

Title XVII Chapter 93 Animals

170.93.09 Impoundment

The owner of any animal confined in the pound may upon proper showing and identification reclaim the animal upon payment of a fee pursuant to the schedule set forth below: provided (1) the owner of the dog or cat shall have paid the required license fee and obtained the proper license and obtained any rabies vaccination required pursuant to this Chapter before the dog or cat can be reclaimed or (2) the owner of the dog or cat or the person responsible for the dog or cat must sign a statement indicating that within seventy-two (72) hours of the release of the dog or cat, said person shall have paid the required license fee and obtained the proper license and any rabies vaccination required pursuant to this Chapter. Failure to obtain the license and / or the rabies vaccination within seventy-two (72) hours after release from impoundment shall constitute a separate offense.

Payment of a daily boarding cost of three (\$3.00) dollars, plus the impoundment fee as set out below:

First violation per animal or owner	\$25.00
Second violation per animal or owner	\$100.00
Third violation per animal or owner	\$200.00
Fourth and all ensuing violations per animal or owner	\$500.00

The owner shall remain responsible for all penalties for violation of any of the provisions of this Chapter. All animals which have remained in the pound seventy-two (72) hours without being claimed or released may be destroyed in a humane manner, except as hereinbefore provided. All animal owners residing at the same residence shall be treated as a single owner for purposes of determining the impoundment fee required under this section.

The following impoundment regulations apply to pit bulls:

1. The Animal Control Authority of the City, is authorized to immediately impound any pit bull found in the City, which does not fall within one of the exceptions contained in § 170.93.48 above. Unless it is determined that the pit bull falls under one of the exceptions and subject to subsection 2 below, ten calendar days after impoundment the Animal Control Authority shall destroy the pit bull unless the owner of the pit bull produces evidence deemed sufficient by the Animal Control Authority that the pit bull is to be permanently taken out of the City, and the owner pays the cost of impoundment.

2. When the Animal Control Authority has impounded any pit bull pursuant to this section or when the Animal Control Authority has issued a written warning pursuant to § 170.93.48 and the owner of the pit bull disputes the classification of the animal as a pit bull, disputes the issuance of a warning and/or disputes whether the pit bull is exempted from § 170.93.47, the owner of the pit bull may file with the City Clerk a written request for a hearing before the City Council within seven calendar days after impoundment. The appellant/owner of the pit bull shall bear the burden of proof at such hearing and the Mayor shall act as hearing officer. At the conclusion of the hearing or some time thereafter the hearing officer shall render a written decision. The findings of the City Council shall be conclusive.

3. The City Council upon finding that the animal is a pit bull pursuant to subsection 2 above shall order the destruction of the pit bull unless the owner of the pit bull produces evidence deemed sufficient by the City Council or Animal Control Authority that the pit bull

is to be permanently taken out of the City, and the owner pays the cost of impoundment. The Animal Control Authority shall not destroy any pit bull until all legal proceedings and appellate time frames have expired.

4. Nothing herein shall prevent the City Council or Animal Control Authority from simultaneously following any other procedure or process contained within this Title as appropriate. Amended by Ordinance 797 – May 5, 2009; Amended by Ordinance 805 – September 14, 2010

170.93.40 License Fee and Tax Required

The license fee for all dogs and cats shall be the sum of five (\$5.00) dollars, plus the \$1.00 fee required under Neb RS 54-603(3); provided, however, the license fee for all spayed female dogs and cats and neutered male dogs and cats shall be the sum of two (\$2.00) dollars, plus the \$1.00 fee required under Neb. RS 54-603(3); provided, however, the license fee for all house only dogs and cats shall be the sum of two (\$2.00) dollars, plus the \$1.00 fee required under Neb RS 54-603(3).

Unless previously licensed as spayed or neutered, a dog or cat shall be so licensed only if the license fee is accompanied by a statement signed by a veterinarian describing such dog or cat and verifying the fact that dog or cat has been spayed or neutered. If a person maintains a dog kennel wherein he or she buys and sells dogs and cats, he or she shall pay an annual fee of twelve (\$12.00) dollars, plus the \$1.00 fee required under Neb RS 54-603(3), in lieu of the aforementioned fee.

