

CHAPTER 6

ANIMALS

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ARTICLE I. DEFINITIONS

SECTION 6-1 DEFINITIONS.

- (A) As Used In This Chapter:
- (1) Animal includes every living:
 - (a) warm blooded creature, except a human being,
 - (b) reptile,
 - (c) amphibian or
 - (d) bird.
 - (2) Owner shall mean and include every person having a right of property in an animal and/or having such animal in his or her care or possession.
 - (3) Commercial Kennel shall mean an establishment wherein any person is engaged in the business of breeding, buying, letting for hire, training for a fee and/or selling of dogs and/or cats, with the exception of veterinary hospitals or pet shops.
 - (4) Boarding Kennel shall mean an establishment wherein any person is engaged in the business of boarding of animals for a period of 12 consecutive hours or longer. Boarding Kennel shall not include veterinary hospitals, pet shops or commercial kennels.
 - (5) Grooming Salon shall mean an establishment for the purpose of grooming, bathing, brushing and/or clipping of any dog, cat or other animal for a fee.
 - (6) Impound or Isolation Facility shall mean the Oshkosh Animal Shelter, a veterinary hospital, or other place specified by the supervising officer which is equipped with a pen or cage which isolates the animal from contact with other animals.
 - (7) Officer shall mean a peace officer as defined under section 939.22(22) Wis. Stats., a community service officer, the Health Director of the City of Oshkosh or his/her designee, employees of the Oshkosh Animal Shelter. The "supervising officer" shall mean that officer designated by the City of Oshkosh Health Director to supervise the individual case.
 - (8) Pet Shop shall mean any business where animals, birds, amphibians and/or reptiles are kept or displayed for sale or free distribution.
 - (9) Vaccination Certificate shall mean a certificate dated and signed by a licensed veterinarian stating the brand of vaccine used, manufacturer's serial number of the vaccine used, and describing the animal, age and breed, owner and vaccination tag number indicating that the animal has been immunized against rabies.
 - (10) Vicious Animal shall mean:
 - (a) any animal that, has on two (2) or more reported occasions when unprovoked, bitten, injured, killed, damaged, or attacked a human being or animal on either public or private property; and/or
 - (b) any animal trained or used for fighting against another animal.

Notwithstanding the definition of a "vicious animal" above, no animal may be declared vicious if death, injury or damage is sustained by a person who, at the time such was sustained was committing trespass upon premises occupied by the owner of the animal, or

was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime or violating or attempting to violate a statute or ordinance which protects person or property.

No animal may be declared vicious if death, injury or damage was sustained by a domestic animal which was teasing, tormenting, abusing, or assaulting the animal.

No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

No animal may be declared vicious for acts committed by said dog while being utilized by a law enforcement officer.

ARTICLE II. LICENSING OF DOGS AND CATS

SECTION 6-2 STATE STATUTES ADOPTED

The rules and regulations pertaining to licensing, specifically sections 174.001(2m), 174.05, 174.053, 174.054, 174.055, and 174.07, Wisconsin Statutes, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply. The rules and regulations pertaining to licensing shall apply also to cats within the City of Oshkosh.

SECTION 6-3 LICENSE; REQUIRED

- (A) Every owner residing in the City who owns, harbors, or keeps a dog or cat which is more than five (5) months of age as of January 1 of each year, shall annually obtain a license therefor. The license year shall commence on January 1 and licenses shall expire on December 31 of that year.
- (B) When a dog or cat becomes five (5) months of age, the owner shall obtain a license within thirty (30) days thereof.
- (C) Each owner obtaining a license for operating a kennel shall be excluded from this licensing procedure, but shall be required to obtain a kennel license.

SECTION 6-4 LICENSE; FEES

Every owner of a dog or cat shall pay the City Treasurer prior to January 1 of each year, the sum of Five Dollars (\$5.00) for each dog or cat, except that the fee shall be Twelve Dollars (\$12.00) for each unneutered male dog or cat or unspayed female dog or cat. In the event such license fee is not paid prior to April 1 or within 30 days of acquiring ownership of a licensable dog or cat, or if the owner failed to obtain a license on or before the date the dog or cat reached licensable age, an additional fee of Seven Dollars (\$7.00) shall be assessed and collected.

ARTICLE III. GENERAL REGULATIONS

SECTION 6-5 STATE STATUTES ADOPTED

The following statutes together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply.

- 174.042 Dogs running at large and untagged dogs
- 951.02 Mistreating Animals
- 951.025 Decompression Prohibited
- 951.03 Dognapping and Catnapping
- 951.04 Leading animal from motor vehicle
- 951.05 Transportation of animals
- 951.06 Use of poisonous and controlled substances
- 951.07 Use of certain devices prohibited
- 951.08 Instigating fights between animals
- 951.09 Shooting at caged or staked animals
- 951.095 Harassment of Police and Fire Animals
- 951.10 Sale of baby rabbits, chicks and other fowl
- 951.11 Artificially colored animals; sale
- 951.13 Providing proper food and drink to confined animals
- 951.14 Providing proper shelter
- 951.15 Abandoning Animals

The rules and regulations pertaining to licensing, impoundment, running at large and untagged, and rabies control shall apply also to cats within the City of Oshkosh.

SECTION 6-5.5 HUMANE OFFICER; APPOINTMENT; AUTHORITY

Pursuant to section 173.03 of the Wisconsin Statutes, the Common council for the City of Oshkosh, may from time to time, appoint one or more Humane Officers. Humane Officers shall have the authority specified in chapter 173 and shall be under the direction of the chief of Police or his/her designee.

