

ORDINANCE NO. 2007-01-019

**AN ORDINANCE AMENDING CHAPTER 4 OF THE CITY OF URBANA CODE
IN REGARD TO ANIMAL IMPOUNDMENT, ADJUDICATION OF
OWNERSHIP RIGHTS, FINES, ADMINISTRATIVE REVIEW PROCEDURES,
AND OTHER AMENDATORY CHANGES**

WHEREAS, animal control issues are a frequent source of City services in the Urbana community;

WHEREAS, many animal control cases go before the City's Hearing Officer and to the Circuit Court for adjudication;

WHEREAS, such proceedings have identified some short comings and ambiguities in the City's existing Ordinance;

WHEREAS, animal control costs, especially for impoundment, have escalated in recent years; and,

WHEREAS, the City of Urbana tax payers should not shoulder thousand of dollars in costs for isolated incidents of impoundment and medical care while the offending party pays little or nothing,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. Chapter 4, Animals and Fowl, of the Code of Ordinances of the City of Urbana is amended, with the underlined text indicating new language and the strike through text indicating deletions:

**CHAPTER 4
ANIMALS AND FOWL**

Sec. 4-1. Definitions.

The following words and phrases, when used in this chapter, shall have the following meanings respectively ascribed to them:

A day shall mean a calendar day consisting of a twenty-four (24) hour period from one midnight to the next succeeding midnight.

Animal shall mean any vertebrate species, other than man.

Animal shelter shall mean the agency or business that has contracted with the city to provide impoundment and animal shelter services.

At large shall mean off the premises of the owner and not under the control of a leash of the owner, possessor or keeper. For the purposes of this chapter, voice control shall not be considered as control.

Attack means to strike or lash out at, with the intent to harm. As used in this Chapter, the term shall not require actual physical injury to be inflicted in order to be deemed an “attack”.

Dangerous animal shall mean any individual animal which when either unmuzzled, unleashed, or unattended by its owner, or a member of the owner's family, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon streets, sidewalks, any other public place, or any property other than the property of the animal's owner. No dog shall be declared dangerous solely because of its breed.

Dog means all members of the family Canidae.

Found to be dangerous shall mean that the hearing officer or a court of competent jurisdiction has found the animal to be a "dangerous animal" as defined in this section and has entered an order based on that finding.

Found to be vicious shall mean that the hearing officer or a court of competent jurisdiction has found the animal to be a "vicious animal" as defined in this section and has entered an order based on that finding.

Hearing officer means the animal control officer or a designee appointed by the animal control officer, animal control warden, or by the city attorney.

Leash shall mean a cord, rope, strap or chain securely fastened to an animal by a collar or harness, and of sufficient strength to keep such animal under control.

Owner, possessor or keeper shall mean any person having a right of property in an animal, who keeps or harbors an animal, or has it in his/her care, or acts as its custodian, exerts control over it, or who knowingly permits an animal to remain on or about premises owned or occupied by such person.

Vicious animal means:

(1) Any individual animal:

- a. That when unprovoked inflicts bites or attacks a human being or a domestic animal either on public or private property;
- b. With a known propensity, tendency, or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- c. That has as a trait or characteristic and a generally known reputation for viciousness, dangerousness, or unprovoked attacks upon human beings or other domestic animals; or
- d. Which when either unmuzzled, unleashed or unattended by its owner, possessor or keeper, in a vicious or terrorizing manner, has approached any person in an apparent attitude of attack upon streets, sidewalks, any public grounds or places, or any property not owned or occupied by its owner, on three (3) or more separate occasions.

(2) No animal shall be deemed "vicious" solely because it is a professionally trained dog for law enforcement or guard duties, or if it bites, attacks, or menaces anyone who has tormented or abused it and the animal's response is proportionate to the provocation.

(3) No dog shall be classified as vicious solely because of its breed.

Sec. 4-2. Animal control warden; enforcement of chapter.

(a) The chief of police shall be ex officio animal control warden for the city. Provision shall be made for the appointment of such animal control officers as may be necessary. The animal control officers employed by contractual agreement or otherwise, shall be authorized to investigate matters regarding the provisions of this chapter and issue

citations for violations of this chapter. The animal control warden is charged with enforcement of this chapter.