Amended by Ordinance 810 – December 7, 2010

170.93.44 Barking and Chasing; Complaints

(A) It shall be unlawful for the owner to allow a dog to annoy or disturb any neighborhood or person by loud, continued, or frequent barking, howling, or yelping or to habitually bark at or chase pedestrians, drivers, or owners of horses or vehicles while they are on any public sidewalks, streets, or alleys in the city.

(B) Upon the complaint with the City Clerk or animal control officer, that any dog is an annoyance or disturbance, or otherwise violates the provisions of this section, the city police or animal control officer shall investigate the complaint and, if in his or her opinion the situation warrants, notify the owner to silence and restrain the dog.

(C) The provisions of this section shall not be construed to apply to any city animal shelter.

(D) Any person who is found to be in violation of this title shall be fined:

(1) \$25.00 for the first offense and

(2) \$50.00 for the second and all subsequent offenses

Penalty, see § 10.99 Statutory reference: Authority to guard against annoyances, see Neb. RS 17-526

Added by Ordinance 797 – May 5, 2009

170.93.45 Dangerous Dogs

(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL AUTHORITY. An entity authorized to enforce the animal control laws of the city, and includes any local law enforcement agency or other agency designated by the city to enforce the animal control laws of the city.

ANIMAL CONTROL OFFICER. Any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of this section or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal.

DANGEROUS DOG.

(a) Any dog that, according to the records of the animal control authority:

(i) Has killed a human being;

(ii) Has inflicted injury on a human being that requires medical treatment;

(iii) Has killed a domestic animal without provocation; or

(iii) Has been previously determined to be a potentially dangerous dog by an animal control authority, the owner has received notice of such determination, and the dog inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

(b) A dog shall not be defined as a DANGEROUS DOG if the individual was tormenting, abusing, or assaulting the dog at the time of the injury or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog.

(c) A dog shall not be defined as a DANGEROUS DOG if the injury, damage, or threat was sustained by an individual who, at the time, was committing a willful trespass as defined in Neb. RS 20-203, 28-520, or 28-521, was committing any other tort upon the property of the owner of the dog, was tormenting, abusing, or assaulting the dog, or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

DOMESTIC ANIMAL. A cat, a dog, or livestock. Livestock includes buffalo, deer, antelope, fowl, and any other animal in any zoo, wildlife park, refuge, wildlife area, or nature center intended to be on exhibit.

MEDICAL TREATMENT. Treatment administered by a physician or other licensed health care professional.

OWNER. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of a dog.

POTENTIALLY DANGEROUS DOG.

(a) Any dog that when unprovoked:

(i) Inflicts an injury on a human being that does not require medical treatment; or

(ii) Injures a domestic animal; or

(iii) Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack.

(b) Any specific dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals. (Neb. RS 54-617)

(B) (1) A dangerous dog that has been declared as such shall be spayed or neutered and implanted with a microchip identification number by a licensed veterinarian within 30 days after such declaration. The cost of both procedures is the responsibility of the owner of the dangerous dog. Written proof of both procedures and the microchip identification number shall be provided to the animal control authority after the procedures are completed.

(2) No owner of a dangerous dog or potentially dangerous dog shall permit the dog to go beyond the property of the owner unless the dog is securely leashed with a leash no longer than six feet in length, the animal is at all times under the immediate control of a person 19 years of age or older and the animal is properly muzzled to reasonably prevent the animal from biting.

(3) Except as provided in division (B)(4) of this section or for a reasonable veterinary purpose, no owner of a dangerous dog shall transport such dog or permit such dog to be transported to another county, city, or village in this state.

