# Chapter 3
# ANIMAL CONTROL

## 5-3-1: DEFINITIONS:

ANIMAL CONTROL OFFICER: Includes all police officers and any person appointed or contracted to enforce this chapter.

DOG: Includes both male and female canines regardless of age.

POUND: Includes any city or county animal pound, control center or animal shelter. (Ord. A-397, 11-16-1981)

## 5-3-2: ENFORCEMENT:

A. Animal Control Officer: The city manager, on behalf of the city council, shall contract with or appoint some suitable person to be animal control officer. The compensation to be paid to the animal control officer shall be set by resolution of the city council.

B. Authority Of Police: The members of the police force of the city shall have the same authority in regard to the enforcement of the provisions of this chapter as are conferred on the animal control officer. (Ord. A-397, 11-16-1981)

## 5-3-3: LICENSE REQUIREMENTS:

A. License Required; Fee: Every person who owns, keeps or harbors a dog in the city must annually obtain a license for such dog from the city clerk, and shall pay for such license an amount as established by resolution of the city council. (Ord. A-397, 11-16-1981)

B. Term Of License:

1. All licenses issued hereunder shall expire on March 31 of each year. The owner of any dog

brought into the city after May 30 of any year may obtain a license therefor until the following March 31 by paying a prorated share of the license fee as established by resolution of the city council. (Ord. A-397, 11-16-1981; amd. 2003 Code)

2. Any renewal of the license provided for herein must be purchased by the owner or possessor of such dogs on or before May 30 of each year, and if not so purchased prior to that date, the owner or possessor thereof shall be deemed to have violated the terms of this chapter; provided, further, that if such annual license is not so renewed and purchased prior to May 30, a surcharge shall be added to each fee as set forth by resolution of the city council.

C. Prerequisites To License: No license required by this section shall be issued to the owner of any dog until the city clerk has been furnished with a certificate of a licensed veterinarian stating that such dog is protected by vaccination against rabies for a period of at least one year from and after the date of application for such license; and provided further, that no license shall be issued for a spayed female dog or a neutered male dog until the city clerk has been furnished with a certificate from a licensed veterinarian that such dog has been spayed or neutered, as the case may be, except, however, renewal licenses for dogs may be issued for such dog without the production of such a certificate of each application for renewal license.

D. License Tags:

1. The city clerk shall furnish with each licensee a tag, which shall be stamped with the number to correspond with the number of the license and the year for which issued. In case a dog is brought within the corporate limits within the license year, the owner or person having such dog in charge shall obtain a license for the dog as herein provided, and the city clerk shall thereupon issue a license as in other cases; provided, however, that the provisions of this section shall not apply to any person visiting in the city for a period not exceeding thirty (30) days and owning or possessing a dog currently licensed and bearing a license issued by another licensing authority.

2. The metal tag as described above shall be attached to the collar of the dog, which the owner or person in charge of the dog shall provide and which shall be placed and kept upon the neck of the dog so licensed. If the metal tag is lost, a duplicate tag shall be obtained by making application to the city clerk, who shall issue such duplicate tag upon payment by the applicant of a replacement fee. (Ord. A-397, 11-16-1981)

E. License Not Transferable: Dog licenses are not transferable from one dog to another. It shall be unlawful for any owner or any other person to use a license tag on any dog other than the one for which it was issued. Any person transferring dog tags contrary to the provisions of this subsection shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00). Any person violating this subsection shall also be deemed to have committed a municipal infraction, and shall be assessed a civil penalty, as permitted by section 1-4-4 of this code, but such penalty shall be

not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00). For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.