(b) Any violation of this chapter is hereby declared to be a nuisance. In addition to any other relief provided by this chapter, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of the provisions of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(c) A separate offense under this chapter shall be deemed committed on each day during or on which a violation occurs or continues.

Sec. 4-3. Animal shelter.

The city shall contract with an animal shelter to provide services to include the impounding of all animals delivered to the shelter by authority of the animal control warden. The shelter shall maintain a pound enclosure or other suitable means for impounding such animals in accordance with the provisions of this chapter and the applicable provisions of the laws of the state. All such animals shall be kept, maintained, humanely treated and fed by the shelter until redeemed or otherwise disposed of in accordance with this chapter.

Secs. 4-4, 4-5. Reserved.

Sec. 4-6. Cruelty to animals.

(a) No person shall commit cruelty to animals. A person commits cruelty to animals when that person knowingly:

(1) Confines the animal in such a manner so that it is forced to stand, lie, or sit in its own excrement;

(2) Fails to provide living quarters of sufficient size to exercise and move about;

- (3) Fails to provide quarters that are protected from excessive heat or cold, precipitation, wind, or other effects of the elements;
 - (4) Fails to keep an animal in a clean, sanitary and healthy manner;
 - (5) Deprives the animal of proper veterinary care or adequate sustenance;
 - (6) Tethers an animal with a choke chain;
 - (7) Tethers an animal on a leash of a weight or in such a manner that prevents the animal from moving freely without entanglement;
 - (8) Abandons, overworks, tortures, or torments any animal;
 - (9) Unjustifiably kills or injures any animal, or attempts to kill or injure any animal in a cruel or unjustifiable manner;
 - (10) Kills or injures a domestic animal not belonging to him;
 - (11) Allows an animal to remain unattended by a competent person in an enclosed motor vehicle when the outside ambient air temperature exceeds eighty (80) degrees Fahrenheit or confines an animal in an area without adequate air circulation;
 - (12) Crops an animal's ear, docks an animal's tail or performs other surgeries except as a licensed veterinarian of the State of Illinois; or
 - (13) Causes, instigates permits, facilitates aids, abets, encourages, or attends any fight or other combat between animals or between animals and humans.
- (b) Any person who causes, instigates, permits, facilitates, aids, abets, or encourages any violation of this section shall be guilty of the violation.
- (c) Cruelly treated animals shall be impounded, may be given medical care at the owner's expense, and may be euthanized at the owner's expense when appropriate in the judgment of the animal control officer to prevent further suffering. If there is a plea or finding of "guilty", the defendant shall be responsible for all costs, including the cost of

impoundment, which the City has incurred from the date of impoundment through the conclusion of court proceedings. The owner shall be responsible for all medical costs incurred for the animal during impoundment, without regard to guilt or innocence.

(d) If circumstances warrant, the City may seek to terminate ownership rights to an abused animal as well as seek a fine in court proceedings. If the court terminates such rights, it shall also determine whether the subject animal is a suitable candidate for adoption or should be euthanized in the best interests the public and the animal. Such findings shall be based on the evidence presented. However, the Court shall treat prior adjudications for torture, abuse, mistreatment, negligence or fighting as a rebuttable presumption of unsuitability for continued ownership and care of an animal.

Sec. 4-7. Animals for use in entertainment.

(a) No person may use, own, capture, breed, train or lease any animal which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and another animal or human; or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall own, possess, offer for sale, ship, or transport any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between the animal and another animal or a human; or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(c) No person shall make available any site, structure or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purposes of conducting any show, exhibition, program, or other activity involving a fight between the animal and another animal or human; or the intentional killing of any animal for sport, wagering or entertainment.

(d) No person shall attend or otherwise patronize any show, exhibition program, or other activity featuring or otherwise involving a fight between two (2) or more animals or an

animal and a human; or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(e) Any person who shall cause, instigate, permit, facilitate, aid, abet, or encourage any offense specified in this section shall be guilty of committing the offense.

Sec. 4-8. Seizure and disposition of animals and other items illegally used in entertainment.

(a) Law enforcement officers with the police department for the City of Urbana shall seize and impound any and all animals and seize any equipment, money or other proceeds utilized in or directly related to any violation of section 4-7 herein. Animals and other items impounded or seized shall be held for evidence and for final disposition by the court.

