are hereby declared to be a public nuisance and shall be apprehended and removed to the animal shelter as provided by this Article.

(4) Any violation of this section shall be punishable by a minimum fine of \$25.00 and a maximum fine of \$100.00.

(Code 1973, 5-19; Ord. Nos. 1759, 2132, 2493, 2953, 2969-4/86, 3039-10/87, 3680-4/99 and 3680-4/99)

Reference: As to expiration of licenses generally, see 5-103 of this Code.

10-202. Issuance, wearing, etc., of tags.

Upon payment of the license fee, the City Clerk shall issue to the owner a license certificate and a metallic tag for each dog or cat so licensed. The shape of the tag shall be changed each year and shall have stamped thereon the year for which it was issued, the number of the tag, and the wording "Hastings Dog Tag" or "Hastings Cat Tag." Every owner shall be required to provide each dog or cat with a collar or harness to which the license tag must be affixed and shall see that the collar or harness and tag are constantly worn. In case a tag is lost or destroyed, a duplicate will be issued by the City Clerk or his authorized representative upon presentation of a receipt showing the payment of the license fee for the current year and the payment of a fifty cent fee for such duplicate.

(Code 1973, 5-20; Ord. No. 1759 and 2953)

10-203. Removal of collar, harness or tag.

No person shall remove, or cause to be removed, the collar, harness or license tag from any dog or cat without the consent of the owner, keeper or harbinger thereof.

(Code 1973, 5-21; Ord. No. 1759 and 2953)

10-204. Kennel and pet shop licenses.

(1) It shall be the duty of all persons owning or operating a kennel or pet shop to have the same licensed. Such owner or operator shall make application to the City Clerk for license to own or operate such a business, and such application shall be accompanied by a license fee as determined by the Hastings City Council. Each license shall expire on April 30th of the year following its issue.

(2) No animal prohibited in the City of Hastings may be kept, held, maintained or sold by or at any kennel or pet shop.

(3) "Kennel" is hereby defined to be any commercial business of breeding, buying or selling dogs and cats.

(4) "Pet shop" is hereby defined to be an establishment where live animals and birds are kept and offered for sale.

(Code 1973, 10-22; Ord. No. 1759; 2953; 3019-7/87)

Reference: As to expiration of licenses generally, see 5-103 of this Code.

10-205. Animal officer, humane society, etc. -- Employment; contracts with humane society.

The Mayor and Council are hereby authorized to employ an animal officer, subject to the terms and provisions of Chapter 3 of this Code, who shall be paid such salary as the Mayor and Council shall determine, or in lieu thereof it shall be lawful for the Mayor and Council to enter into a contract with any humane society or other similar institution for the purpose of carrying out the provisions of this article.

(Code 1973, 5-23; Ord. No. 1759)

10-206. Animal officer -- Powers and duties.

(1) For the purposes of this chapter, the term "animal officer" shall be deemed to include any person who

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is employed by the City of Hastings, and who holds the position of animal officer or animal control officer. Additionally, all police officers of the City of Hastings shall have all of the authority which is hereby conferred upon animal officers, and any authority conferred in this chapter upon any "animal officer" shall be deemed to also be conferred upon every police officer of the City of Hastings.

(2) It shall be the duty of the animal officer to enforce the provisions of this article and any other article pertaining to the control of animals, birds, or fowl. For the purpose of discharging the duties imposed by this article and to enforce its provisions, the animal officer is empowered to enter upon any premises upon which a dog or cat is kept or harbored and to demand the exhibition by the owner of such dog or cat of the license for such dog or cat. It is further provided that the animal officer may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and to confiscate such animal, when in his opinion, it is being cruelly or inhumanely treated. No such officer shall enter upon any premises for the purposes described in this Chapter, in violation of the statutory and constitutional rights of the owner or occupant thereof.

(3) Upon receiving any dog or cat, the animal officer shall make a complete registry entering the breed, color, and sex of each dog or cat and whether licensed. If licensed, he or she shall enter the name and address of the owner and the number of the licensed dog or cat. It shall further be the duty of the animal officer to assist the City Clerk in dog and cat tax collections by taking a dog and cat census effected by personal visitation to dog and cat owners, harborers, or keepers. The animal officer shall also enforce the provisions of any other article pertaining to the control of animal, birds, or fowl. The animal officer shall inform the Chief of Police or his or her representative immediately upon receipt of an animal suspected of having rabies and shall not release any such animal without permission from the Chief of Police.
(Code 1973, 5-24; Ord. No. 1759, 2953, 2969-4/86 and 3680-4/99)

10-207. Issuance of citations.

