

CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

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56.01 DEFINITIONS. For use in this chapter, the following terms are defined:

1. "Dangerous animal" means
 - A. Badgers, wolverines, weasels, skunks and mink;
 - B. Raccoons;
 - C. Bats;
 - D. Scorpions;
 - E. Opossums;
 - F. Piranhas.
2. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a 22-month period; or (b) did bite or claw once causing puncture injuries breaking the skin of a person; or (c) could not be or was not in fact controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on three separate occasions within a twelve-month period; or (e) has attacked any person on the command of the owner or person in control of the animal unless such attack was for the legitimate protection of persons or property; or (f) while running at large has attacked any domestic animal or fowl on two separate occasions within any 12-month period; or (g) while running at large has on one occasion killed any domestic animal or fowl; or (h) while running at large or not controlled by its owner, has barked and/or growled at any person and lunges or charges at any person.

(Ord. 1021 – Aug. 12 Supp.)

56.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any purpose within the City.

56.03 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.

1. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Police Chief, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal per se on premises in the City, the Police Chief or designee appointed by the Chief shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal per se in the City, the Police Chief shall immediately seize any such animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the individual or entity keeping, sheltering or harboring such dangerous animal per se has not petitioned the Hardin County District Court seeking return of such dangerous animal per se, the Police Chief shall cause the animal to be disposed of by sale or destroy such animal in a humane manner.

3. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal other than a dangerous animal per se on premises in the City, the Police Chief shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring such a dangerous animal in the City, the Police Chief shall order the person named in the complaint to safely remove such animal from the City or destroy the animal, within three (3) days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the Police Chief shall cause the animal to be immediately seized and impounded or destroyed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

4. The order to remove a dangerous animal other than a dangerous animal per se issued by the Police Chief may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Police Chief.

5. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Police Chief. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

6. If the Council affirms the action of the Police Chief, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Police Chief is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Police Chief or designee is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the Police Chief or Council was

issued has not petitioned the District Court for a review of said order, the Police Chief shall cause the animal to be disposed of by sale or destroy such animal in a humane manner. Failure to comply with an order of the Police Chief issued pursuant hereto and not appealed, or of the Council after appeal, constitutes a misdemeanor offense.

56.04 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the City a vicious animal as defined in this chapter, except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 56.05. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the Police Chief that a guard dog is on duty at said premises.

56.05 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.

1. The Police Chief or designee, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal, as defined herein, may initiate proceedings to declare such animal a vicious animal. The Police Chief shall inform the City Manager of any complaint concerning a vicious animal as soon as practicable. A hearing on the matter shall be conducted by the City Manager or designee. The person owning, keeping, sheltering or harboring the animal in question shall be given not less than seventy-two (72) hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also state that if the animal is determined to be vicious, the owner will be required to remove it from the City or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If, after hearing, the City Manager or designee determines that an animal is vicious, the City Manager or designee shall order the person owning, sheltering or harboring or keeping the animal to remove it from the City, or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, or if in the judgment of the Police Chief, the animal is not sufficiently confined to prevent further injury, the City Manager or designee is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order of the City Manager or designee was issued has not appealed such order to the Council, the City Manager or designee shall cause the animal to be destroyed.

3. The order to remove or destroy a vicious animal issued by the City Manager or designee may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days of receipt of the order to remove or destroy the vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the City Manager or designee.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. The hearing may be continued for good cause. After the hearing, the Council may affirm or reverse the order of the City Manager or his or her designee. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.
5. If the Council affirms the action of the City Manager or designee, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such vicious animal shall remove such animal from the City or cause it to be destroyed in a humane manner. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the order to remove or destroy. If the original order of the City Manager or designee is not appealed and is not complied with within three days, or the order of the Council after appeal is not complied with within three days of its issuance, the Police Chief or designee is authorized to seize and impound such vicious animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the person against whom the decision and order of the City Manager or designee and/or the Council was issued has not petitioned the Hardin County District Court for a review of the order, the City Manager or designee shall cause the animal to be destroyed in a humane manner.
6. Failure to comply with an order of the City Manager or designee issued pursuant hereto and not appealed, or of the Council after appeal, shall constitute a misdemeanor offense.
7. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the Police Chief or designee may immediately destroy it.
8. Any animal which is alleged to be vicious and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, such impoundment or quarantine shall be paid by the City.