(b) The city shall give notice to the person from whom the animals, equipment, money or other proceeds were seized pursuant to paragraph (a) above, or to the person in possession as owner, or lessee of the premises where said items were found, or if the names of any of these persons are unknown to the city, by posting notice upon the outer door of the premises. The notice shall be directed to any person claiming an interest in the property or money, to come before the court on a specified date, not less than three (3) days from the date of the notice, and to show cause, if any, why the items should not be sold at public auction as contraband, or otherwise be forfeited as contraband to the city for disposition as authorized herein.

(c) If in the court's opinion, after a full hearing, or upon the default of those notified to appear, it appears to the court that the items seized are in fact contraband, the court shall order disposition of said items in one or more of the following ways:

(1) Any animals forfeited under this section shall be either humanely euthanized, offered for adoption, or otherwise disposed of in accordance with any controlling Champaign County or City of Urbana ordinances, or provisions of state law.

(2) Any money forfeited under this section shall be forfeited to the city treasury.

(3) Any other items forfeited under this section shall be sold at a public auction to the highest bidder for cash, and the proceeds paid into the city treasury.

(d) Any defendant found guilty under Section 4-7 shall be liable for any and all costs the City has incurred, including, but not limited to, impoundment costs, veterinary care costs, and the cost of euthanasia (if utilized). All such costs shall be in addition to fines and court costs, not in lieu of them

Sec. 4-9. Prohibition of use of dogs in conjunction with criminal acts.

No person who owns, possesses, or controls any dog shall use the dog to further a criminal act, nor suffer or permit the dog to be so used. If the dog's behavior impedes law enforcement efforts to investigate or stop criminal behavior, to make any stop or arrest, or to serve any warrant or execute any search or seizure, the dog shall be irrebutably presumed to have been so used. In addition to forfeiture of the dog, any person violating this section shall be fined no less than ~~five hundred dollars (\$500.00)~~ seven hundred fifty dollars (\$750).

Sec. 4-10. Seizure and disposition of dogs used in violation of section 4-9.

(a) Any dog used in violation of section 4-9 shall be impounded at the owner's expense and held for final disposition by the circuit court at a hearing on the violations of section 4-9. If the name and address of an owner of the dog can be readily ascertained, then the city shall give written notice to the owner by mail, service of summons, personal service, or other means reasonably calculated to give actual notice, at least ten (10) days prior to any hearing on the violation of section 4-9, informing the owner that the dog may be subject to forfeiture because of the violation of section 4-9.

(b) If the court finds that the dog was used in violation of section 4-9, then the dog shall be forfeited, and shall either be humanely euthanized, offered for adoption, or otherwise disposed of in accordance with any controlling Champaign County or City of Urbana ordinances, or provisions of state law. If, at the hearing on the violation of section 4-9, the court finds in favor of all defendants regarding the alleged violation and dismisses the charge, then the dog shall be released to any individual who can establish ownership in

the dog, subject to the payment of any fees owed for the dog's impoundment. If no one attempts to reclaim the dog within seven (7) days of the court's finding in favor of all defendants on the violation of section 4-9, then the dog shall be disposed of as an abandoned dog.

(c) If the owner of the dog cannot be readily ascertained, and no person comes forward to the animal shelter within seven (7) days of the dog's impoundment to notify the shelter of the person's ownership of the dog, the dog shall be disposed of as an abandoned dog.

Sec. 4-11. Mistreating, interfering with, etc., police dogs.

It shall be unlawful for any person to willingly or maliciously torture, torment, beat, kick, mutilate, injure, disable, or kill any dog used by the city police department in the performance of the functions or duties of such department or to interfere with or meddle with any such dog while being used by the department or any officer or member thereof in the performance of any of the duties or functions of the department or of such officer or member.

Sec. 4-12. Disturbing the peace.

(a) If a warning in substantially the manner required in the subsection (b) is first provided, then it shall be unlawful for any person to own, possess, or keep any animal which makes noise with such frequency, volume, character, or duration as to disturb the peace and quiet of the neighborhood.

(b) A warning shall mean to make known to the person(s) responsible that one or more person(s) is annoyed or disturbed by the sound being created. A verbal or written warning shall be given to any person(s) whom the person issuing the warning reasonably believes to be the owner, possessor, or keeper of the animal. Such warning may be given by either a police officer or a private citizen and shall be given not greater than ninety (90) days prior to the continuation or reoccurrence of the noise which results in the violation charged.