SECTION 6-5.6 ABATEMENT ORDERS

- (A) Issuance of Order. After investigation, if a humane officer or law enforcement officer has reasonable grounds to believe that a violation of a statute or ordinance is occurring and that the violation is causing or has the potential to cause injury to an animal, the humane officer or law enforcement officer may issue and serve an order of abatement pursuant to section 173.11 of the Wisconsin Statutes.
- (B) Hearing Officer. Any person named in an order issued under sub. (A) may, within the 10 day period following service of the order, request a hearing on the order. The City of Oshkosh Health Director shall conduct the hearing pursuant to the provisions of section 173.11 of the Wisconsin Statutes. If the Health Director is unable to act, the City Manager shall appoint another person to act as the hearing officer under this section.

- (C) Appeal. Appeal from the decision of the Health Director or other official shall be as provided in section 173.11 of the Wisconsin Statutes.

SECTION 6-6 ANIMALS, FOWL, AND INSECTS NOT PERMITTED IN CITY

- (A) No person shall bring into, keep, maintain, offer for sale or barter, or release to the wild, nor shall any person permit such activities to occur on premises owned, controlled, rented or maintained by that person, except as provided in section 6-19 (I) :
- (1) Any fowl, chicken, turkeys, ducks, geese, cows, cattle, horses, sheep, swine, goats, pot-bellied pigs, or any other domesticated livestock, unless part of an agricultural operation, zoned AG Agricultural or AP Agricultural Preservation and authorized by the City of Oshkosh Zoning Ordinance Chapter 30 of the Municipal Code.
 - (2) Wild animals, including but not limited to, any live monkey, or other non-human primate, raccoon, skunk, ferret, prairie dog, fox, wolf, panther, lynx, opossum, or any other warm-blooded animal which can normally be found in the wild state. For the purposes of this code, wolf-dog hybrids are considered wild animals.
 - (3) Any poisonous or venomous, biting or injecting species of reptiles, amphibians, arachnids, or insects, including bees.
 - (4) Snakes not indigenous to Wisconsin or any snake exceeding three feet in length.

This section shall not be construed to apply to zoological parks, circuses or like entertainment organization or to an educational or medical institution.

SECTION 6-6.5 FEEDING OF DEER PROHIBITED

- (A) It shall be unlawful for any person to place any feed including but not limited to salt, minerals, grain, corn, fruit, vegetable material or any other type of feed on the ground or in feeders, mangers or any other type of structure or receptacle for the purpose of feeding deer or enticing deer onto anyone's property in the City except as provided in subsection (C) of this section.
- (B) There shall be a rebuttable presumption that either of the following acts are for the purpose of feeding whitetail deer:
1. The placement of salt, minerals, grain, corn, fruit, vegetable material or other type of feed in an aggregate quantity of greater than one-half gallon at a height of less than six feet off the ground.
 2. The placement of salt, minerals, grain, corn, fruit, vegetable material or any other type of feed in any aggregate quantity in a drop feeder, automatic feeder or similar device regardless of the height of the feeder or device.
- (C) This section shall not apply to the following situations:
1. Naturally growing grain, fruit or vegetable material, including gardens and residue from lawns, or gardens and other vegetative materials maintained as a mulch or compost pile.
 2. Unmodified commercially purchased bird feeders or their equivalent.
 3. Deer feeding may be authorized on a temporary basis by the common council for deer management practices authorized by the City.

SECTION 6-7 CRUELTY TO ANIMALS

- (A) Every owner or person responsible shall provide animals with a sufficient supply of good/wholesome food and potable water to maintain health.
- (B) No person shall confine and/or allow animals to remain outside during adverse weather conditions constituting a health hazard to such animal.
 - (1) Sufficient shade by natural or artificial source shall be provided to protect the animal from direct sunlight.
 - (2) Natural or artificial shelter appropriate to the local climatic conditions shall be provided as necessary.
- (C) Every owner and/or person in charge or control of any animal which is kept outdoors, or in an unheated enclosure, shall provide such animal with shelter and bedding as prescribed in this section as a minimum.
 - (1) The housing facilities shall be structurally sound, moisture proof and maintained in good repair.
 - (2) Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement and the retention of body heat.
 - (3) A solid floor raised at least 2" off the ground.
 - (4) An entrance covered by a self-closing swinging covering, or an L-shaped entrance to prevent the wind from blowing directly into the house.
 - (5) A sufficient quantity of suitable clean bedding material, to provide insulation and protection against the cold and dampness and promote the retention of body heat.
 - (6) During the months of May through September, inclusive, paragraphs 5 and 6 above may be suspended.
- (D) Every owner that houses or confines an animal in a pen or enclosure shall keep and maintain such pen or enclosure in a clean, sanitary and odor free condition.
- (E) No person may abandon or neglect any animal.
- (F) No person shall kick, beat, cruelly ill treat, torment, overload, overwork, or otherwise abuse any animal.
- (G) No person may cause or allow an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time, without adequate ventilation, as to endanger the health or well being of such animal due to temperature, humidity, lack of food or drink, or such other conditions as may be reasonably expected to cause suffering, disability or death.
- (H) No person may intentionally instigate, promote, aid or abet as a principal, agent or employee, or participate in the earnings from, or intentionally maintain or allow any place to be used for a cockfight, dog fight, bullfight or other fight between the same or different kinds of animals or between an animal and a person (951.08)
- (I) No theatrical exhibit or act shall be held in which animals are forced or encouraged to perform through the use of chemical, electrical or mechanical devices. (951.07)

- (J) The performance of any act prohibited by this section, or the non-performance of any act required by it, shall be deemed cruelty to animals and subject to the provisions of sections 951.15 and 951.16 Wis. Stats. adopted herein. Impoundment of animals under this section shall be as prescribed in section 6-18 of this municipal code.