The animal officer shall be vested with the power to issue to any person violating any of the provisions of Chapter 10, a Complaint and Citation in Lieu of Arrest on forms by or similar to forms approved for use in the State of Nebraska.
(Ord. No. 2588, 5/23/77 and 2953)

10-208. Failure to restrain an animal.

Any person who owns a dog or cat and fails to restrain the dog or cat by leash, cord, chain, fence, or other physical means of restraint shall be found to have failed to restrain the animal if the animal is found unrestrained on public property or the private premises of others or upon the streets or highways. A dog or cat shall be deemed to be unrestrained when off the owner's premises, unless a leash, cord, chain or other physical restraint is securely fastened to the collar or harness of the animal and in the hands of the person in control of such animal. In the case of a carrier or enclosure, the device shall be designed and used so the dog or cat cannot be released without the aid of the individual in control of such animal.
(Code 1973, 5-25; Ord. Nos. 1759, 2532, 2540, 2953, 2969-4/86, 3593-7/97 and 3680-4/99)

Reference: Neb. Rev. Stat. 1943, Section 16-235.

10-209. Confiscation, impoundment and notice to owners -- When authorized.

(1) It shall be the duty of every animal officer to apprehend any unrestrained dog or cat found contrary to the provisions of Section 10-208, or any dangerous or vicious animal or potentially dangerous animal as described in Section 10-217, and to impound such dog or cat in an animal shelter designated by the Mayor and Council for such purpose; provided, that if such dog or cat is licensed and the owner is known, the officer may at his or her discretion return the animal or animals to its or their owner or owners and shall cite the owner or owners for violation of the provision of this Article.

(2) Not later than five days after the impounding of any dog or cat, the owner shall be notified of that fact in writing by first class mail sent to the owner's last known address or by notice of impoundment placed on the owner's door to their home, if the owner is known. If the owner of the dog or cat is unknown, written notice shall be posted for five days at three or more conspicuous places in the City describing the dog or cat and the place and time of apprehension. The owner of any dog or cat so impounded may reclaim such dog or cat upon the payment of license fee, if unpaid, and all costs and charges incurred by the City for impounding or maintaining the dog or cat, unless the dog or cat has bitten a human being or killed livestock or other domestic animal or has been determined to be a dangerous or vicious animal or potentially dangerous animal by an animal officer or court of law.
(Code 1973, 5-26; Ord. No. 1759, 2953, 3680-4/99 and 3860-7/2002)

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Reference: Neb. Rev. Stat. 1943, Sections 16-235 to 16-236.

10-210. Impounding; procedure when animal kills or wounds livestock; reclaiming; charges.

(1) If the impounded animal has bitten a human, killed livestock or wounded other domestic animal or been determined as a dangerous or vicious animal or potentially dangerous animal by an animal officer or court of law, the impoundment shall continue until a court order is entered directing the City to destroy the animal or release the animal.

(2) In all cases where an animal has bitten a human being, the animal shall be immediately impounded in the animal shelter or with a veterinarian and placed under observation for a period of no less than ten (10) days.

(3) The chief or his or her representative may allow home confinement if the situation meets certain criteria developed by the Police Department.

(4) If the animal is diagnosed as being positively rabid during this period, it shall be destroyed. If any animal so under observation should die for any reason, the head shall be shipped to the State Health Department laboratories or other reliable laboratory for examination. The Chief of Police shall institute appropriate action in the county court to recover all costs and fees related to such destruction and examination.

(5) Unless otherwise ordered by the court, the owner of any dog or cat so impounded shall be responsible for the payment of the impound charges not to extend beyond the date of any court order entered directing the City to destroy or release the animal whether the owner has attempted to reclaim any such animal or not.

(Code 1973, 5-27; Ord. Nos. 1759, 1935, 2236, 2953, 2969-4/86 and 3680-4/99)

10-211. Releasing animals to animal shelter.

All persons bringing animals to the Hastings Animal Shelter for release shall, after signing a release form relinquishing all claim to the animal therein described and conveying complete ownership to the City Animal Shelter, City of Hastings, pay a fee as set forth in the most recent Council fee resolution.

