

## Chapter 6 - ANIMALS AND FOWL

### *Footnotes:*

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**Editor's note**— Ord. No. 35-2007, §§ II—XIV, adopted Nov. 6, 2007, repealed and replaced the former Art. I, §§ 6-1—6-12, and enacted a new Art. I as set out herein. The former Art. I pertained to similar subject matter and derived from Code 1951, §§ 3-1—3-7, 3-9, 3-17; Ord. No. 35-91, §§ 1, 2, adopted June 18, 1991; Ord. No. 58-97, §§ I, II, adopted July 1, 1997.

**Cross reference**— *Garbage, trash and refuse, Ch. 12; health and sanitation, Ch. 13; leaving unattended animals on public streets, § 16-3; hunting in city limits restricted, § 17-1.*

## ARTICLE I. - IN GENERAL

### Sec. 6-1. - Definitions.

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

*Administrator* shall mean the Chief of Police for the City of Effingham.

*Animal* shall mean every living creature, other than man, which may be affected by rabies.

*Animal control officer* shall mean an employee of the Effingham County Animal Control Department, and those designated by the Chief of Police for the City of Effingham.

*Animal control warden* shall mean any person appointed by the County of Effingham to perform the duties set forth in this chapter.

*At large* shall mean off of the premises of the owner and not under the control of a leash.

*Cat* shall mean all members of the family Felidae.

*Confined* shall mean the restriction of an animal at all times by the owner, or his agent, to an escape-proof building, house, or other enclosure away from other animals and the public.

*Dangerous dog* shall mean any individual dog when unmuzzled, unleashed, or unattended by its owner or custodian that behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or a companion animal in a public place.

*Dog* shall mean all members of the family Canidae.

*Enclosure* shall mean a fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious

dog within the enclosure. The enclosure shall be securely enclosed and locked and designed to secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, the door must be locked. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times.

*Has been bitten* shall mean has been seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded, or pierced, and further includes contact of saliva with any break or abrasion of the skin.

*Impounded* shall mean taken into the custody of the animal control facility in the City of Effingham.

*Leash* means a cord, rope, strap, or chain which shall be securely fastened to the collar or harness of a dog or other animal and shall be of sufficient strength to keep such dog or other animal under control.

*Licensed veterinarian* shall mean a veterinarian licensed by the State of Illinois.

*Owner* shall mean any person having a right of property in any animal, or who keeps or harbors an animal, or who has in its care, or acts as its custodian.

*Person* shall mean any individual, firm, corporation, partnership, society, association or other legal entity, any public or private institution, the State of Illinois, municipal corporation or political subdivision of the state, or any other business unit.

*Police animal* shall mean any animal owned or used by a law enforcement department or agency in the course of the department or agency's work.

*Pound or animal control facility* may be used interchangeably and shall mean any facility approved for the purpose of enforcing this chapter and used as a shelter for seized, stray, homeless, abandoned, or unwanted dogs or other animals.

*Physical injury* shall mean the impairment of physical condition.

*Serious physical injury* shall mean a physical injury that creates a substantial risk of death or that causes death, serious or protracted disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or plastic surgery.

*Vicious dog* shall mean a dog that, without justification, attacks a person and causes serious physical injury or death, or any individual dog that has been found to be a dangerous dog upon three (3) separate occasions.

(Ord. No. 35-2007, § II, 11-6-2007)

Sec. 6-2. - Administration.

(a) Primary enforcement of this chapter shall be with the Effingham County Animal Control

Department. The City of Effingham may enforce this chapter through the City of Effingham Police Department. The chief of police shall oversee enforcement by the city.

- (b) Without limiting those powers and duties prescribed by law and ordinance, animal control officers shall:
  - (1) Exercise the power and perform the duties contained in this chapter; and,
  - (2) Impound animals pursuant to this chapter at the Effingham County Animal Shelter or other facility approved by the chief of police.