SECTION 6-8 LIMIT NUMBER OF DOGS AND CATS

- (A) Purpose. The owning, harboring and keeping by any person(s) of a large number of dogs, cats or combination thereof within the City, detracts from the quality of life within the entire residential district due to various noise, odor, health and safety problems which constitute a public nuisance.
- (B) Limitation. No person may own, harbor or keep in their possession, within the City, more than 3 dogs, 5 cats or combination not to exceed a total number of five (5) animals thereof, over the age of five (5) months, except when they possess a Kennel License which is in full force and effect.

The exception being a litter of pups/and or kittens or a portion of a litter, may be kept for a period of time not exceeding five (5) months from birth.

- (C) Exemptions.
- (1) Any person owning, harboring or keeping in their possession within the City, on March 2, 1996, more than 5 dogs, cats or combination thereof, over the age of five (5) months, shall be permitted to own, harbor or keep in their possession said dogs and/or cats provided that:
- (a) Required license fees for each dog and/or cat have been paid, the licenses are continually maintained in full force and effect, and proof thereof is furnished to City personnel empowered to enforce this ordinance upon request.
 - (b) Required and effective rabies immunization for each dog and/or cat has been procured, and effective level of rabies immunization continuously maintained, and proof thereof furnished to City personnel empowered to enforce this ordinance upon request.
 - (c) However this exemption shall not authorize the replacement of any dog and/or cat until the specified limitation within this ordinance is complied with. The burden of proving entitlement to this exemption is upon the party seeking the exemption.
- (2) This section shall not apply to properly licensed facilities under article V of this chapter, the Oshkosh Animal Shelter or veterinary hospitals.

SECTION 6-9 PET LITTERING

No owner shall allow their animal to soil, defile, defecate on or commit any nuisance on any private or public property unless the owner immediately removes and disposes of all feces so deposited in a proper receptacle located upon the owner's property or upon another's property with permission in accordance with the provisions of Chapter 23 of this Municipal Code.

SECTION 6-10 ANIMAL TRAPS

Any unlicensed trap, snare, spring gun, set gun, net or other device or contrivance which might entrap, ensnare, or kill game, or any trap without a metal tag attached as required by Section 29.03(5)Wis. Stats. shall be prohibited, except for live traps.

SECTION 6-11 PROHIBITED AREAS FOR ANIMALS

- (A) A person owning or in charge of any animal shall not permit such animal to be upon city operated beaches or city operated cemeteries.
- (B) A person owning or in charge of any animal shall not permit such animal to be upon any city operated park.
- (C) A person owning or in charge of any animal shall not permit such animal to be upon the premises of the Lake Shore Municipal Golf Course.
- (D) The provisions of paragraphs (a) to (c) above shall not apply to animals assisting disabled persons.

SECTION 6-12 BARKING DOGS

No person shall keep any dog or other animal which by loud or frequent or habitual noise shall disturb the peace or any person in the vicinity.

ARTICLE IV. ANIMAL SHELTER / IMPOUNDMENT OF ANIMALS / RABIES CONTROL PROGRAM

SECTION 6-13 STATE STATUTES ADOPTED

The rules and regulations pertaining to impoundment and rabies control, specifically sections 173.13, 173.23 and 95.21, Wisconsin Statutes, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply.

The rules and regulations pertaining to impoundment and rabies control shall apply also to cats within the City of Oshkosh.

SECTION 6-14 RABIES VACCINATION

- (A) Required. Dogs and cats shall be vaccinated by a licensed veterinarian at no later than five (5) months of age. Unvaccinated dogs or cats acquired or moved into the City must be vaccinated within thirty (30) days after purchase or arrival, unless under five (5) months of age, wherein the above shall apply.

Each dog or cat vaccinated at under one (1) year shall be re-vaccinated twelve (12) months after the initial vaccination. Thereafter, every dog or cat shall be re-vaccinated at not more than thirty-six month intervals with a three year vaccine or at not more than 12 month intervals with a one year vaccine.

- (B) Transient Animals. The provisions of this section with respect to vaccination shall not apply to any dog or cat owned by a person temporarily remaining within the City for less than 30 days, or any dog or cat brought into the City for field trial or show purposes, nor for hunting dogs in the state for less than thirty (30) days. Such animals shall be kept under strict supervision by the owner. However, it shall be unlawful to bring any animal into the City which does not comply with the animal health laws and import regulations of the State of Wisconsin.

SECTION 6-15 RABIES CONTROL

- (A) Requirement for Reporting Bites and/or Scratches. All dog, cat or other animal bites and/or scratches of humans shall be immediately reported to the Oshkosh Police Department, by the person owning, possessing, keeping, or harboring such animal and/or by the person bitten or scratched.
- (B) Animal to Human Bites / Scratches.
- (1) An animal which has proof of a current anti-rabies vaccination may, at the discretion of the supervising officer be quarantined in an impound facility or on the premises of the owner for a period of ten (10) days. During quarantine, the animal shall be securely confined within the owner's home or other secure enclosure and kept upon a secure leash at all times when outside of the home or enclosure and be kept from contact with any other animal or human. In the case of quarantine on the owner's premises, failure on the part of the owner to obey all conditions and directions of any officer pertaining to the quarantine period, shall result in the immediate impoundment of the animal in a veterinary hospital or Oshkosh Animal Shelter for the remainder of the quarantine period. Charges for boarding such animal shall be paid by the owner.
 - (2) The animal which does not have a current anti-rabies vaccination must be quarantined at an isolation facility, either a veterinary clinic of the owner's choice or the Oshkosh Animal Shelter for at least ten (10) days. Charges for boarding shall be paid by the Owner.
 - (3) All animals under bite/scratch confinement must be examined at least three times by a veterinarian during the ten day confinement period. (First day of isolation, the last day of isolation and day 4, 5, or 6 of quarantine).
 - (4) After the ten day confinement, the owner or person in possession of the animal must contact the Oshkosh Health Services Division, within two (2) business days, so that the condition of the animal may be evaluated.
 - (a) The following items must be available at the time of the evaluation:
 - Rabies vaccination information
 - Current licensing information
 - Receipt(s) from the veterinary examinations
 - Veterinarian certification of lack of exhibited signs or symptoms of rabies
- (C) Domestic Animal to Domestic Animal Bites/Scratches. Where domestic animals are involved in a biting/scratching incident, both animals shall be quarantined.