10-212. Same -- Disposition of unclaimed or infected dogs and cats generally.

It shall be the duty of the animal officer to keep all dogs or cats impounded for a period of six days, after notice is mailed or first posted, as provided in Section 10-210. If at the expiration of six days from the date of notice such dog or cat shall not have been redeemed, it may be destroyed. Any licensed dog or cat or any animal which appears to be suffering from rabies, mange, or other infectious or dangerous disease shall not be released but shall be destroyed.

(Code 1973, 5-28; Ord. No. 1759, 2953 and 2969-4/86)

10-213. Same -- Use of unclaimed animals for scientific purposes.

Whenever any hospital or reputable institution of learning shall apply to the animal shelter for permission to use for research purposes in the study of prevention of disease or the betterment of mankind, any impounded animal or animals remaining unclaimed after six days, the humane officer is authorized to surrender to the hospital or institution such unclaimed animals as it has requested, only upon and after proper investigation by the animal officer that the hospital or institution will not subject the animals to any inhumane treatment which would inflict pain or suffering on the animals.

(Code 1973, 5-29; Ord. No. 1759 and 2953)

10-214. Vaccination of dogs, cats and other animals.

All dogs and cats kept or maintained within the corporate limits of the City shall be vaccinated against rabies by a veterinarian duly licensed in the State of Nebraska once every three years, provided however that dogs under four months of age are not required to be vaccinated.

10-215. Confinement during period of rabies emergency.

Whenever it becomes necessary to safeguard the public from the dangers of rabies, the Mayor shall issue a proclamation ordering all owners, harborers or keepers of dogs and cats to closely confine and/or muzzle

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the animals for the period necessary to adequately safeguard the public and all danger is past. Close confinement shall mean that the animals shall be caged, penned or kept within the home of the owner, keeper or harborer. All animals apprehended and impounded during this period shall be retained for a period of ten days before being released to the owner upon payment of required fees.
(Code 1973, 5- 30; Ord. No. 1759 and 2953)

10-216. Destruction of vicious or rabid dogs and cats.

It shall hereby be the right of the humane officer to kill any dog or cat of vicious or rabid characteristics when capture is deemed impossible because of the danger involved. In no instance shall a dog or cat which it has been necessary to destroy because of suspected rabies or viciousness be destroyed by damage to the head. Such instances shall be reported immediately to the Health Department of the City, and the head of the animal shall be shipped to the State Health Department laboratories or other reliable laboratory for examination.

(Code 1973, 5-31; Ord. Nos. 1759, 1935, 2395 and 2953)

10-217. Dangerous or vicious animals and potentially dangerous animals.

(1) No person shall own, keep or harbor or have under his or her control, any dangerous or vicious animal.

(2) For the purposes of this Section, a dangerous or vicious animal is any animal which has, according to the records of an animal control authority:

(a) killed or severely injured a human being;

(b) killed or wounded a domestic animal or livestock without provocation while the offending animal was off the owner's property; or

(c) been previously determined to be a potentially dangerous animal by a court of law, a police officer, or animal control officer and the owner has received notice of such determination and such animal bites, attacks, or endangers the safety of a human, domestic animal or livestock or is found to be unrestrained.

(3) For the purposes of this Section, a potentially dangerous animal is any animal which has, according to the records of an animal control authority:

(a) when unprovoked, chased or approached a person in a menacing fashion or apparent attitude of attack;

(b) a known propensity, tendency, or disposition to attack when unprovoked and, which attack has caused injury or threatened the safety of humans, domestic animals or livestock; or

(c) bitten a human being in a manner not covered under § 10-217(2)(a) above.

(4) Any person who has received notice that a court of law, animal control officer or police officer has determined that an animal owned by them or under their control is a potentially dangerous animal shall within twenty (20) days of such notice construct a secure enclosure in which to confine the animal. Said enclosure shall be a metal or wooden structure of no less than four (4) feet in height from the ground and shall have a roof or a cap over it to ensure that the animal cannot leap over the structure. The roof or cap of the structure shall be constructed of the same material as the walls of the structure. The walls of the structure shall be imbedded into the ground at least twelve (12) inches, unless the entire floor of the structure is concrete. The owner or keeper of the animal shall not allow the animal outside of said structure unless it is restricted by a leash, cord, or chain, the leash, cord or chain shall be securely fastened to the collar or harness of the animal and in the hands of the person in control of such animal.