F. Failure To Obtain License: Failure to license a dog in violation of this chapter shall constitute a misdemeanor. Any person violating any of the provisions of this subsection shall, upon conviction, be fined not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00). Any person violating this subsection shall also be deemed to have committed a municipal infraction, and shall be assessed a civil penalty, as permitted by section 1-4-4 of this code, but such penalty shall be not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00). For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. (Ord. 09-20, 10-19-2009)

## 5-3-4: VACCINATIONS REQUIRED:

Any dog within the city, whether licensed or unlicensed, must be vaccinated against rabies. If any dog is not vaccinated against rabies, the animal control officer may have the dog vaccinated against rabies and the charges therefor shall be paid for by the owner within ten (10) days of the notification to the owner that the dog has been so vaccinated. If the owner refuses or neglects to pay such charges for such vaccination against rabies within ten (10) days after such notification, the owner or possessor thereof shall be deemed to have committed a misdemeanor and shall be subject to the penalties provided in the general penalty in section 1-4-1 of this code, and shall also be deemed to have committed a municipal infraction, and shall be subject to the civil penalties in section 1-4-4 of this code. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. (Ord. 09-20, 10-19-2009)

## 5-3-5: ANIMALS AT LARGE:

A. Dogs: No owner, keeper or harborer of any dog shall permit such dog to run at large on any street, alley, avenue, park or public ground of the city, or to trespass upon the private property of any property owner not the owner, keeper or harborer of such dog, within the city limits; and all dogs shall at all times when not on the premises of the owner, keeper or harborer, be restrained and under the strict control of some person in charge of such dog by means of a

rope, strap, chain or leash, securely fastened to such dog and held by such person so in charge. Any person violating any provision of this subsection shall be guilty of a misdemeanor and punished therefor as provided in the general penalty in section 1-4-1 of this code. In addition, any person violating any provision of this subsection shall be deemed to have committed a municipal infraction, the penalty for which is set forth in section 1-4-4 of this code. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. (Ord. 09-20, 10-19-2009)

B. Animals And Fowl: The herding or running at large of horses, mules, sheep, colts, swine or cattle or such other animals upon the streets, avenues, alleys, parks or public places or grounds within the city, or the herding of such animals on any unenclosed private grounds within the city, unless such animals are in the charge of a sufficient number of competent and discreet persons to prevent the escape of such animals from the control of the persons in charge, is prohibited and declared to be a nuisance. (Ord. A-397, 11-16-1981)

C. Livestock And Fowl:

1. Except as specifically authorized in this code, no person shall keep, harbor, house, maintain or allow to run at large any cattle, sheep, horses, mules, asses, goats, swine, chickens or other livestock or fowl within the city limits; provided, however, this section shall not prevent the keeping of such animals for use in race meets, parades, rodeos, fairs or other like events authorized by the city council, during the immediate preparation for and holding of such events.

2. Any persons violating any provisions of this subsection C shall be guilty of a misdemeanor and punished therefor as provided in section 1-4-1 of this code. Any person violating any provisions of this subsection C shall also be deemed to have committed a municipal infraction, punishable as provided in section 1-4-4 of this code. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. (Ord. 09-20, 10-19-2009)

## 5-3-6: ANIMAL NUISANCES:

A. Barking Dogs: It is unlawful for any person to own, keep or harbor any dog, male or female, which by loud, frequent barking, howling, nipping or yelping; or by trespassing upon the property of another, or which by any other manner or way causes annoyance or disturbance to any person in this city. (Ord. A-397, 11-16-1981)

B. Dog Feces: Any person who owns or is in control of a dog or other domestic animal that deposits feces in any city park, city boulevard or other city owned property, or in any other publicly owned property, or in any privately owned property, and who fails to promptly dispose of such feces in a trash receptacle, shall be guilty of a misdemeanor, and shall also be deemed to have committed a municipal infraction, unless the owner of such property consents thereto. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. (Ord. 09-20, 10-19-2009)

## 5-3-7: IMPOUNDMENT:

A. Authority:

1. Dogs: It is the duty of the animal control officer to impound every dog running at large contrary to any provision of this chapter. All dogs impounded will be held for ninety six (96) hours. If such impounded dog has a license or other identification tag, the Flathead County animal control center shall notify the owner of said dog, within one business day, by telephone or personal notice, that the dog has been impounded and where it may be redeemed.