(Ord. No. 35-2007, § III, 11-6-2007)

#### Sec. 6-3. - Enforcement.

- (a) *Breaking open pound.* It shall be unlawful for any person to break open or assist in breaking out or open the pound, or to let out or assist in letting out or in escape of any animal impounded therein.
- (b) *Interference with officers.* It shall be unlawful for any person to interfere with, obstruct, or prevent the performance of his duties under this chapter, of any officer or agent of the city or other appropriate public agency, in the performance of his duties under this chapter.
- (c) *Authority to impound animals and enter onto private property.* It shall be the duty of animal control officers, and others specifically designated by the administrator to enforce any of the provisions of this chapter or statutes of the State of Illinois as they pertain to animals. The animal control officers and others specifically designated by the administrator are authorized to go on private property in order to enforce this chapter; however such persons may not enter a private dwelling house without a valid warrant or consent of an occupant.
- (d) Any animal control officer, or any other person specifically designated by the administrator, or any person enforcing the provisions of this chapter shall not be held responsible for any accident or disease that may happen to any animal in the enforcement of this chapter.

(Ord. No. 35-2007, § IV, 11-6-2007)

#### Sec. 6-4. - Running at large; impoundment.

- (a) *Running at large:* Every owner of an animal shall contain such animal to the confines of the owner's real property unless the animal is under restraint by a leash and shall not permit such animal to run at large in the streets, avenues, alleys or public places of the city or upon the private property of any person other than the owner thereof and the running at large of any such animal in any such places is hereby declared to be a nuisance. Any such animal found running at large shall be apprehended and impounded by the city or other appropriate public agency.
- (b) The provisions of subsection (a) shall not apply to a police animal while being used to

conduct official business or being used for official purposes.

(Ord. No. 35-2007, § V, 11-6-2007)

Sec. 6-5. - Cruelty to animals prohibited.

- (a) *No person shall commit cruelty to animals.* A person commits cruelty to animals when the person knowingly:
  - (1) Confines the animal in such a manner so that it is forced to stand, lie or sit in its own excrement;
  - (2) Fails to provide an exercise quarter of at least twenty-four (24) square feet;
  - (3) Fails to provide living quarters of sufficient size to exercise and move about;
  - (4) Fails to provide living quarters that are protected from excessive heat or cold;
  - (5) Fails to keep an animal in a clean, sanitary and healthy manner;
  - (6) Deprives the animal of proper veterinary care or necessary sustenance;
  - (7) Tethers an animal with a choke collar;
  - (8) Tethers an animal on a leash of less than eight (8) feet in length;
  - (9) Tethers an animal on a leash of a weight or in such a manner that prevents the animal from moving freely without entanglement;
  - (10) By abandoning, overdriving, overworking, cruelly beating, torturing, tormenting, or cruelly killing any animal, or causing or knowingly allowing the same to be done;
  - (11) Unjustifiably kills, wounds or attempts to kill any domestic animal in a cruel manner;
  - (12) Allows an animal to remain unattended in a motor vehicle when the outside ambient air temperature exceeds eighty (80) degrees Fahrenheit or confines an animal in an area without adequate air circulations;
  - (13) By working any maimed, lame, sick, or disabled animal, or causing or knowingly allowing the same to be done; or
  - (14) Causes, instigates, permits or attends any dogfight or other combat between animals or between animals and humans.

(Ord. No. 35-2007, § VI, 11-6-2007)

Sec. 6-6. - Disturbing the peace; noisy animals.

It shall be unlawful to harbor or keep any animal which disturbs the peace and quiet of any place, neighborhood, family, or person, by barking, howling, crying, or making other loud or unusual noise(s) at any time of the day or night. The disturbing of any neighborhood or persons by any such animal is declared to be a nuisance, and no person shall suffer or permit any such nuisance to exist.

(Ord. No. 35-2007, § VII, 11-6-2007)

## Sec. 6-7. - Diseased animals.

- (a) No animal afflicted with a contagious or infectious disease shall be allowed to be exposed in any public place whereby the health of human beings or other animals may be affected; nor shall such diseased animal be shipped or removed from the property of the owner thereof, except under the supervision of the administrator or agent of any other appropriate public agency.
- (b) It is hereby made the duty of the county health department to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of contagion or infection, except in cases where any other appropriate public agency is empowered to act.

