

**ORDINANCE NO. 119**

AN ORDINANCE LICENSING AND REGULATING THE KEEPING OF ANIMALS, REPEALING INCONSISTENT ORDINANCES AND PROVIDING A PENALTY FOR VIOLATION.

**Chapter/Section:**

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**119.01 Definitions.** As used in this Section, unless the context otherwise indicates, the following words shall be defined to mean:

**Subd. 1 Animal.** "Animal" shall mean any mammal, retile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

A. Domestic. "Domestic Animals" shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include, dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

B. Non-Domestic. "Non-Domestic animals" shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

- (1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(4) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

(5) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(6) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bear, deer, monkeys and game fish.

(C) Farm. "Farm animals" shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horse, mules), fowl (duck, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

**Subd. 2 Cat.** "Cat" shall be intended to mean both the male and female of the felidae species commonly accepted as domesticated household pets.

**Subd. 3 Dog.** "Dog" shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

**Subd. 4 Owner.** "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

**Subd. 5 At Large.** "At Large" shall be intended to mean off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

## **119.02 Dogs and Cats.**

**Subd. 1 Running at Large Prohibited.** It shall be unlawful for any person who owns, harbors, or keeps a dog or cat, or the parents or the guardians of any such person under 18 years of age, to allow such dog or cat to run at large. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under control and direction of a responsible person so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the City has posted an area with signs reading "Dogs or Cats Prohibited."

### **Subd. 2 License Required.**

A. All dogs over the age of six months kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog licenses shall be issued by the Clerk-Treasurer upon payment of the license fee. The license shall be valid for one year. The owner shall state, at the time application is made for the license his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license

shall be granted for a dog which has not been vaccinated against distemper and rabies, as provided in this Section. Vaccinations shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog is vaccinated. A veterinarian who vaccinates a dog to be licensed in the City shall complete a certificate of vaccination. One copy shall be issued to the dog owner for his records.

B. It shall be the duty of each owner of a dog subject to this Section to pay to the Clerk-Treasurer the license fee as imposed by the Council by resolution.

C. Upon payment of the license fee, the Clerk-Treasurer shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tags are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the Clerk-Treasurer. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the City before the expiration of the license period.

D. The licensing provisions of the Subdivision shall not apply to dogs whose owners are non-residents temporarily within the City, nor to dogs brought into the City for the purpose of participating in any dog show, nor shall this provision apply to "seeing eye" dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.

**Subd. 3 Cats.** Cats shall be included as controlled by this sub-section insofar as running-at-large, pick-up, impounding, boarding, licensing and proof of anti-rabies vaccine is concerned. All other provisions of this Section shall also apply to cats unless otherwise provided.

**Subd. 4 Vaccination.**

A. All dogs and cats kept harbored, maintained, or transported within the City shall be vaccinated at least once every three years by a licensed veterinarian for:

1. Rabies - with a live modified vaccine; and
2. Distemper

B. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description, the type of vaccination, and the veterinarian's signature. Upon demand made by the Clerk-Treasurer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the Clerk-Treasurer or police officer. Failure to do so shall be deemed a violation of this section.

**Subd. 5 Penalty.** A twenty-five dollar (\$25.00) fine shall be imposed on the owner of any animal found unlicensed in violation of this sub-section.

**119.03 Non-Domestic Animals.** It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits. Any owner of such animal at the time of

adoption of this Code shall have thirty days in which to remove the animal from the City. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

#### **119.04 Kennels.**

**Subd. 1 Definition of Kennel.** The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel;" except that a fresh litter of pups may be kept for a period of three months before such keeping shall be deemed to be a "kennel."

**Subd. 2 Kennel as a Nuisance.** Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the City.

#### **119.05 Nuisances.**

**Subd. 1 Habitual barking.** It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. Such barking must be audible off of the owner's or caretaker's premises.

**Subd. 2 Damage to Property.** It shall be unlawful for any owner to permit his/her dog or other animal to damage any lawn, garden, or other property. A complaint may be issued by anyone aggrieved by an animal under this Section, against the owner of the animal for prosecution under this Section.

**Subd. 3 Cleaning up litter.** The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property. Any person violating this Section shall be punishable by a fine of twenty-five dollars (\$25.00) or five (5) hours of public lands fecal clean-up. Any person who is found guilty of subsequent violations of this section shall be punished by a fine of at least twenty-five dollars (\$25.00) but not more than one hundred dollars (\$100.00).

**Subd. 4 Other.** Any animals kept contrary to this Section are hereby declared a public nuisance and may be abated according to the law.

**119.06 Animals Presenting a Danger to Health and Safety of City.** If, in the reasonable belief of any person or police officer an animal presents an immediate danger to the health and safety of any person, the officer may painlessly kill the animal.

#### **119.07 Dangerous Animals.**

A. **Attack by an animal.** It shall be unlawful for an owner to fail to restrain an animal from inflicting or attempting to inflict bodily injury to any person or other animal whether or not the owner is present. Violation of this section shall be a misdemeanor punishable by a fine not to exceed seven hundred dollars (\$700.00) or imprisonment for not to exceed ninety (90)

days, or both. This section shall not apply to an attack by a dog under the control of an on duty law enforcement officer or to an attack upon an uninvited intruder who has entered

B. Destruction of dangerous animal. The animal control officer or police officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this ordinance.