   If, after the above prescribed time limit, such dog is not claimed by its owner and the appropriate fees not paid, the dog may be sold to a private individual upon payment of the necessary fees, and, if required, compliance with the licensing regulations. In the event an unclaimed dog is not sold to a private individual, it may be destroyed. All fees collected in behalf of the city shall be turned over to the city clerk.

2. Other Animals: It is the duty of the animal control officer to impound every animal or fowl running at large and/or known to him to be within the city limits contrary to any provision of this chapter. If an impounded animal or fowl is not redeemed within ninety six (96) hours, the animal or fowl shall be offered for sale. If the animal or fowl is not sold, it may be killed; provided, however, the owner of any impounded animal or fowl may redeem the same within such period of time by paying an impounding fee, a release fee, plus a maintenance fee for its keeping for each twenty four (24) hour period of time, or part thereof, that it is impounded. All amounts so collected on behalf of the city shall be turned over to the city clerk. (Ord. A-397, 11-16-1981; amd. 2003 Code)

B. Breaking Into Pound:

1. Prohibited: No person shall break open or injure the pound or in any manner aid or advise

breaking, opening or injuring the pound, nor shall any person hinder, delay or obstruct any officer while engaged in taking to the pound any dog liable to be impounded under the provisions of this chapter.

2. Violation; Penalty: Any person breaking open or otherwise injuring or in any manner, directly or indirectly, aiding, counseling or advising the breaking open or injuring the pound, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in the sum of not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00). Any person violating this subsection shall also be deemed to have committed a civil infraction, and shall be assessed a civil penalty of not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00). For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. (Ord. 09-20, 10-19-2009)

## 5-3-8: REPORTS REQUIRED:

During the first week of each month, the animal control officer and the police department shall present to the city manager a monthly report of the previous month's activities, including the number of licenses issued, animals impounded, animals destroyed, animals picked up by owners, animals returned to owners, citations issued, animals adopted, plus any other information pertinent to animal control. (Ord. A-397, 11-16-1981)

## 5-3-9: PROHIBITED ACTS AND CONDITIONS:

A. Causing Impoundment: Any person who takes or drives any animal from any enclosure, lot or tract of ground, or from any stable or other building, or from outside the city limits to within the city limits to any pound or with the intent that such animal shall be impounded, shall, upon conviction, be liable to a fine of not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00) for each animal so taken or driven from the place aforesaid. Any such person shall also be deemed to have committed a municipal infraction, and assessed a civil penalty of not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00) for each violation. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa.

B. Interfering With Animal Control Officer: Any person who hinders, delays or obstructs the animal control officer or police, or other persons while engaged in taking to the pound any animal or

animals liable to be impounded, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in a sum of not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00). Any such person shall also be deemed to have committed a municipal infraction, and assessed a civil penalty of not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00) for each violation. For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. (Ord. 09-20, 10-19-2009)

C. Interests Of Animal Control Officer: The animal control officer shall not purchase or be interested directly or indirectly in the purchase of any animals sold under the provisions of this chapter, under a minimum penalty of twenty five dollars ($25.00) for each animal, and the forfeiture of his office.

D. Trapping Of Furbearing Animals:

1. Definition: "Furbearing animal" shall mean a marten or sable, otter, muskrat, fisher, mink, bobcat, lynx, wolverine, northern swift fox or beaver.

2. Trapping Prohibited: It shall be unlawful for any person to trap or attempt to trap any furbearing animal within the city limits.