(Ord. No. 35-2007, § VIII, 11-6-2007)

## Sec. 6-8. - Keeping animals other than domesticated pets.

- (a) Except as otherwise expressly provided for in this chapter, no person shall keep, harbor or allow to be kept within the city limits any live chicken, turkey, goose, duck or any other poultry or byproduct bird, goat, sheep, swine, cattle, horse, or any type of hoof stock, any type of farm animal including any pygmy or miniature variety thereof; any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, lynx, bobcat, jaguarundi, bear, hyena, wolf, wolf-hybrid, poisonous reptile, or nondomesticated animal found in its natural state to be wild and potentially dangerous to human life. It is no defense to a violation of this section that the owner or keeper of the animal has attempted to domesticate the animal.
- (b) Animals maintained by a humane society, veterinary hospital, or educational institutions shall not be regulated by the provisions of this section. Furthermore, this section shall not prohibit legitimate retail establishments sale of livestock and poultry for traditional agricultural purposes.
- (c) Exhibitions or parades of animals which are ferae naturae in the eyes of the law may be conducted only upon obtaining a permit from the administrator.
- (d) *Pre-existing nonconforming use:*
  - (1) A person keeping, harboring, or possessing any donkey(s), horse(s), mule(s), llama(s), swine, or cattle lawfully existing on real estate within the corporate boundaries of the city on the effective date of this chapter, or when the real property is annexed into the corporate boundaries of the city, shall be entitled to an exemption from the provisions of subsection (a) of this section of this chapter as provided for herein. Any person claiming an exemption under this paragraph shall obtain a certificate of nonconforming

use from the city building official or his designee. Said exemption shall be deemed a covenant running with the land and shall inure to the benefit of the real estate described in the certificate of nonconforming use.

- (2) When any person no longer keeps, harbors, or possesses any donkey, horse, mule, llama, swine, and/or cattle exempted from the regulations of this section under subsection (d)(1) of this section, for a period of twelve (12) consecutive months, they shall not thereafter resume to keep, harbor, or possess any animal prohibited under the provisions of subsection (a) and shall comply with the regulations of subsection (a) of this section.
- (e) Any person violating any provision of this section shall be guilty of a Class C misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues. In addition to any fine, the city may seek injunctive and declaratory relief directing the violator(s) to cure or abate the violation.

(Ord. No. 35-2007, § IX, 11-6-2007; Ord. No. 40-2009, § II, 9-15-2009)

#### Sec. 6-9. - Number of cats regulated; penalty for violation.

- (a) It shall be unlawful to own, possess, keep, maintain or harbor more than four (4) cats of four (4) months of age or older in any residential building or on any residential lot within the city; provided, however, that for the purposes of this section, an apartment shall be as one (1) residential building. No person residing in an apartment shall own, possess, keep, maintain or harbor more than four (4) cats of four (4) months of age or older in such apartment.
- (b) Any person violating any provision of this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues. In addition to any fine, the city may seek injunctive and declaratory relief directing the violator(s) to cure or abate the violation.

(Ord. No. 35-2007, § X, 11-6-2007)

#### Sec. 6-10. - Number of dogs regulated; penalty for violation.

- (a) It shall be unlawful to own, possess, keep, maintain or harbor more than four (4) dogs of four (4) months of age or older in any residential building or on any residential lot within the city; provided, however, that for the purposes of this section, an apartment shall be as one (1) residential building. No person residing in an apartment shall own, possess, keep, maintain or harbor more than four (4) dogs of four (4) months of age or older in such apartment.
- (b) Any person violating any provision of this section shall be guilty of a Class C misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars

(\$500.00) for each offense, and a separate offense shall be deemed committed on each day during or on which the violation occurs or continues. In addition to any fine, the city may seek injunctive and declaratory relief directing the violator(s) to cure or abate the violation.

(Ord. No. 35-2007, § XI, 11-6-2007)

Sec. 6-11. - Vicious dogs.