(a) The dangerous animal may be impounded, at the owner's cost, by Hastings Animal Control until said enclosure is completed.

(b) If the enclosure is not completed within (20) twenty days of the determination that the animal is a potentially dangerous animal, the owner's possessory interest in the animal is terminated, and the animal may be destroyed or turned over to an appropriate new owner that does not reside within a (50) fifty mile radius of the City of Hastings.

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(5) For purposes of this Section, a severe injury shall be any injury that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery or one or more broken bones or that creates a potential danger to life or health of the victim.

(6) For purposes of this Section, a domestic animal shall include cats or dogs, rabbits.

(7) For purposes of this Section, livestock shall include horses, cattle, sheep, ducks or chickens, llamas, mules, swine and goats.

(8) Subsequent remedial measures, such as constructing a secure enclosure or moving the animal outside of the City limits, shall not be considered in determining the guilt of the accused, but may be considered when determining the penalty if the accused is adjudged to be guilty of the offense.

(9) An animal shall not be deemed as a dangerous or vicious animal if the threat, bite or damage was sustained by a person who at the time was:

- (a) committing a willful trespass or any other tort upon the property of the owner of the animal;
- (b) who was tormenting, abusing, or assaulting the animal;
- (c) who has, in the past, been observed or reported to have tormented, abused, or assaulted the animal;
- (d) who is committing or attempting to commit a crime.

(10) Any person adjudged guilty of this provision shall be fined as follows:

	Minimum	Maximum
First Offense	\$25.00	\$100.00
Second & Subsequent Offenses	\$100.00	\$500.00

In addition to the foregoing fine, the court shall have the authority to order that any dangerous or vicious animal be destroyed.

(Code 1973, 5-32; Ord. No. 1759; 2953; 3019-7/87, 3680-4/99, 3860-7/2002 and 4137-7/2007)

10-218. Procedure when animal bites person.

Any animal that bites a human shall be immediately impounded in the animal shelter or with a veterinarian and placed under observation for a period of ten days and the owner shall pay all required fees before the animal can be released. The owner shall pay all such required fees whether or not the owner claims the animal or whether or not the animal is released. If the animal is diagnosed as being positively rabid during this period, it shall be destroyed. If any animal so under observation should die for any reason, the head shall be shipped to the state health department laboratories or other reliable laboratory for examination. The Director of Environmental Health shall institute appropriate action in the county court to recover all costs and fees as provided for in this Section and in Section 10-210.

(Code 1973, 5-33; Ord. Nos. 1759, 1935, 2395 and 2953)

10-219. When person deemed owner.

Every person who shall harbor about his or her premises a dog or cat for a period of seven (7) days or has licensed the animal under his or her name, shall be presumed to be the owner of such animal. Such person shall be liable for all damages which such animal shall commit. Such person shall be answerable for any violation of city ordinances related to the ownership of said animal.

(Code 1973, 5-34; Ord. No. 1759, 2953 and 3680-4/99)

10-220. Dogs; limit on number.

No owner or keeper of any dogs or cats shall keep, harbor, or maintain in, about, or upon the premises occupied by such owner as his or her residence, more than four (4) dogs or cats at any one time. Provided however, the offspring of any dog or cat shall not count toward the maximum number of dogs or cats allowed, for a period of four (4) months after the birth of said offspring. For the purposes of this Chapter, the term "owner or keeper" shall include the head of any family and all family members and guests, it being

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the intention of this ordinance to limit the number of dogs or cats to four (4) per household.
(Ord. No. 2953)

10-221. Dogs; exceptions to limits.

No person shall own, keep, harbor or maintain any dog or dogs in, about or upon premises not occupied by such owner as a residence, unless such premises is a clinic operated by a licensed veterinarian, or a pet shop licensed by the City or a kennel licensed by the City, provided however, any person may have no more than two dogs upon his or her business for protection purposes during evening hours, so long as said animals are secured for the safety of the public.
(Ord. No. 2953 and 2969-4/86)

10-222. Barking, howling, etc., dogs and cats.