3. Exceptions: Nothing herein shall prevent or prohibit authorized employees of the department of fish, wildlife and parks from carrying out trapping activities when deemed necessary by said department. (Ord. A-397, 11-16-1981)

## 5-3-10: VIOLATION; PENALTY:

Every person owning or having in charge, or whose duty it is to restrain, control and keep all such animals mentioned in this chapter, while within the city, who, contrary to the provisions of this chapter, fails to prevent such animal or animals from going loose or unattended or uncontrolled upon the public streets, or straying or trespassing upon the premises of another, shall, upon conviction thereof, be deemed guilty of a misdemeanor and fined not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00). Such person shall also be deemed to have committed a municipal infraction, and shall be assessed a civil penalty of not less than twenty five dollars ($25.00) nor more than three hundred dollars ($300.00). For each separate incident, the city shall elect to treat the violation as a misdemeanor or a municipal infraction, but not both. If a violation is repeated, the city may treat the initial violation as a misdemeanor and the repeat violation as a municipal infraction, or vice versa. (Ord. 09-20, 10-19-2009)

# ARTICLE A. DANGEROUS DOGS

## 5-3A-1: PURPOSE:

The purpose of this article is to provide appropriate regulations for the determination of dangerous and potentially dangerous dogs, their registration, control, restraint requirements, surety bond, confiscation, disposal and penalties to protect the safety, health and well being of the public. (Ord. 93-7, 6-21-1993)

## 5-3A-2: DEFINITIONS:

ANIMAL CONTROL OFFICER: The duly authorized officers and/or deputies who are designated to implement the animal control programs or services for the city.

BODILY INJURY: An injury which may or should require treatment by a licensed medical professional.

DANGEROUS DOGS: Dogs that: a) create a danger or constitute a menace to public health and safety; b) any dog declared dangerous or vicious by the panel pursuant to subsection 5-3A-9A of this article; and c) are over three (3) months of age.

DOG BITE: Any contact between the dog's mouth and teeth and the skin or other parts or structures of the human body with visible evidence of trauma such as a wound, hemorrhage, change in coloration, swelling, etc., which may be associated with pain and/or discomfort.

OWNER: Any person, firm, corporation, organization or department or agency possessing, harboring, keeping, having an interest in or having care, custody or control of a dog, or is named on the dog license.

PANEL: Any panel of qualified individuals selected pursuant to section 5-3A-4 of this article.

POTENTIALLY DANGEROUS DOG: Any dog declared potentially dangerous or vicious by the panel pursuant to subsection 5-3A-8A of this article, and are over three (3) months of age.

PROPER ENCLOSURE: While on the owner's property, a dangerous or potentially dangerous dog shall be securely confined indoors, that is the owner's dwelling, residence, or garage, or in a securely enclosed and locked pen or structure, suitable to prevent young children from entering or reaching into and designed to prevent the dog from escaping. Such pen or structure shall have secure sides and bottom from which the dog cannot escape as by digging, climbing, leaping, etc. No porch, patio or any part of a dwelling or structure which would allow such dog to exit such building on its own volition through open windows or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure shall be considered to be a proper

enclosure.

TATTOO: A permanent identification number, provided by the city, tattooed on the dog's right inner thigh by a licensed veterinarian, or person trained as a tattooist in a manner that will provide positive individual identification of such dog and shall be duly registered with the city in connection with the licensing of said dog. (Ord. 93-7, 6-21-1993)

## 5-3A-3: KEEPING OF DANGEROUS DOGS:

It shall be unlawful to keep, harbor, own or in any way possess within the city limits a dangerous or potentially dangerous dog, unless registration, all restraints and conditions as hereinafter set forth in regards to dangerous or potentially dangerous dogs are fully complied with by the owner as hereinafter provided. (Ord. 93-7, 6-21-1993)

## 5-3A-4: PANEL ESTABLISHED:

The chief law enforcement officer of the city, or his designee, shall select and appoint a panel of three (3) qualified individuals, knowledgeable about dog behavior for the purpose of determining, in their opinion, as to whether or not the dog complained of is a dangerous or potentially dangerous dog. To the greatest extent practicable, the panel shall collectively represent a diverse background in dog behavior and in no case may all of the members of the panel be from the same discipline nor may a panel include any individual that may be connected to the case under consideration. For the purposes of this section, "qualified individuals" mean:

Animal behaviorists with at least a bachelors' degree in animal behavior
Dog behavior modification trainers
Dog breeders
Dog obedience judges
Law enforcement officers that are K-9 handlers
Recognized dog trainers
Veterinarians who treat dogs and cats

(Ord. 93-7, 6-21-1993)

## 5-3A-5: JUDICIAL PROCESS:

A. Petition For Hearing:

1. If an animal control officer has investigated and determined that there exists probable cause to believe that a dog is dangerous or potentially dangerous, the animal control officer shall petition the Whitefish city court for a panel hearing for the purpose of determining whether or not the dog in question should be declared dangerous or potentially dangerous.

2. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition.

3. The animal control officer shall notify the owner of the dog that a panel hearing will be held with the authority of the Whitefish city court, at which time he may present evidence to the panel as to why the dog should not be declared dangerous or potentially dangerous.

B. Establish Panel, Owner: The chief law enforcement officer, or his designee, shall, within three (3) working days of the order of the court authorizing the panel hearing requiring determination of whether a dog is dangerous or potentially dangerous:

1. Select and appoint the panel required herein, and set a date for a hearing before said panel. The hearing shall be held within fourteen (14) days after the owner is given notice.

2. Identify the owner of the dog involved in the incident and notify him, by certified mail, of the date, time and place of the hearing, the names of the panel members appointed and the basis or grounds for convening the panel.

C. Restraint Of Dog: If the dog is not restrained in a proper enclosure by the owner, the animal control officer may impound the dog until the panel makes its determination.

D. Notice After Hearing: After the hearing is conducted, the owner of the dog shall be notified in writing of the determination and orders issued, either personally or by first class mail. If a determination is made that the dog is dangerous or potentially dangerous, the owner shall comply with provisions made by the panel within thirty (30) days from the date the notice is mailed. If the owner contests the determination, he may, within five (5) days of the receipt of the notice, appeal the decision of the panel to the city court. (Ord. 93-7, 6-21-1993)

## 5-3A-6: APPEALS:

A. Notice Of Determination; Compliance:

1. After the panel hearing, the official conducting the hearing (who shall be either the chief law

enforcement officer of the city or his designee) shall notify in writing the owner of the dog, the animal control officer and the city court of the determination made by the panel.

2. If the owner does not contest the panel's finding, the owner shall comply with the restraint requirements of subsections 5-3A-8B and 5-3A-9B of this article, whichever applies as determined by the panel, in accordance with a schedule established by the panel, but in no case more than thirty (30) days subsequent to the date of determination.

B. Contested Determination:

1. If the panel's determination is contested, the contesting party may, within five (5) days of the determination, bring a petition in the city court requesting that the court conduct its own hearing on whether the dog should be declared dangerous or potentially dangerous or whether the conditions imposed on the owner of the dog are appropriate.

2. After service of the notice upon the parties to the action, the court shall conduct a hearing and make its determination.

3. If the court finds by a preponderance of the evidence that the dog is dangerous or potentially dangerous, the court shall establish a schedule to ensure compliance with subsection 5-3A-8B or 5-3A-9B of this article, but in no case may complete compliance be allowed more than thirty (30) days subsequent to the date of the court's determination. (Ord. 93-7, 6-21-1993)

## 5-3A-7: IMPOUNDMENT AND BOARD FEES:

An initial impoundment fee shall be charged for each dog and a board fee shall be charged for each day a dog is in the custody of the animal control center or the animal control officer, in accordance with a fee schedule set from time to time by the city council resolution. The refusal or failure of the owner of a dog to pay the impoundment fee and board fee after notification shall be deemed an abandonment of the dog by the owner. All veterinary bills or professional service bills incurred during the impoundment shall be paid by the owner in addition to the impoundment fee and board. These fees apply to each animal impounded. (Ord. 93-7, 6-21-1993)

## 5-3A-8: POTENTIALLY DANGEROUS DOG PROCEDURES:

A. Declaration:

1. The panel shall declare a dog to be potentially dangerous if it finds the dog, when unprovoked, engages in any behavior that requires a defensive action by any person to

prevent bodily injury or property damage when the person and the dog are off the property of the owner of the dog.