- (a) The administrator or anyone designated by the administrator may deem a dog to be a vicious dog, as defined in section 6-1 of this chapter, after meeting the following requirements:
  - (1) Give notice of the infraction that is the basis of the investigation to the owner;
  - (2) Conduct a thorough investigation;
  - (3) Interview any witnesses, including the owner;
  - (4) Gather any existing medical records, veterinary medical records or behavioral evidence;
  - (5) Make a detailed report recommending a finding that the dog is a vicious dog; and,
  - (6) Give a copy of the report to the Effingham County States Attorney and the owner.
- (b) The administrator, Effingham County State's Attorney, City of Effingham Attorney, or any citizen of the City of Effingham may file a complaint in the Circuit Court of Effingham County in the name of the People of the State of Illinois to deem a dog to be a vicious dog. The administrator shall determine where the animal shall be confined during the pendency of the case.
- (c) A dog may not be declared vicious if the administrator determines the conduct of the dog was justified because:
  - (1) The threat, injury, or death was sustained by a person who at the time was committing a crime or offense upon the owner or custodian of the dog, or upon the property of the owner or custodian of the dog;
  - (2) The injured, threatened, or killed person was torturing, abusing, assaulting or physically threatening the dog or its offspring, or has in the past, tormented, abused, assaulted or threatened the dog or its offspring;
  - (3) The dog was responding to pain or injury, or was protecting itself, its owner, custodian, or member of its household, kennel, or offspring.
- (d) No dog shall be declared a vicious dog if it is a professionally trained dog for law enforcement in performance of its duties. Vicious dogs shall not be classified in a manner that is specific as to breed.
- (e) If a dog is found to be a vicious dog, the dog shall be spayed or neutered within ten (10) days of the finding at the expense of its owner and microchipped, if not already, and is subject to enclosure. A dog found to be a vicious dog shall not be released to the owner, until the administrator or anyone designated by the administrator, approves the enclosure. No owner

or keeper of a vicious dog shall sell or give away the dog without court approval. Whenever the owner of a vicious dog relocates, he or she shall notify both the administrator of the county animal control where he or she has relocated and the administrator of the county animal control where he or she formerly resided.

(f) *Vicious dogs—Confinement, control, impoundment.*

(1) It shall be unlawful for any person to keep or maintain any dog which has been found to be a vicious dog unless the dog is kept in an enclosure. The only times that a vicious dog may be allowed out of the enclosure are as follows:

- a. If it is necessary for the owner or keeper to obtain veterinary care for the dog;
- b. In the case of an emergency or natural disaster where the dog's life is threatened; or,
- c. To comply with the order of a court of competent jurisdiction, provided that the dog is securely muzzled and restrained with a leash not exceeding six (6) feet in length, and shall be under the direct control and supervision of the owner or keeper of the dog or muzzled in its residence.

(2) Any dog which has been found to be a vicious dog and which is not confined to an enclosure shall be impounded by the administrator or the law enforcement authority having jurisdiction in such area and shall be destroyed by lethal injection by the animal control facility or a licensed veterinarian.

(3) If the owner of the dog has not appealed the impoundment order to the Circuit Court in Effingham County within fifteen (15) working days, the dog may be euthanized.

(4) Upon filing a notice of appeal within fifteen (15) working days, the order of euthanasia shall be automatically stayed pending the outcome of the appeal. The owner shall bear the burden of timely notification to the animal control warden and the administrator in writing, and all costs of the stay of the euthanasia order shall be borne by the owner. A dog found to be a vicious dog shall not be released to the owner until the Effingham County Animal Control Warden or the administrator approves the enclosure as defined in this chapter.

(g) Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempt from this section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this subsection, each such dog shall be currently inoculated against rabies as provided in Section 8 of the Illinois Animal Control Act, 510 ILCS 5/8. It shall be the duty of the owner of such exempted dog to notify the administrator of changes of address. In the case of sentry or guard dog, the owner shall keep the administrator advised of the location

where such dog will be stationed. The administrator shall provide police and fire departments with a categorized list of all such exempted dogs, and shall promptly notify such departments of any address changes reported to him.

(Ord. No. 35-2007, § XII, 11-6-2007)

Sec. 6-12. - Dangerous dogs.