No person shall own, keep or harbor any dog which by loud, continued or frequent barking, howling or yelping, shall annoy or disturb any neighborhood or person, or which habitually barks or chases pedestrians, nor shall any person own, keep, or harbor any cat which by loud, continued or frequent screeching, howling or hissing, shall annoy or disturb any neighborhood or person.
(Code 1973, 5-35; Ord. No. 1759, 2953 and 2969-4/86)

10-223. Interference with enforcement of article.

It shall be unlawful for any person to hinder, delay, interfere with or obstruct any officer while engaged in the enforcement of this Article; and it shall be unlawful for any person not an officer carrying out the provisions of this Chapter, to enter or break open or to directly or indirectly aid, counsel or advise the entry or breaking open of any animal shelter, or any vehicle used in the collecting or conveying of animals to the shelter.
(Code 1973, 5-36; Ord. No. 1759 and 2969-4/86)

10-224. Penalties.

(1) Any person who violates the provisions of Sections 10-208 or 10-217 of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, fined in accordance with the following schedule:

	Minimum	Maximum
First Offense	\$25.00	\$100.00
Second & Subsequent Offenses	\$50.00	\$500.00

(2) Any person who violates the provisions of Sections 10-104 or 10-222 of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, fined in accordance with the following schedule:

	Minimum	Maximum
First offense	\$10.00	\$100.00
Second offense	\$20.00	\$100.00
Third offense	\$25.00	\$100.00
Fourth offense	\$30.00	\$100.00

(3) Any person who violates any other provision of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, fined in any sum not exceeding \$100.00.

(4) In addition to the foregoing fines, the court shall have the authority to order that any dangerous or vicious animal be destroyed.

(5) Every day on which such violation shall continue shall be deemed as a separate and distinct offense.
(Ord. No. 2588, 2953, 2969-4/86 and 3680-4/99)

10-225. Dogs – Killing permitted.

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Any police officer shall have the right to kill any dog found in the act of attacking any person, domestic animal, or livestock.

(Ord. No. 3680-4/99)

10-226. Animal waste.

(1) Any person having the custody or control of any dog or domestic animal, when walking the dog on property not owned by the individual, shall have the responsibility for cleaning up any feces of the animal and disposing of such feces in a garbage receptacle. It shall furthermore be the duty of any person having custody or control of any dog or domestic animal on or about any public place to have in such person's possession suitable equipment or materials for the picking up, removal and sanitary disposal of animal feces. The provisions of this paragraph shall not apply to a guide dog or to a service dog accompanying a disabled person or to a dog when used in police or rescue activities.

(2) The owner of any dog or domestic animal shall have the responsibility of cleaning up the feces of the animal on the owner's property on a frequent enough basis so as not to cause odor beyond the lot line of the owner's property.

(Ord. No. 3860-7/2002)

10-227. Cruelty to animals prohibited.

(1) It shall be unlawful for any person to willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat, strike or abuse any animal, or by an act, omission or neglect cause or inflict any unnecessary or unjustifiable pain, suffering, injury or death to any animal whether such animal belongs to such person or to another, except that reasonable force may be employed to drive away vicious or trespassing animals. Any unwanted animals should be delivered to an animal control officer for proper disposal.

(2) It shall be unlawful for any person in the custody or control of any animal to fail, refuse or neglect to provide such animal with food, potable water, shade or shelter, or to cruelly or unnecessarily expose any such animal in hot, stormy, cold or inclement weather, or to carry any such animal in or upon any vehicle in a cruel or inhumane manner.

(3) As used in this paragraph:

(a) "Shade" shall mean protection from the direct rays of the sun during the months of June through September.

(b) "Shelter" as it applies to dogs, shall mean a moisture-proof structure of suitable size to accommodate the dog and allow retention of body heat, made of durable material with a solid floor raised at least two inches from the ground and with the entrance covered by a flexible, wind-proof material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.

(4) Whenever conditions exist that violate paragraphs one and two of this section, an animal control officer or police officer may take immediate custody of the animal and either impound the animal or take the animal to a veterinarian for treatment. If the veterinarian determines that the condition of the animal is such that the animal should be destroyed, the animal shall be destroyed. The individual who had the custody or control of the animal shall be responsible for the costs of the impound, treatment and destruction of the animal. The animal shall not be returned to the custody or control of the individual from whom the animal was confiscated, unless the animal control officer determines that the return of the animal is in the best interests of the animal.

(Ord. No. 3860-7/2002)