- (1) The animals may, at the discretion of the supervising officer be quarantined in an impound facility or on the premises of the owner for a period of ten (10) days. During quarantine, the animal shall be securely confined within the owner's home or other secure enclosure and kept upon a secure leash at all times when outside of the home or enclosure and be kept from contact with any other animal or human. In the case of quarantine on the owner's premises, failure on the part of the owner to obey all conditions and directions of any officer pertaining to the quarantine period, shall result in the immediate impoundment of the animal in a veterinary hospital or Oshkosh Animal Shelter for the remainder of the quarantine period. Charges for boarding such animal shall be paid by the owner.
 - (2) All animals under bite/scratch confinement must be examined at least three times by a veterinarian during the ten day confinement period. (First day of isolation, the last day of isolation and day 4, 5, or 6 of quarantine).
 - (3) After the ten day confinement, the owner or person in possession of the animal must contact the Oshkosh Health Services Division, within two (2) business days, so that the condition of the animal may be evaluated.
 - (a) The following items must be available at the time of the evaluation:
 - Rabies vaccination information
 - Current licensing information
 - Receipt(s) from the veterinary examinations
 - Veterinarian certification of lack of exhibited signs or symptoms of rabies
- (D) Handling of domestic animals suspected of being bitten or exposed to an animal of unknown vaccination status. Any dog or other animal suspected by an officer of having physical contact with any live skunk, bat, fox, or raccoon or any other animal considered to be at risk by the State Lab of Hygiene or any animal of unknown vaccination status shall be considered to be exposed to a rabid animal. The following rules shall apply:
- (1) Unvaccinated Domestic Animals. Suspected of being bitten or exposed to an animal of unknown vaccination status must be either:
 - (a) destroyed within 24 hours or within a period specified by an officer.
 - (b) Quarantined in an isolation facility for not less than 180 days. The owner shall have the animal vaccinated against rabies between 155 and 165 days after exposure to the rabid animal.
 - (c) At the discretion of the supervising officer, quarantined, leashed and/or confined, for at 180 days at the home of the owner. The owner shall have the animal vaccinated against rabies between 155 and 165 days after the exposure to a rabid animal. Any violation of this quarantine will result in immediate quarantine of the animal in an isolation facility or the animal shall be destroyed in a humane manner which avoids damage to the animal's head. The animal's head shall then be processed by a licensed veterinarian and be examined by the State Lab of hygiene for evidence of rabies. The cost of this process shall be at the expense of the animal owner.

- (2) Vaccinated Domestic Animals. Currently immunized dogs or cats which have been bitten by or exposed to, an animal of unknown vaccination status must be either:
- (a) Revaccinated against rabies as soon as possible after exposure to a rabid animal. The animal shall either be quarantined in an isolation facility or at the discretion of the supervising officer, leashed and/or confined at the premises of the owner for 60 days, or
 - (b) Destroyed.
- (E) Killing of an Animal in Quarantine. No person other than a peace officer or a licensed veterinarian shall kill or cause to be killed, any animal suspected of being rabid. Any animal suspected of being rabid shall be placed in quarantine and the diagnosis of rabies made by a licensed veterinarian. If a veterinarian does diagnose rabies in an animal in quarantine, then the animal shall be humanely euthanized and the head of such animal sent to a laboratory for pathological examination and confirmation of the diagnosis.
- (F) Death of an animal while under quarantine. If an animal in quarantine is killed or dies, the death of that animal shall be reported immediately to the Oshkosh Health Services Division and/or the Oshkosh Police Department.

SECTION 6-16 VIOIOUS ANIMALS

No person shall own, possess, harbor, keep or maintain a vicious animal contrary to the terms of this ordinance.

- (A) Vicious Animal License
- (1) Requirement. Any person who may own, possess, harbor, keep or maintain a vicious animal shall do so only after first having obtained a vicious animal license from the Health Director and only after complying with the terms of said vicious animal license.
 - (2) Fee and Term. The License term shall be from January 1 through December 31. The License fee, which is not pro-ratable, shall be fifty dollars (\$50.00) which fee shall cover the costs of City issued tags and signage.
 - (3) Conditions for License Issuance. A license may be granted and issued subject to proof of the following:
 - (a) A liability insurance policy which covers animal bites under its terms written by an insurance company licensed to do business in the State of Wisconsin, covering death and personal injury, in the amount of at least Five Hundred Thousand Dollars (\$500,000.00) and property damage in the amount of One Hundred Thousand Dollars (\$100,000.00). The policy shall provide notice to the Health Department thirty (30) days in advance of any material change therein and of its termination or non-renewal.
 - (b) Current vaccination for rabies.
 - (c) Current license where the vicious animal is a dog or cat.
 - (d) Neutering or spaying, where the vicious animal is a dog or cat.
 - (e)