2. A dog may not be declared potentially dangerous if the injury or threat was sustained by a person who:

   a. Was committing, at the time, a wilful trespass or other tort upon the premises occupied by the owner;

   b. Was provoking, tormenting, abusing or assaulting the dog or can be shown to have in the past provoked, tormented, abused or assaulted the dog; or

   c. Was committing or attempting to commit a crime.

3. The provisions of this subsection do not apply to dogs used by law enforcement officials for police or similar work.

B. Restraint Requirements:

1. If the panel declares a dog to be potentially dangerous, it shall issue its written findings of fact, its determination, an order and a schedule for compliance which shall require the owner to comply with the following conditions:

   a. To display, in a conspicuous manner, a clearly visible warning sign, including a warning symbol for children, that there is a potentially dangerous dog on the premises. The sign shall be a standardized sign, as determined by the panel.

   b. To immediately erect or maintain a proper enclosure for the potentially dangerous dog.

   c. To confine the potentially dangerous dog in the proper enclosure, except that if the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial leash and must be under the physical restraint of a responsible person who is at least eighteen (18) years of age. The muzzle must be made in a manner that will prevent the dog from biting any person but that will not cause injury to the dog or interfere with its vision or respiration.

   d. To notify the chief law enforcement officer if the potentially dangerous dog is at large.

   e. To notify the chief law enforcement officer within forty eight (48) hours of the death, sale or donation of a potentially dangerous dog.

   f. Prior to selling or donating the dog, inform the prospective owner in writing that the dog has been declared potentially dangerous.

   g. The city may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a potentially dangerous dog.

2. In addition, the panel may require the owner to comply with the following conditions:

a. That the owner of the dog be at least eighteen (18) years of age; or

b. That the owner of the dog receive instruction in dog obedience training;

c. Any other actions deemed necessary by the panel.

3. After a dog has been determined to be potentially dangerous by the panel and the owner has complied with the recommendations of the panel, the owner may petition the panel for reconsideration of its determination. (Ord. 93-7, 6-21-1993)

## 5-3A-9: DANGEROUS DOG PROCEDURES:

A. Determination:

1. The panel shall declare a dog dangerous if it finds by a preponderance of the evidence that the dog, when unprovoked, in an aggressive manner:

   a. Caused serious bodily injury to a person or killed a person;

   b. Bites or kills a domestic animal without provocation while off the dog owner's property; or

   c. Has been found to be potentially dangerous and that without provocation, after the owner knows that the dog is potentially dangerous, aggressively bites, attacks or endangers the safety of humans or domestic animals.

2. A dog may not be declared dangerous if the person who was injured or killed:

   a. Was committing, at the time, a wilful trespass or other tort upon the premises occupied by the owner;

   b. Was provoking, tormenting, abusing or assaulting the dog or can be shown to have in the past provoked, tormented, abused or assaulted the dog; or

   c. Was committing or attempting to commit a crime.

3. The provisions of this subsection do not apply to dogs that are used by law enforcement officials for police or similar work.