(4) An owner of a dangerous dog may transport such dog or permit such dog to be transported to another county, city, or village in this state for the purpose of permanent relocation of the owner if the owner has obtained written permission prior to such relocation from the animal control authority of the county, city, or village in which the owner resides and from the county, city, or village in which the owner will reside. Each animal control authority may grant such permission based upon a reasonable evaluation of both the owner and the dog, including if the owner has complied with the laws of this state and of the county, city, or village in which he or she resides with regard to dangerous dogs after the dog was declared dangerous. An animal control authority shall not grant permission under this section if the county, city, or village has an ordinance or resolution prohibiting the relocation of dangerous dogs. After the permanent relocation, the animal control authority of the county, city, or village in which the owner resides shall monitor the owner and such dog for a period of at least 30 days but not to exceed 90 days to ensure the owner's compliance with the laws of this state and of such county, city, or village with regard to dangerous dogs. Nothing in this division shall permit the rescindment of the declaration of dangerous dog. (Neb. RS 54-618)

(C) (1) No person, firm, partnership, limited liability company, or corporation shall own, keep, or harbor or allow to be in or on any premises occupied by him, her, or it or under his, her, or its charge or control any dangerous dog or potentially dangerous dog without such dog being confined so as to protect the public from injury.

(2) While unattended on the owner's property, all dangerous dogs and potentially dangerous dogs shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the dog from escaping. The pen or structure shall have secure sides and a secure top. Walls shall be at least 6 feet in height and at least 6 feet taller than any internal structure. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at least two feet. The pen or structure shall also protect the dog from the elements. The pen or structure shall be at least ten feet from any property line of the owner. The owner

of a dangerous dog or potentially dangerous dog shall post warning signs on the property where the dog is kept that are clearly visible from all areas of public access and that inform persons that a dangerous dog or potentially dangerous dog is on the property. Each warning sign shall be no less than ten inches by twelve inches and shall contain the words "Warning" and "Dangerous Animal" or "Potentially Dangerous Animal" as the case may be in high-contrast lettering at least three inches high on a black background. (Neb. RS 54-619)

(D) Failure to comply.

(1) Any dangerous dog or potentially dangerous dog may be immediately confiscated by an animal control officer if the owner is in violation of this section. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous dog confiscated by an animal control officer or for the destruction of any dangerous dog if the action by the animal control authority is pursuant to law and if the owner violated this section. (Neb. RS 54-620)

(2) In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous dog in an expeditious and humane manner. (Neb. RS 54-621)

(E) Effect of prior conviction. If a dangerous dog of an owner with a prior conviction under this section attacks or bites a human being or domestic animal, in addition to any other penalty, the dangerous dog shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner. (Neb. RS 54-623) Penalty, see § 10.99 Statutory reference: Prior conviction; ownership of dangerous dog prohibited for ten years after, see Neb. RS 54-623. Added by Ordinance 797 – May 5, 2009

170.93.46 Pit Bull defined.

A "pit bull" is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire Terrier, American Pit Bull Terrier or American Staffordshire Terrier as set forth in the standards established by the American Kennel Club or United Kennel Club for any of the aforementioned breeds. Added by Ordinance 797 – May 5, 2009

170.93.47 Pit Bulls prohibited.

It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport or sell within the City of Stanton, Nebraska, any pit bull. Added by Ordinance 797 – May 5, 2009

170.93.48 Exceptions.

1. Pit bulls currently and continuously registered, licensed, confined and cared for pursuant to § 170.93.49 of this Chapter shall be exempt from § 170.93.47 provided said pit bulls are located within the City limits on the effective date of § 170.93.47. Failure to register or license a pit bull pursuant to § 170.93.49(1) immediately removes this exemption from the pit

bull. Failure to confine and care for the pit bull pursuant to § 170.93.49 shall result in a written warning. Failure to confine and care for a pit bull after a warning has been previously issued for the pit bull shall immediately remove the exemption from the pit bull.

2. Offspring of registered pit bulls shall be exempt from § 170.93.47 for the first 3 months of life. Within ten days of their birth, owners of offspring of registered pit bulls shall send a certified letter to the City Clerk and local law enforcement announcing their birth. Failure to properly notify the City Clerk and local law enforcement shall remove the exemption from the offspring.