- (4) Conditions for License Maintenance. A license granted and issued hereunder is conditioned upon the following:
- (a) Compliance with Subsection (3) above.
 - (b) The posting of signs no smaller than twenty-four (24) inches by twenty-four (24) inches, made of metal or plastic, florescent yellow in color, bearing the wording "WARNING VICIOUS ANIMAL" in English print, no smaller than three (3) inches high and also bearing the license number of each vicious animal no smaller than one (1) inch high, which signs shall be posted at each entrance to the building in which the vicious animal is kept and at each entrance through a fence and at such location to be viewable from the public sidewalk, if any, in the vicinity of any walk or drive approaching any entrance to the building in which the vicious animal is kept.
 - (c) The vicious animal while off the premises where kept, shall be muzzled with a no-bite type muzzle, restrained as to movement by a choke-type collar or harness and leash secured by and under the direct control and supervision of a mentally competent adult person.
 - (d) The vicious animal while on the premises where kept shall be placed within a secured building, or within a secured fence of sufficient height and construction to maintain the animal within, which fence shall be inspected and approved by the Health Department.
- (5) Impoundment and Destruction. A vicious animal which is owned, possessed, harbored, kept or maintained in violation of this ordinance may be impounded and destroyed by the City or its agents at the expense of the owner, following notice and an opportunity to be heard by the Health Director. Any person or party aggrieved by such decision of the Health Director may appeal such decision to the Common Council by filing a written notice of appeal with the City Clerk within five (5) City business days of mailing of a written order from the Health Director. The vicious animal shall be impounded, but not destroyed, until the time for appeal has expired and until any timely appeal has been heard. The City elects not to be bound by Chapter 68, Wisconsin Statutes, with respect to administrative procedure in this regard.
- (6) Sale or Transfer of Possession.
- (a) No person may sell or transfer possession of a vicious animal to another person without first notifying the person to whom the vicious animal is being sold or transferred, of the fact that such is a vicious animal and of any requirements imposed upon the owner of such animal by this ordinance.
 - (b) No person may sell or transfer possession of a vicious animal to another person without first notifying the Health Director thereof, in writing to be received at least five (5) business days in advance of the sale or transfer of possession.
- (B) Destruction or Death of Vicious Animals. If a vicious animal is euthanized, the owner thereof shall provide to the City of Oshkosh Health Director within ten (10) days of the date of death of the animal a certificate or other written proof of euthanasia from a licensed veterinarian. If a vicious animal is killed, destroyed or dies from any other cause or means, the owner shall within ten (10) days of the date of death of the animal provide in writing to the City of Oshkosh Health Director verification of the death of the animal.

SECTION 6-17 ANIMAL RUNNING AT LARGE PROHIBITED

No person shall permit any animal to run at large in the City at any time. Each owner of any such animal is required to confine it within the limits of his or her premises except when it is attended to by some person, and in such cases animals shall be fastened securely to a suitable leash not more than six (6) feet in length. For purposes of this section, the phrase "running at large" embraces all places within the City except the owner's premises, and includes all streets, alleys, sidewalks, or other public or private property.

- (A) unrestrained animals, including dogs and cats, may be taken by a law enforcement officer, community service officer, personnel from the Oshkosh Animal Shelter, or City Health Division personnel and impounded in the Oshkosh animal shelter and there confined in a humane manner.

SECTION 6-18 IMPOUNDMENT

The rules and regulations pertaining to impoundment, specifically sections 173.13, 173.17, 173.19, 173.21, 173.22, 173.23, 173.24, and 173.25, Wisconsin Statutes, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply.

ARTICLE V. PET STORES/COMMERCIAL KENNELS**SECTION 6-19 LICENSE REQUIRED**

- (A) Pet Store Permit. No person or firm shall operate or maintain a pet store in the City without a license/operating permit issued by the Director of Health. The fee for issuance of such permit is Seventy Dollars (\$70.00) annually and said permit expires on June 30 of each year.
- (B) Commercial Kennel License. The rules and regulations pertaining to licensing, specifically section 174.053, Wisconsin Statutes, together with any future additions, deletions or supplements thereto, are herewith incorporated as part of this Chapter and shall be enforced with the same force and effect as though set forth in full herein. Providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply. The rules and regulations pertaining to licensing shall apply also to cats within the City of Oshkosh. The fee for issuance of such permit is Seventy Dollars (\$70.00) annually and said permit expires on June 30 of each year.
- (C) Boarding Kennel Permit. No person or firm shall operate or maintain a Boarding Kennel in the City without an operating permit issued by the Health Director. The fee for issuance of such permit is Seventy Dollars (\$70.00) annually and said permit expires on June 30 of each year.
- (D) Grooming Salon Permit. No person or firm shall operate or maintain a Grooming Salon in the City without an operating permit issued by the Health Director. The fee for issuance of such permit is Sixty Dollars (\$60.00) annually and said permit expires on June 30 of each year.
- (E) Multiple Licenses and/or Permits. Establishments operating a combination of two or more of the licensed or permitted activities in this chapter shall obtain a license or permit for each type of business activity conducted on the premises.

(F) General License/Permit Provisions.

- (1) Inspections. Upon application for a license or permit, the Health Director or designee shall conduct an inspection of the premises to be licensed or permitted. If the requirements of this Chapter and applicable state and other laws are met, the Health Director or designee shall issue the appropriate license or permit.

After issuance of the permit or license inspections shall be made as necessary to ensure compliance with the provisions of this Chapter.

Acceptance of a license or permit issued under this Chapter shall be deemed consent to reasonable inspections to ensure compliance herewith.