B. Restraint Requirements:

1. If the panel declares a dog to be dangerous, it shall issue an order and a schedule for compliance which shall require the owner to comply with the following conditions:

   a. To display, in a conspicuous manner, a clearly visible warning sign, including a warning

symbol for children, that there is a dangerous dog on the premises. The sign shall be a standardized sign, as determined by the panel.

b. To immediately erect or maintain a proper enclosure for the dangerous dog.

c. To confine the dangerous dog in the proper enclosure, except that if the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial leash or chain of not more than six feet (6') in length and must be under the physical restraint of a responsible person who is at least eighteen (18) years of age. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

d. To notify the chief law enforcement officer if the dangerous dog is at large.

e. To notify the chief law enforcement officer within twenty four (24) hours of the death, sale or donation of a dangerous dog.

f. The owner has a surety bond issued by a surety company authorized to do business in this state, in a form acceptable to the city, in the sum of at least fifty thousand dollars ($50,000.00), payable to any person injured by the dangerous dog or a liability insurance policy issued by an insurance company authorized to do business in this state in the amount of at least fifty thousand dollars ($50,000.00), insuring the owner for any injuries inflicted by the dangerous dog.

g. The city may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog.

h. The owner shall, at his own expense, have the registration number assigned to the dangerous dog by the city tattooed on the dog's right inner thigh.

i. That the owner of the dog be at least eighteen (18) years of age.

2. If the owner of a dog that has been designated dangerous is unwilling or unable to comply with the above regulations for keeping such an animal, then he should have the animal humanely euthanized by an animal shelter, animal control agency or licensed veterinarian, after a seven (7) day holding period. Any dog that has been designated as dangerous under these laws may not be offered for adoption. (Ord. 93-7, 6-21-1993)

## 5-3A-10: CONFISCATION:

A. Seizure: The animal control officer shall seize a dangerous dog if:

1. The owner knows that the dog is dangerous and the dog is not validly registered under subsection 5-3A-9B of this article;

2. The owner knows that the dog is dangerous and the owner does not secure the proper liability insurance or surety coverage as required under subsection 5-3A-9B of this article; or

3. The dog is not maintained in a proper enclosure or is outside the proper enclosure and not under physical restraint as required under subsection 5-3A-9B of this article.

B. Reclaiming Dog: After notification by the animal control officer, a dangerous dog seized pursuant to subsection A of this section may be reclaimed by the owner upon payment of impounding and boarding fees and the presentation of proof to the animal control officer that the reasons for the seizure of the dog have been or will be cured. A dog not reclaimed under this subsection within seven (7) days after notification may be humanely destroyed and the owner is liable to the city for costs incurred in confining and destroying the dog.

C. Destruction Of Dog: If an owner of a dog is convicted of a violation for which the dog was originally seized, a court may order that the dog be confiscated and humanely destroyed and that the owner pay the cost incurred in confiscating, confining and destroying the dog.

D. Subsequent Violations:

1. If an owner of a dog has been convicted of a misdemeanor for violating a provision of subsection 5-3A-8B or 5-3A-9B of this article, and the owner is charged with a subsequent violation relating to the same dog, the dog must be seized by the animal control officer, and if the owner is convicted of the subsequent violation, the court shall order that the dog be humanely destroyed and that the owner pay the cost of confiscating, confining and destroying the dog.

2. If the owner is not convicted of the subsequent violation, the owner may reclaim the dog upon payment of impounding and boarding fees. If the dog is not reclaimed by the owner within seven (7) days after the owner has been notified that the dog may be reclaimed, the dog may be humanely destroyed and the owner is liable to the city for the costs incurred in confining and destroying the dog.

E. Procedures During Appeal: The dog may not be destroyed during the pendency of an appeal. (Ord. 93-7, 6-21-1993)

## 5-3A-11: VIOLATIONS; PENALTY:

Any person violating or permitting the violation of any provision of this article shall, upon conviction

in city court, be fined a sum of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) for the first offense. In addition to the fine imposed, the court may sentence the defendant to imprisonment for a period not to exceed thirty (30) days. On second offense, the dog will be confiscated and turned over to the animal control officer to be destroyed in the most humane way possible. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, veterinary fees, disposal and handling necessitated by the enforcement of this article. (Ord. 93-7, 6-21-1993)