3. Pit bulls temporarily transported and held in the City for the purpose of showing the pit bull in a place of public exhibition, contest or show sponsored by a dog club association or similar organization shall be exempt from § 170.93.47. Pit bulls may not be temporarily transported or held in the City for the above referenced purpose for more than thirty days.

4. Pit bulls held in the City's animal shelter, transported by City personnel or transported by persons contracted by the City for animal control services shall be exempt from § 170.93.47. Added by Ordinance 797 – May 5, 2009

170.93.49 Pit Bull registration, confinement and care.

1. Registration. All pit bulls located in the City on the effective date of §170.93.47 must be registered by their owners within three months from the effective date of this section. Owners shall register their pit bull with the City Clerk on the license form by listing the applicable pit bull breed next to the word "breed" on the city license form. The word pit bull should be placed next to the word "breed" on the form if the dog has the appearance and characteristics of being predominately of the breeds of Staffordshire Terrier, American Pit Bull Terrier or American Staffordshire Terrier. Owners of pit bulls currently licensed but unsure if they filled out the "breed" section of the form may contact the City Clerk and amend their license if necessary but must do so within three months from the effective date of this ordinance. Each year, upon renewal of the license, the owner of a pit bull must register the pit bull by appropriately filling in the breed section.

2. Confinement and Care.

a. All pit bulls in the City shall be securely confined within an occupied house or residence or in a securely enclosed pen, kennel or dog run, except when leashed as provided in this section. Such pen, kennel or dog run must have secure sides and a secure top attached to the sides, or in lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen, or the sides of the pen must be embedded in the ground not less than two feet to prevent digging under the walls by the confined pit bull. All structures must comply with all city zoning and building regulations. All structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

b. No pit bull may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit on its own volition.

c. No pit bull may go outside its pen, kennel, dog run, house or residence, unless the pit bull is securely leashed with a leash no longer than six feet in length, the animal is at all times under the immediate control of a person 19 years of age or older and the animal is properly muzzled to reasonably prevent the animal from biting.

d. No pit bull shall be kept on a chain, rope, or other type of leash outside its kennel, pen, dog run, house or residence, unless both the pit bull and the leash are under the actual

physical control of a person 19 years of age or older. Added by Ordinance 797 – May 5, 2009

170.93.50 Violence on a Service Dog; Interference with a Service Dog

A person commits the offense of violence on a service dog when he or she (a) intentionally injures, harasses, or threatens to injure or harass or (b) attempts to intentionally injure, harass, or threaten a dog that he or she knows or has reason to believe is a dog guide for a blind or visually impaired person, a hearing aid dog for a deaf or hearing impaired person, or a service dog for a physically limited person.

A person commits the offense of interference with a service dog when he or she (a) intentionally impedes, interferes, or threatens to impede or interfere or (b) attempts to intentionally impede, interfere, or threaten to impede or interfere with a dog that he or she knows or has reason to believe is a dog guide for a blind or visually impaired person, a hearing aid dog for a deaf or hearing impaired person, or a service dog for a physically limited person.

Evidence that the defendant initiated or continued conduct toward a dog as described above after being requested to avoid or discontinue such conduct by the blind, visually impaired, deaf, hearing impaired, or physically limited person being served or assisted by the dog shall create a rebuttable presumption that the conduct of the defendant was initiated or continued intentionally.

For purposes of this section:

1. Blind person means a person with totally impaired vision or with vision, with or without correction, which is so severely impaired that the primary means of receiving information is through other sensory input, including but not limited to Braille, mechanical reproduction, synthesized speech or readers.

2. Deaf person means a person with totally impaired hearing or with hearing, with or without amplification, which is so severely impaired that the primary means of receiving spoken language is through other sensory input, including but not limited to lip reading, sign language, finger spelling, or reading.

3. Hearing-impaired person means a person who is unable to hear air conduction thresholds at an average of 40 decibels or greater in the person's better ear.