(c) The offense specified by this section shall be an absolute liability offense.

Sec. 4-13. Diseased animals.

(a) No animal afflicted with a contagious or infectious disease shall be allowed to be exposed in any public place where the health of people or animals may be affected.

(b) If an animal subject to impoundment is or becomes afflicted with a highly contagious or highly infectious disease during the pendency of court proceedings, the City, after notice to the owner, may have the animal euthanized if the owner is unable or unwilling to post a bond sufficient to pay for the required veterinary care. If an impounded animal's condition poses an imminent threat to public health and safety, the animal control officer, based on competent veterinary opinion, may have the animal euthanized, providing that a written report setting forth the relevant facts and nature of the threat is filed with the Court in any pending case.

Sec. 4-14. Rabies vaccination required--Dogs.

(a) Every owner of any dog kept in the city limits, or who harbors a dog on the premises owned or occupied by that person in the city limits, shall have the dog vaccinated against rabies by a licensed veterinarian in compliance with the State Animal Control Act (510 ILCS 5/1 et seq.), and to keep the dog properly tagged showing continuing compliance with this section. If a vaccine capable of conferring immunity for more than one year is used, additional tags designating those years shall be obtained and displayed.

(b) Violation of this section shall be an absolute liability offense.

Sec. 4-15. Rabies vaccination required--Cats.

(a) Every owner of any cat kept in the city limits, or who harbors a cat on the premises owned or occupied by that person in the city limits, shall keep the cat vaccinated against rabies by a licensed veterinarian. Every such person shall display evidence of current immunization of the cat upon demand made by any duly authorized officer or agent of the city. If the owner does not display such evidence of vaccination, the cat is subject to impoundment.

(b) Violation of this section shall be an absolute liability offense.

Sec. 4-16. Collar requirements.

Every owner of a dog within the city limits of Urbana shall keep a collar or harness with the proper rabies tag on the dog. The identification tag shall contain the owner's name and address. Every owner of a cat within the city limits of Urbana shall keep current identification with the owner's name and address on the cat, either by an identification tag or by microchip identification implanted under the cat's skin. Any dog or cat found within city limits without a required collar or harness and tag, or without required identification, shall be subject to impoundment.

Sec. 4-17. Procedure as to animal which has bitten human being or exhibits signs of rabies.

(a) This section applies whenever any animal could constitute a rabies threat. An animal constitutes a rabies threat if the animal has bitten a person, has been reported to have bitten a person, or exhibits clinical signs of rabies.

(b) Whenever any animal constitutes a rabies threat, the owner of the animal shall immediately notify the animal control officer who in turn shall notify the person designated by the Champaign County Board as the administrator of the provisions of the Animal Control Act (501 ILCS 5/1 et seq.), hereinafter referred to as the county animal control administrator.

(c) The owner of an animal which constitutes a rabies threat shall immediately surrender the animal to the custody of the animal control officer or the county animal control administrator for impoundment. No person knowing or suspecting that an animal constitutes a rabies threat may allow the animal to be taken off the person's premises or beyond the city limits without the written permission of the animal control officer or the county animal control administrator. If the owner refuses to surrender the animal, the animal control officer may lawfully enter upon the premises where the animal is located and may seize and impound it for the purposes of this section.

(d) Every physician shall, within twelve (12) hours after the physician's first professional attendance upon any person bitten by a dog or other animal, report to an animal control

officer, the name, age, sex, race and precise location of the person so bitten. When a physician is not in attendance of a person bitten by an animal, then any person in charge of or in control of or responsible for the person bitten shall report the incident to an animal control officer and provide the name, age, sex, race, and precise location of the person so bitten.

(e) Whenever the animal control officer determines that an animal constitutes a rabies threat, the animal shall be impounded or confined in a place selected by the animal control officer or county animal administrator and placed under observation of a licensed veterinarian, at the owner's expense, for a period of ten (10) days, to determine whether the animal has rabies.