- (2) Violations by Agent. A violation of this Chapter by an authorized agent or employee of the licensee or permit holder shall constitute a violation by the licensee or permit holder.
- (3) Transfers. Upon sale or any other transfer of ownership of an establishment, or upon transfer of location of an existing establishment licensed or permitted under this Chapter, an application for a permit or license shall be completed, indicating thereon that the permit or license is for transfer of an existing permit or license to either a new person or new location within the City. The application for transfer shall be completed within ten (10) days of the sale or other transfer. The responsibility for compliance with this section shall rest with both existing licensee and transferee. Upon application for transfer, the Health Director or designee shall make inspection of the premises and if the requirements of this Chapter and applicable state and other laws are met, shall issue a new license in the transferee's name or to the new location if the transfer is of location of the business. The fee for license transfer shall be Twenty Dollars (\$20.00).
- (4) Non-issuance of City Licenses and Permits/Delinquent Taxes Assessments and Special Charges.
- (a) Unless otherwise specifically provided within this municipal code, licenses and permits shall not be issued:
- (1) Premises. For any premises for which taxes, assessments, or special charges are delinquent and unpaid.
- (2) Persons. To any person who is delinquent in the payment of taxes, assessments or special charges related to the business or property for which the license or permit is sought.
- (b) Appeal. Alleged errors in the determination of non-issuance of the license may be appealed to the Finance Director within 5 days of notice of the non-issuance of the license or permit. The Finance Director shall issue a notice setting forth a date and time for hearing on the matter, not less than three (3) days nor more than fifteen (15) days after the date of the notice of hearing. At the hearing, the complainant and a representative of the City may be represented by counsel, may present evidence and call and examine witnesses and cross examine witnesses of another party. Such witnesses shall be sworn or affirmed by the person conducting the hearing. The Finance Director shall act as the decision maker. If the Finance Director is unable to so act, a decision maker shall be appointed by the City Manager.

A written determination shall be made directing the continued holding of the license or permit or the issuance of such license or permit. Within ten (10) days of the hearing, the written determination shall be mailed to all interested parties and shall be placed on file with the City Clerk by the decision maker. The written decision shall specify the reasons for the decision made.

Within ten days of the date of posting of the written decision, any person aggrieved thereby may appeal such decision to the Common Council. Appeals shall be taken by filing a notice of appeal specifying the grounds therefor with the City Clerk. On Appeal the Finance Director or other decision maker shall forthwith transmit all papers relating to such appeal to the City Clerk. The Clerk shall give notice of the appeal to the Common Council at its next regular meeting. The Council shall then fix a reasonable time for hearing of the same and give public notice thereof, as well as notice to the parties interested, and shall promptly decide the appeal. Any party to the proceeding as well as any person who may be adversely affected by a decision of the Council may appear at the hearing and may produce witnesses and be represented by counsel. In addition to any other witnesses presented, the council may subpoena and examine such other persons as it may deem necessary for a fair and impartial hearing of the appeal. The Clerk shall swear or affirm all persons testifying before the council in regard to the appeal, and shall maintain a record of all testimony and other evidence as may be presented.

The Council may reverse, affirm, or modify the decision of the Finance Director or other decision maker appealed from, and to this end may direct issuance or non-issuance of any license or permit. Within ten (10) days after the decision on any appeal, the City Clerk shall cause due notice thereof in writing to be mailed to all parties to the appeal as well as any other persons who may have appeared therein at their last known post office address. Such notice shall specify the grounds for the decision.

Any person aggrieved by the decision of the Common Council on appeal may seek such other legal relief as may be available.

(G) License Non-renewal, Suspension or Revocation.

The City elects not to be bound by the provisions of Chapter 68 Wis. Stats. in regard to decisions on license or permit status under this section.

Any person may file a sworn written complaint with the Health Director alleging violations of this Chapter or of applicable State or other law related to a licensed or permitted establishment or a person holding a permit or license issued under this Chapter.

Upon filing of a complaint, the Health Director shall issue a notice setting forth a date and time for hearing on the matter, not less than three (3) days nor more than fifteen (15) days after the date of the notice. At the hearing, the complainant and the person(s) complained of may be represented by counsel, may present evidence and call and examine witnesses and cross examine witnesses of another party. Such witnesses shall be sworn or affirmed by the person conducting the hearing. The Health Director shall act as the decision maker. If the Health Director is unable to so act, a decision maker shall be appointed by the City Manager.

A written determination continuing, suspending, revoking, or failing to renew the license or permit. Within ten (10) days of the hearing, a written determination shall be mailed to all interested parties and shall be placed on file with the City Clerk by the decision maker. The written decision shall specify the reasons for the decision made.

Within ten days of the date of posting of the written decision, any person aggrieved thereby may appeal such decision to the Common Council. Appeals shall be taken by filing a notice of appeal specifying the grounds therefore with the City Clerk. On Appeal the Health Director or other decision maker shall forthwith transmit all papers relating to such appeal to the City Clerk. The Clerk shall give notice of the appeal to the Common Council at its next regular meeting. The Council shall then fix a reasonable time for hearing of the same and give public notice thereof, as well as notice to the parties interested, and shall promptly decide the appeal. Any party to the proceeding as well as any person who may be adversely affected by a decision of the Council may appear at the hearing and may produce witnesses and be represented by counsel. In addition to any other witnesses presented, the Council may subpoena and examine such other persons as it may deem necessary for a fair and impartial hearing of the appeal. The Clerk shall swear all persons testifying before the Council in regard to the appeal, and shall maintain a record of all testimony and other evidence as may be presented.