4. Physically limited person means a person having limited ambulatory abilities, including but not limited to having a permanent impairment or condition that requires the person to use a wheelchair or to walk with difficulty or insecurity to the extent that the person is insecure or exposed to danger.

5. Visually impaired person means a person having a visual acuity of 20/200 or less in the person's better eye with correction or having a limitation to the person's field of vision so that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

170.93.51 Animal Waste

It shall be unlawful for the owner of any animal to allow the animal to urinate or defecate off of the property of the owner, or on any public property, unless the animal owner immediately collects and removes the animal waste from the property. It shall be unlawful

for any person to dispose of any pet or animal waste by dumping or abandoning said waste on property located within the City limits. The owner of any animal that damages property by urinating or defecating on said property shall be liable for the damage resulting therefrom.

170.93.52 Exception to License; Transient Dogs

The provisions of this Chapter with respect to licensing and vaccination against rabies shall not apply to dogs or cats owned by any person temporarily remaining with the City less than thirty (30) days; or any dog or cat brought into the City for bench or show purposes; provided such dog or cat remains under the control of and near its owner or keeper, or motor vehicle. It shall be unlawful to bring any dog or cat into the City except in compliance with the laws and rules and regulations of the State of Nebraska regarding the handling of dogs and cats.

170.93.53 Registration and Housing of Guard Dogs

Each guard dog used within the City of Stanton shall be licensed as hereinbefore provided and registered as such a guard dog. For registration, the following information shall be provided:

1. The business name, address, and telephone number of the commercial or industrial property or place of business where the guard dogs are to be used;
2. The name, address, and telephone number of the dog's handler(s) who can be reached by any time during the day or night. For the purpose of this section, a handler is a person who is responsible for and capable of controlling the operations of a guard dog;
3. The location where the dog is to be housed and a general description of its use;
4. It shall be the responsibility of the owner of said guard dog to notify the City Clerk of any changes recorded as part of the registration.

Housing and facilities where the guard dog is utilized shall have anti-escape fences completely surrounding it, and / or be an anti-escape building sufficient to house guard dogs. All gates and entrances to the area where the guard dog is housed, used, or trained shall be kept locked when not in use and clearly marked with signs warning of such guard dog. The Chief of Police may require additional measures be taken to protect the public from accidental contact with any guard dog.

170.93.54 Animal Pound Records and Reports

The Chief of Police shall keep an accurate account of all animals received at the pound and released, showing the date and from whom received, the description of the animal, the name and address of the person or persons to whom the animal is released. An accurate account and description of all animals destroyed shall be kept.

170.93.55 Prohibited Animals and Fowls

It shall be unlawful for any person to keep or maintain within the corporate limits any horse, mule, sheep, cow, goat, swine or other livestock.

It shall be unlawful for any person to keep or maintain within the corporate limits any poultry, chickens, turkeys, geese or any other fowl.

170.93.56 Proof of insurance for dangerous animals, potentially dangerous animals and pit bulls.

Any animal that has been determined to be a dangerous animal by a court determination, any animal administratively determined to be a potentially dangerous animal, and any pit bull as defined in § 170.93.46 that is required to be licensed under this chapter cannot be licensed unless the person having custody, ownership or control of such dog or other animal first presents written proof of public liability insurance of not less than \$100,000.00 to the City Clerk and Animal Control Authority. Such insurance shall be maintained in effect for the period such dangerous or potentially dangerous animal is so designated, provided, that insurance for a pit bull as defined in §170.93.46 shall be maintained in effect for the life of the pit bull. Added by Ordinance 797 – May 5, 2009

170.93.57 Destruction of dangerous dogs.

While responding to a call, report or complaint involving a dog, an Animal Control Officer or Law Enforcement Officer may destroy said dog provided:

- (A) The officer reasonably believes that any such dog poses a danger or threat to the safety of the officer or others, and
- (B) Reasonable efforts by the officer to restrain or confine said dog have failed, or
- (C) The officer reasonably believes any such efforts to restrain or confine said dog will be ineffective.

Added by Ordinance 797 – May 5, 2009