(f) When evidence is presented that the animal was inoculated against rabies within the time prescribed by law, it may be confined in the house of its owner, or in a manner which will prevent it from biting any person or animal for a period of ten (10) days, if the animal control officer or the county animal administrator adjudges such confinement satisfactory, but only if the animal control officer is afforded the opportunity at any reasonable time to monitor the animal and examine it for symptoms of rabies. At any time, the animal control officer may require change in the conditions of confinement.

(g) If required under the circumstances, the animal control officer may summarily destroy an animal that constitutes a rabies threat.

(h) If the animal is found to be suffering from rabies, it shall be destroyed.

(i) If the animal dies while under observation, its head shall be sent to the State Department of Health for examination for rabies.

(j) For the purposes of this section, if a trained dog used by law enforcement officers in the course of their law enforcement activities has bitten a person, that dog may be confined by having the dog continue in custody of its police dog handler.

(k) If an animal is known or suspected to have been bitten by an animal that constitutes a rabies threat or is otherwise suspected of being affected by rabies, whether or not the

exposed animal has been inoculated against rabies, the animal control officer may order such confinement or impoundment of the exposed animal as appropriate.

(l) An animal that is confined or impounded may not be released from confinement or impoundment, even after the passage of the period of confinement or impoundment, except upon written findings by a licensed veterinarian, satisfactory to the animal control officer or warden, that the animal does not have rabies.

Sec. 4-18. Killing threatening animals.

If any animal shall be found running at large and cannot be taken up or tranquilized and impounded, such animal may be slain by any police officer or agent authorized to perform any duty under this chapter, when it is necessary for the protection of any person or property.

Sec. 4-19. Exposing dead animals to view.

(a) No person shall haul, drag, transport, or otherwise move any dead animal along or upon any street, alley or other public place within the city unless such dead animal is wholly covered so as to conceal the same from view.

(b) No person within the city shall skin or otherwise mutilate any dead animal within the view of any public place or within the view of any private property other than the private property owned or controlled by said person.

Sec. 4-20. Holding for reward strayed or stolen animals.

No person shall harbor or hold for reward an animal which strayed upon the person's premises or which has been picked up on a public street, highway or other public place unaccompanied by its owner or other person, or which has been stolen from its owner.

Sec. 4-21. Stray animals.

Any person who picks up any stray animal shall promptly notify the city's animal control officer or the city's contracted animal shelter.

Sec. 4-22. Reserved.

Sec. 4-23. Animals running-at-large.

(a) Dogs.

(1) No owner of any dog shall permit such animal to run at large or to be on any public right-of-way or property other than that of the owner or a dog-park designated by the park district without being securely restrained by a leash or other physical means.

(2) Any dog running at large is hereby declared a nuisance and may be impounded as provided in this division.

(3) If a dog is on the owner's property it is at large if it is not contained on the property by means of a fence, chain, leash, competent supervision, or other visible means of restraint sufficient to protect persons or animals not on that property.

(b) Cats.

(1) It is the affirmative responsibility of every owner, possessor, or keeper of a cat to ensure that the cat does not enter onto the property of any other person who has informed the owner, possessor, or keeper of the cat, either verbally or in writing, that the property owner or the person who has lawful possession of the property does not want the cat on that property. Failure to comply with this paragraph shall constitute an offense.

(2) The notice may be given by the person who has lawful possession of the property, the owner of the property, or by a law enforcement officer or animal control officer on that person's behalf. Notice given to any adult member of the household at which the cat is kept shall suffice for purposes of this section to be notice to every owner, possessor, or keeper of the cat at that household. Notice may be given by any means reasonably calculated to apprise the owner, possessor or keeper of the cat of the content of the notice.

(c) The offenses specified by this section are absolute liability offenses.

Sec. 4-24. Impoundment.

An animal is subject to impoundment if it:

- (1) Is found within the city without proper rabies tag or identification tag;
- (2) Is found to run at large, is lost, is apparently abandoned, or is otherwise deemed a stray;
- (3) Has been treated cruelly, or is in distress or in imminent danger of harm to its safety or health;
- (4) Has bitten any person or animal, or is believed to have otherwise behaved in a threatening, dangerous, terrorizing, or vicious manner;
- (5) Has been found to be dangerous, unless it has at all times been kept restrained and muzzled as required by this chapter;
- (6) Has been found to be vicious;
- (7) Is believed to be a source or threat of rabies or other infectious disease, is otherwise diseased, or presents a hazard to public health;
- (8) Is a female dog or cat that is readily accessible to a male of the same species during periods of estrus (heat) for said female dog or cat, whether said female dog or cat is on or off the property of its owner, except as part of a planned and supervised breeding;
- (9) Has been used in violation of section 4-7 regarding animals used in entertainment;
- (10) Has been found during a violation of section 4-9 regarding possession of dogs in conjunction with certain drug offenses; or
- (11) Is otherwise subject to impoundment under any other section of this chapter or state law.
- (12) The owner shall be responsible for all costs incurred during impoundment including the pro rata cost of impoundment incurred by the city.