- (a) The administrator or anyone designated by the administrator may deem a dog to be a vicious dog, as defined in section 6-1 of this chapter, after meeting the following requirements:
  - (1) Conducting a thorough investigation;
  - (2) Sending a notification to the owner, within three (3) days of the administrator becoming aware of the alleged infraction; said notification shall advise the owner of the alleged infraction, the fact of the initiation of an investigation, and advise the owner that they have an opportunity to meet with the administrator prior to the making of a determination;
  - (3) Gather any existing medical records, veterinary medical records or behavioral evidence;
  - (4) Interview any witnesses;
  - (5) Make a detailed report finding that the dog is a dangerous dog; and,
- (b) The owner shall be sent immediate notification of the determination by registered or certified mail that includes a complete description of the appeal process.
- (c) A dog may not be declared dangerous if the administrator determines the conduct of the dog was justified because:
  - (1) The threat was sustained by a person who at time as committing a crime or offense upon the owner or custodian of the dog;
  - (2) The threatened person was tormenting, abusing, assaulting, or physically threatening the dog or its offspring;
  - (3) The injured, threatened, or killed companion animal was attacking or threatening to attack the dog or its offspring; or
  - (4) The dog was responding to pain or injury or was protecting itself, its owner, custodian, or a member of its household, kennel, or offspring.
- (d) If deemed dangerous, the administrator shall order the dog to be spayed or neutered within fourteen (14) days at the owner's expense and microchipped, if not already, and one (1) or more of the following as deemed appropriate under the circumstances and necessary for the protection of the public:
  - (1) Evaluation of the dog by a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert in the field and completion of training or other treatment as deemed appropriate by the expert. The owner of the dog shall be

responsible for all costs associated with the microchipping, and all costs associated with the valuations and training ordered under this subsection; or,

(2) Direct supervision by an adult eighteen (18) years of age or older whenever the dog is on public premises.

(e) The administrator may order a dangerous dog to be muzzled and leashed whenever it is off the owner's real property in a manner that will prevent it from biting any person or animal, but that shall not injure the dog or interfere with its vision or respiration.

(f) It is unlawful for any person to maintain a public nuisance by permitting any dangerous dog or other animal to leave the premises of its owner when not under control by leash or other recognized control methods.

(g) Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempted from this section; provided an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this section, each such dog shall be currently inoculated against rabies. It shall be the duty of the owner of such exempted dog to notify the administrator of changes of address. In the case of a sentry or guard dog, the owner shall keep the administrator advised of the location where such dog will be stationed. The administrator shall provide police and fire departments with a categorized list of such exempted dogs, and shall promptly notify such departments of any address changes reported to him or her.

(h) *Dangerous dog; appeal.*

(1) The owner of a dog found to be a dangerous dog pursuant to this chapter by an administrator may file a complaint against the administrator in the Effingham County Circuit Clerk within thirty-five (35) days of receipt of notification of the determination, for a de novo hearing on the determination. The proceeding shall be conducted as a civil hearing pursuant to the Illinois Rules of Evidence and the Code of Civil Procedure, including the discovery provisions. After hearing both parties' evidence, the court may make a determination that the dog is a dangerous dog if the administrator meets his or her burden of proof of clear and convincing evidence. The final order of the circuit court may be appealed pursuant to the civil appeals provisions of the Illinois Supreme Court Rules.

(2) The owner of a dog found to be a dangerous dog pursuant to this chapter by the administrator may, within fourteen (14) days of receipt of notification of the determination, request an administrative hearing to appeal the determination. The administrative hearing shall be conducted pursuant to the department of agriculture's rules applicable to formal administrative proceedings, 8 Ill. Adm. Code Part 1, Subparts A and B. An owner desiring a hearing shall make his or her request for a hearing to the Illinois Department of Agriculture. The final administrative decision of the department of agriculture may be reviewed judicially by the circuit court of the county wherein the

person resides, or in the case of a corporation, the county where its registered office is located. If the plaintiff in a review proceeding is not a resident of Illinois, the venue shall be in Effingham County, Illinois. The administrator review law and amendments and modifications thereof, and the rules adopted thereto, apply to and govern all proceedings for the judicial review of the final administrative decisions of the department hereunder.

- (3) Until the order has been reviewed and at all times during the appeal process, the owner shall comply with the requirements set forth by the administrator or the court.

(Ord. No. 35-2007, § XIII, 11-6-2007)

Sec. 6-13. - Miscellaneous provision.

*Invalidity.* In the event a court of competent jurisdiction declares any particular provision of this chapter to be invalid or unenforceable, the remaining provisions of this chapter shall be construed to be valid and enforceable. The invalidity of any part of this chapter shall not affect any other part or parts thereof.

(Ord. No. 35-2007, § XIV, 11-6-2007)

Secs. 6-14—6-20. - Reserved.