The Council may reverse, affirm, or modify the decision of the Health Director or other decision maker appealed from, and to this end may direct issuance, suspension or revocation of any license or permit issued under this Chapter. Within ten (10) days after the decision on any appeal, the City Clerk shall cause due notice thereof in writing to be mailed to all parties to the appeal as well as any other persons who may have appeared therein at their last known post office address. Such notice shall specify the grounds for the decision.

Any person aggrieved by the decision of the Common Council on appeal may seek such other legal relief as may be available.

- (H) General Facility Standards. All Licensed or permitted premises shall provide the following:
- (1) Water and Food. Adequate and potable water shall be available at all times to pet animals. Watering and feeding receptacles shall be cleaned at least once daily.
 - (2) Storage. Supplies of food and bedding shall be stored and adequately protected against infestation or contamination by vermin. Refrigeration shall be provided for perishable food.
 - (3) Waste Disposal. Provisions shall be made for the removal and disposal of animal and food wastes, bedding, dead animals and debris. Disposal facilities shall also be provided and operated as to minimize vermin infestation, odors and disease hazards.
 - (4) Washrooms and sinks. Handwashing facilities such as washrooms, basins or sinks supplied with hot and cold water, soap and single service towels shall be provided.
 - (5) Display of animals. All animals on display shall be in good health. Animals that by their physical appearance or actions appear not to be in good health shall be removed from display, housed separately from healthy animals, and given appropriate treatment and care.
- (I) Indoor Facility Standards. In addition to the requirements of subsection C above, indoor facilities

licensed hereunder shall provide the following:

- (1) Ventilation. Indoor housing for pet animals shall be adequately ventilated to provide for health and comfort of said animals at all times. They shall be provided with fresh air, either by means of windows, doors, vents or air conditioning. Ventilation shall minimize drafts, odors and moisture condensation. Auxiliary ventilation such as exhaust fans and vents or air conditioning shall be provided when the ambient temperature is eighty-five (85°) Fahrenheit or higher, except where the ambient temperature requirements of the specific species differs.
 - (2) Lighting. Indoor housing for pet animals shall have ample artificial light which is of good quality and is well-distributed. Such lighting shall provide uniformly distributed illumination of sufficient intensity to permit routine inspection and cleaning during the entire working period.
 - (3) Interior surfaces. The interior building surfaces of indoor housing facilities for pet animals shall be constructed and maintained so that they are impervious to moisture and may be readily cleaned.
 - (4) Drainage. A suitable method shall be provided to rapidly eliminate excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors therefrom. If closed drainage systems are used, they shall be equipped with traps and so installed as to prevent any backup of sewage and odors.
 - (5) Pet animals five (5) months or older. Pet animals five (5) months or older which are housed longer than a twenty-four (24) hour period shall be provided with adequate, separate, cleanable enclosures and permitted exercise periods at least twice each day for a minimum of five (5) minutes each period, unless an exercise run is provided. An exercise run must have an area of at least twenty (20) square feet for a dog of thirty (30) pounds or less, and a minimum of thirty-six (36) square feet for a dog over thirty (30) pounds in weight.
- (J) OUTDOOR FACILITY STANDARDS. In addition to the standards required under subsection C above, outdoor facilities licensed hereunder shall provide the following:
- (1) Shelter from sunlight. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow all pet animals kept outdoors to protect themselves from the direct rays of the sun.
 - (2) Shelter from rain or snow. Pet animals kept outdoors shall be provided with access to shelter to allow them to remain dry during rain or snow.
 - (3) Shelter from cold winter. Shelter shall be provided for all pet animals kept outdoors when the atmospheric temperature falls below fifty (50o) degrees Fahrenheit. Sufficient clean bedding material or other means of protection from the weather elements shall be provided when the ambient temperature falls below that temperature to which any species of animal is acclimated.
 - (4) Drainage. A suitable method shall be provided to rapidly eliminate excess water.
 - (5) Pet animals five (5) months or older. Pet animals five (5) months or older which are housed longer than a twenty-four (24) hour period shall be provided with adequate, separate,

cleanable enclosures and permitted exercise periods at least twice each day for a minimum of five (5) minutes each period, unless an exercise run is provided. An exercise run must have an area of at least twenty (20) square feet for a dog of thirty (30) pounds or less, and a minimum of thirty-six (36) square feet for a dog over thirty (30) pounds in weight.

(K) ENCLOSURES. Enclosures shall:

- (1) Be structurally sound and maintained in good repair to protect the pet animals from injury, to contain them, and to keep predators out. They shall be constructed of a material that is easily cleanable and maintained so as to enable the pet animals to remain dry and clean and provide convenient access to clean food and water.
- (2) Be constructed and maintained so as to provide sufficient space to allow each pet animal to turn about freely and to easily stand, sit and lie in a comfortable, natural position.
- (3) Be used for housing not more than one (1) pet animal unless requested by the owners of each pet animal housed therein.
- (4) Subsections (2) and (3) above shall not apply to pet animals being housed for medical or grooming purposes, or for less than six (6) hours.

(L) SANITATION/CLEANING OF ENCLOSURES.

- (1) Excreta shall be removed from enclosures as often as necessary to prevent contamination of the pet animals contained therein and to reduce disease, hazards and odors. When a hosing or flushing method is used for cleaning an enclosure, the pet animals shall be removed during the cleaning process and adequate measures shall be taken to protect the pet animals in other enclosures from being contaminated with water and other wastes.
- (2) Enclosures, rooms, hard-surfaced pens and runs shall be cleaned by washing all soiled surfaces with a safe and effective disinfectant.
- (3) Pens and runs shall be constructed of concrete, asphalt or other impervious material, or other material approved by the Health Director.
- (4) An effective program for the control of insects, ectoparasite, avian and mammalian pests shall be established and maintained where a problem.