Sec. 4-25. Notice of impoundment.

(a) Immediately after receiving any animal for impounding, it shall be the duty of the animal shelter to enter upon the records of the pound in a book to be kept by the animal shelter for such purpose the date of impounding, a description of the animal impounded, and a record as to whether or not such animal has been inoculated and tagged with a proper rabies tag as required by this chapter.

(b) Public notice of the impounding of such an animal shall be given by posting one copy of the description of such an animal and date of impoundment at the pound.

Sec. 4-26. Disposition of impounded animals.

(a) Dogs, cats, and other animals may be redeemed from impoundment only upon compliance with this section and only when otherwise permitted by this chapter.

(b) No animal may be redeemed from impoundment unless its owner first pays the impoundment fee as prescribed in section 14-7 of this Code, the daily impoundment fee, the rabies vaccination fee, and any other costs for spaying or neutering, veterinary, or other care.

(c) Animals subject to proceedings to determine whether they are dangerous or vicious may be redeemed from impoundment only at such time as permitted under those proceedings.

(d) If any impounded dog or cat has not been vaccinated against rabies, the impounder shall notify the county rabies control, giving the name and address of the owner. No dog or cat that has been impounded may be released unless it has first been vaccinated for rabies or unless the owner demonstrates that the animal has a current vaccination against rabies.

(e) No dog or cat which is not neutered or spayed, and which has three times been found to roam at large, may be returned to its owner unless it has first been neutered or spayed at the expense of the owner. The neutering or spaying requirement may be satisfied either

by having the procedure performed at the place of impoundment or by having the cat delivered to a veterinarian of the owner's choice for performance of the procedure.

(f) Dogs subject to proceedings regarding whether they were possessed in conjunction with certain drug offences may be redeemed from impoundment only at such time as permitted under those proceedings.

(g) Any animal impounded and not redeemed within seven (7) days after being impounded or, in the case of an animal subject to proceedings regarding dangerousness or viciousness, within seven (7) days after the animal is authorized to be redeemed from impoundment, shall be disposed of in a manner consistent with the laws of the state.

Sec. 4-27. Dangerous animal or vicious animal--Hearing and determination.

(a) Notice. The date of service of any notice under this section shall be either the date of personal service or three (3) days from the date that the notice was mailed.

(b) Administrative hearing to be conducted. If the animal control warden, officer or a police officer determines that there exists probable cause to believe that an animal is a dangerous animal or a vicious animal:

(1) The animal shall be impounded; and

(2) An administrative hearing shall be conducted to determine whether that animal is a dangerous animal or a vicious animal.

(c) Notice and time for hearing. The owner of the animal shall be served with a notice of the administrative hearing, either personally or by first class mail to the owner's last known address. The hearing shall be held promptly within not less than five (5) working days nor more than fifteen (15) working days after service of the notice upon the owner, possessor, or keeper of the animal. The service of a notice to appear in the circuit court on an ordinance violation charge, even if that notice refers to charges of vicious or dangerous animals, shall not start the running of the clock for the administrative hearing process.

(d) Conduct of hearing. The hearing shall be open to the public and shall be recorded. The hearing officer may admit into evidence all relevant evidence, including incident reports and the affidavits of witnesses, and live testimony. The hearing officer shall determine, based upon a preponderance of the evidence, whether the animal is a dangerous animal or a vicious animal. If the notice of the hearing charges that the dog is vicious, but does not charge that the dog is dangerous, the hearing officer may nevertheless determine that the dog is dangerous rather than vicious, if the evidence so warrants.

(e) Notice of determination. The owner of the animal shall be notified in writing of the determination of the hearing officer either personally or by first class mail to the owner's last known address.

(1) If the determination is that the animal is neither dangerous nor vicious, the owner may redeem the animal as otherwise provided in this chapter. The owner shall not be required to pay those daily impoundment fees that are attributable solely to pendency of the administrative hearing but shall be required to pay all other fees.

(2) If the determination is that the animal is dangerous, the owner may redeem the animal as otherwise provided in this chapter, subject to the requirements in this chapter regarding animals found to be dangerous. The owner shall be responsible for all impoundment fees incurred prior to release. The animal shall not be released until all fees due have been paid.

(3) If the determination is that the animal is vicious, the animal may not be redeemed, and the notice shall also state that the animal shall be euthanized within five (5) working days of the date of the notice unless the owner requests a stay of ten (10) working days during which to file a complaint for court review of the hearing officer's determination.

(f) Failure to appear. If the owner of the animal cannot be found or does not appear in person or by legal counsel for the hearing, the hearing officer shall make a determination by default, without need of any testimony or other evidence, that the animal is vicious or dangerous, as well as abandoned, and the animal shall be euthanized without further notice to the owner.

(g) Time for euthanasia--Stay. Upon a determination that the animal is vicious, it shall be euthanized after five (5) working days from the date of the notice to the owner, unless the owner within that time period delivers to the animal control warden at 400 S. Vine St., Urbana, IL 61801, a request to stay the euthanasia for a period of ten (10) working days for the purpose of filing a complaint for court review of the hearing officer's determination. If, at the end of that period, the city has not received notice that a complaint has been filed, the animal shall be euthanized without further notice to the owner.

(h) Hearing Officer determinations shall be subject to administrative review pursuant to the provisions of Article III of the Illinois Code of Civil Procedure, 735 ILCS 5/3-101 et. seq. The owner shall be responsible for all costs incurred by the City to prepare the record for the court, including all transcription fees. The owner shall post a bond with the court sufficient to cover these costs pursuant to Section 3-109 and Section 3-111 of the Administrative Review Law, this bond to be tendered prior to the commencement of any hearing on the merits. If the City prevails in the administrative review proceeding, it shall also be entitled to a judgment for the cost of impoundment of the subject animal during the pendency of all proceedings.

Sec. 4-28. Keeping of dangerous animals.

(a) No person shall keep or harbor any dangerous animal in violation of this section within the city. Such animals are hereby declared nuisances and are subject to impoundment.

(b) All owners or keepers of animals found to be dangerous must post in clear view at all times, and in the most conspicuous or prominent point of entry to the premises, a sign indicating dangerous animal on the premises. Such sign shall be at least eight and one-half (8 1/2) inches by eleven (11) inches in size, and shall contain in words and pictures, a clear indication that a dangerous dog or animal is on the premises.

(c) All animals found to be dangerous must be controlled by a leash of no more than three (3) feet in length and of appropriate strength whenever the animal is not contained within

an enclosed area or structure located on the owner's or keeper's property from which the animal could not voluntarily leave.

(d) No person shall transfer, sell or give away to any person within the city any animal that has been found to be dangerous, unless the transferor, prior to the transfer, informs the receiving party of the finding and notifies the animal control warden of the pertinent details of the transfer.

(e) It is not the intent of this chapter to prohibit law enforcement officers from using any trained dog that may attack on command, provided that each such dog must be in the presence of its handler or confined in accordance with police department policy at all times.

Sec. 4-29. Keeping of vicious animals prohibited.

(a) No person shall keep, harbor, sell, abandon, or give away any vicious animal within the city, whether or not owned by such person, except to relinquish the animal for impoundment. Such animals are hereby declared nuisances and are subject to impoundment.

(b) An animal impounded under this section will not be returned to the owner or any other person unless the animal is found not to be vicious. Animals found to be vicious will be turned over by the city to an appropriate agent or agency for humane destruction.

(c) No property owner or landlord's agent shall knowingly permit any tenant to move a vicious animal into or keep a vicious animal in any building or premises owned or controlled by such person. Any property owner learning of any vicious animal in any building or premises owned or controlled by such a landlord or agent thereof shall notify the person having such animal to remove the animal from the premises immediately.

(d) It is not the intent of this chapter to prohibit the police department from using any trained dog that may attack on command, provided that each such dog must be in the presence of its handler or confined in accordance with police department policy at all times.