(M) FEEDING.

- (1) Pet animals which are housed for more than twenty-four (24) hours shall be fed at least once a day, except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable and of sufficient quality and nutritive value to meet the normal daily requirements for the condition and size of each pet animal.
- (2) Food receptacles shall be accessible to the pet animal and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean. The food receptacles shall be cleaned daily. Disposable food receptacles may be used, but must be discarded after each feeding. Self-feeders may be used for feeding of dry food and they shall be sanitized as needed, but at least once per week, to prevent molding, deterioration or caking of feed.

(N) SALE OF PROHIBITED ANIMALS

- (1) No person or firm shall offer for sale or barter, sell or give away those animals, fowl, and insects not permitted within the City under section 6-6 except in conformance with these provisions:
 - (a) A sign prescribed by the Division of Health Services informing persons of the provisions of section 6-6 of this code shall be posted up and at all times displayed in a conspicuous place near the main entrance to the store/structure and near each area where animals, fowl or insects prohibited under section 6-6 are displayed, so that all persons visiting such place may readily see the same.
- (2) It shall be unlawful for any person to knowingly to deface or destroy such sign or to remove it without the consent of the property owner and appropriate City inspector.

ARTICLE VI. PENALTIES

SECTION 6-20 PENALTIES

Any person convicted of a violation of any of the provisions of the following Sections of this Chapter shall for each offense be punished by the forfeitures as set forth, together with the costs of prosecution and in default of payment of such forfeitures and costs, by license suspension or imprisonment in the County Jail for Winnebago County for the terms hereinafter stated; except that if a different penalty is enumerated by the Wisconsin Statutes, as adopted by this Chapter, then the enumerated penalty including alternative penalty for default of payment shall be imposed.

- (A) General Penalty. Any person who violates any provision of this Chapter for which a specific penalty is not provided below shall be fined not less than Seventy-five Dollars (\$75.00) nor more than One Thousand Dollars (\$1000.00).
- (B) A forfeiture of not less than Seventy-five Dollars (\$75.00) nor more than Five Hundred Dollars (\$500.00) for a violation of any of the following:
Section 6-19(H-N)
- (C) A forfeiture of not less than One Hundred Twenty-five Dollars (\$125.00) nor more than Five Hundred Dollars (\$500.00) for a violation of any of the following:
Sections 6-5, 6-7, 6-14(A),6-15(A), 6-16(A)(1), 6-16(A)(6)
- (D) A forfeiture of not less than Seventy-five Dollars (\$75.00) nor more than Five Hundred Dollars (\$500.00), excepting that for a second and subsequent violations within a twelve-month period a forfeiture of not less than One Hundred Twenty-five Dollars (\$125.00) for a violation of any of the following:
Section 6-10
- (E) A forfeiture of not less than Two Hundred Seventy-five Dollars (\$275.00) nor more than Five Hundred Dollars (\$500.00) for a violation of any of the following:

Section 6-15(B)-(F)

(F) A forfeiture of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for violation of the following:
Section 6-9, 6-11

(G) A forfeiture of not less than One Hundred Seventy-five Dollars (\$175.00) nor more than Five Hundred Dollars (\$500.00) for a violation of any of the following:

Section 6-16(A)(3), 6-16(A)(4)

(H) In addition to the penalties herein provided, any license or permit issued under this Chapter held by a person convicted of violating the provisions of this Chapter shall be subject to revocation by a Court of record. Further, any license or permit issued under this Chapter held by a person convicted of violating the provisions of this Chapter shall be subject to suspension or revocation by the Oshkosh Common Council.

SECTION 6-21 PENALTIES - JUVENILE

Any person age 16 and under who is convicted of a violation of any of the provisions of the following Sections of this Chapter shall for each offense be punished by the forfeitures as set forth, together with the costs of prosecution and in default of payment of such forfeitures and costs, by license suspension or imprisonment in the County Jail for Winnebago County for the terms hereinafter stated; except that if a different penalty is enumerated by the Wisconsin Statutes, as adopted by this Chapter, then the enumerated penalty including alternative penalty for default of payment shall be imposed.

(A) General Penalty - Juveniles. Any person age 16 and under who violates any provision of this Chapter for which a specific penalty is not provided below shall be subject to a forfeiture in the amount of Fifty Dollars (\$50.00).

(B) A forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for a violation of any of the following:

Sections 6-5, 6-7, 6-14(A), 6-15(A), 6-16(A)(1) and (6)

(C) A forfeiture of not less than Twenty-five (\$25.00) nor more than Five Hundred Dollars (\$500.00) for violation of the following:

Section 6-9, 6-11

(D) A forfeiture of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00), excepting that for a second and subsequent violation within a twelve month period a forfeiture of not less than One Hundred Dollars (\$100.00) for a violation of any of the following:

Section 6-10

(E) A forfeiture of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00) for a violation of any of the following:

Section 6-15(B)-(F)

- (F) A forfeiture of not less than One Hundred Fifty Dollars (\$150.00) nor more than Five Hundred Dollars (\$500.00) for violation of any of the following:

Sections 6-16(A)(3), 6-16(A)(4)

- (G) In addition to the penalties herein provided, any license or permit issued under this Chapter held by a person convicted of violating the provisions of this Chapter shall be subject to revocation by a Court of record. Further, any license or permit issued under this Chapter held by a person convicted of violating the provisions of this Chapter shall be subject to suspension or revocation by the Oshkosh Common Council.