(e) Any owner of any animal impounded under this section shall be responsible for the costs incurred during the period of impoundment, such as food, veterinary care, and board, unless the animal is found not to be dangerous or vicious.

Sec. 4-30. Animal waste on property of owner.

(a) The accumulation of animal feces on any private property is hereby declared a nuisance.

(b) Every person who is the owner or occupant of private property or the agent in charge of such property is charged with the duty of keeping such property free of any accumulation of feces.

(c) "Accumulation" for purposes of this section shall mean:

(1) Any quantity that constitutes a hazard to the health, safety, or convenience of persons other than the owner of the animal; or

(2) Any quantity that interferes with the use or enjoyment of any neighboring property as the result of odors, visual blight, or attraction of insects or pests.

(d) Notice to remove.

(1) Each owner, occupant, or agent having charge of such property who is notified in accordance with the provisions set forth herein by the duly authorized agent of the city to remove such feces shall be charged with the duty of removing such feces and satisfactorily disposing of the same within twenty-four (24) hours of the effective date/hour of the notice to do so.

(2) Notice of violation shall set forth in writing the date of inspection, the address of the property found in violation and the fact that an accumulation of feces was observed.

(3) If the premises where an accumulation of feces is found contains only a single-family dwelling, then notice shall be directed to the occupant of such premises whether such occupant be the owner or leasee. If the premises where the accumulation of feces is found

contains more than one dwelling unit, then notice shall be directed to the record owner of such premises or the agent in charge of the premises.

(4) The effective date and hour of a notice issued under this section shall be determined in accordance with how notice was served:

a. If copy of the notice is delivered to an owner of record personally or to any adult occupant of the premises personally or to the agent in charge of such premises personally, the effective date/hour is the date and hour so personally served; or

b. If copy of the notice is delivered to the usual place of abode of an owner and left with a person in the owner's family of thirteen (13) years or older and of suitable discretion, who shall be informed of the contents thereof, and concurrently, a copy of the notice is sent by first class mail addressed to the usual place of abode of such owner; said notice becoming effective upon the date of personal service upon such suitable family member; or

c. If a copy of the notice is sent by certified or registered mail addressed to an owner of record at his or her last known address and receipt thereof is returned with the signature of the owner of record, then the effective date/hour of said notice shall be midnight of the date following the date signed for as evidenced by the return of mail received.

(5) Failure of the owner, occupant or agent in charge of such property to satisfactorily remove and dispose of such feces within twenty-four (24) hours of the effective date/hour of the notice to remove the same shall subject such person to a fine of no less than one hundred dollars (\$100.00).

(e) Second or subsequent violations--Notice not required. After an owner, occupant or agent having charge of property is once notified of a violation of this section, and regardless of whether that person complies with that notice, a second or subsequent instance of accumulation violating this section shall not require any notice to that person, and shall constitute a violation subjecting that person to a fine of not less than one hundred dollars (\$100).

Sec. 4-31. Removal of dog excrement from property other than owner's.

(a) Each owner of a dog shall be responsible for the prompt removal of all fecal matter deposited by the dog owned by such person, if such deposit of fecal matter is made on any property which is not owned or possessed under lease by such person. The fecal matter removed must be disposed of properly. Any person, when in possession or control of a dog (even though not the owner of the dog), is responsible for the same duties imposed herein as are imposed on the owner of the dog.

(b) A blind person in control of a guide dog shall be exempt from the provisions of this section.

(c) Any person violating the provisions of this section shall, upon conviction thereof, be fined in an amount not less than seventy-five dollars (\$75.00).

Section 2. Severability. In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

Section 3. Effective Date. This Ordinance shall be in full force and effect after its passage and approval and publication according to law.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED by the City Council this ____ day of _____, 2007.

AYES:

NAYS:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, 2007.

Laurel Prussing, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the ____ day of _____, 20____, the corporate authorities of the City of Urbana passed and approved Ordinance No. _____, entitled "**AN ORDINANCE AMENDING CHAPTER 4, ANIMALS AND FOWL, OF THE URBANA CITY CODE**", which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. _____ was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the ____ day of _____, 20____, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this ____ day of _____, 20_____.

(SEAL)

CITY CLERK