C. Definitions.

1. A dangerous animal is an animal which has:
  - a. Caused bodily injury or disfigurement to any person on public or private property; or
  - b. Engaged in any attack on any person under circumstances which would indicate danger to personal safety; or
  - c. Exhibited unusually aggressive behavior, such as an attack on another animal; or
  - d. Bitten one (1) or more persons on two (2) or more occasions; or
  - e. Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.
2. A potentially dangerous animal is an animal which has:
  - a. Bitten a human or a domestic animal on public or private property; or
  - b. When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
  - c. Has the history of propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.
3. Proper Enclosure. Proper enclosure means securely confined indoors or in a securely locked pen or structure to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. Such enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:
  - a. Have a minimum overall floor size of thirty-two (32) square feet.
  - b. Sidewalls shall have a minimum height of five (5) feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two (2) inches, support posts shall be one-and-one half-quarter-inch or larger steel pipe buried in the ground eighteen (18) inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen (18) inches in the ground.
  - c. A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two (2) inches.



- d. An entrance/exit gate shall be provided and be constructed of the same materials as the sidewalls and shall also have no openings in the wire greater than two (2) inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.
4. Unprovoked. Unprovoked shall mean the condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

D. Designation as potentially dangerous animal. The court or environmental health officer shall designate any animal as a potentially dangerous animal upon receiving such evidence that such potentially dangerous animal has, when provoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in subparagraph (c)(2). When an animal is declared potentially dangerous, the environmental health officer shall cause one (1) owner of the potentially dangerous animal to be notified in writing that such animal is potentially dangerous.

E. Evidence justifying designation. The court or environmental health officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

1. That such animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in subparagraph (c)(1).
2. That such animal has been declared potentially dangerous and such animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in subparagraph (c)(1).

F. Authority to order destruction. The court or animal control officer or police officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one (1) or more of the following findings of facts:

1. The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attack; or
2. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

G. Procedure. The court or animal control officer or police officer, having determined that an animal is dangerous, may proceed in the following manner:

1. The animal control officer or police officer shall cause one (1) owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make such orders as deemed proper. This owner shall be notified as to dates, times, places, and parties bitten, and shall be given fourteen, (14) days to appeal this order by requesting a hearing before the animal control officer or police officer for a review of this determination.
  - a. If no appeal is filed, the orders issued will stand or the animal control officer or police officer may order the animal be destroyed.
  - b. If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the animal control officer or police officer, who shall set a date for hearing not more than three (3) weeks after for demand said hearing. The records of the animal control officer or police officer or city clerk's office shall be admissible for consideration by the animal control

officer or police officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the animal control officer or police officer shall make such order as he/she deems proper. The animal control officer or police officer may order that the animal control supervisor or police officer take the animal into custody for destruction, if such animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the animal control supervisor or police officer and failure to do so shall be a misdemeanor.

- c. Any person who harbors an animal after it has been found by the animal control officer or police officer to be dangerous and ordered into custody for destruction shall be guilty of a misdemeanor.

H. Stopping an attack. If any police officer or animal control officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

I. Notification of new address. The owner of an animal which has been identified as dangerous or potentially dangerous must notify the animal control officer or police officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification must be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification must include the current owner's name and address, the relocation address, and the name of the new owner, if any.

#### **119.08 Dangerous animal requirements.**

A. Requirements. If the court or environmental health officer does not order the destruction of an animal that has been declared dangerous, the court, the animal control officer or a police officer shall, as an alternative, order any or all of the following.

1. That the owner provide and maintain a proper enclosure for the dangerous animal as specified in section 119.07(c)(3);
2. Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statute 247.51;
3. Provide and show proof annually of public liability insurance in the minimum amount of three hundred thousand dollars (\$300,000.00);
4. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six (6) feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
5. If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minnesota Statutes 347.51;
6. All animals deemed dangerous by the animal control officer or police officer shall be registered with Mower County within (14) days after the date the animal was so deemed and provide satisfactory proof thereof to the animal control officer or police officer.

7. If the animal is a dog, the dog must be licensed and up to date on rabies vaccinations. If the animal is a cat or ferret, it must be up to date with rabies vaccination.

B. **Seizure.** Animal control or a police officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within fourteen (14) days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to the district court.

C. **Subsequent offenses.** If an owner of an animal has subsequently violated the provisions under section 119.07 with the same animal, the animal must be seized by animal control or a police officer. The owner may request a hearing as defined in section 100.07(f). If the owner is found to have violated the provisions for which the animal was seized, the animal control officer or police officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the animal is not yet reclaimed by the owner within fourteen (14) days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under section 100.07(f) and the owner is liable to the animal control for the costs incurred confining and disposing of the animal.

**119.09 Basic Care.** All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a manner will be subject to the penalties provided in this section.

**119.10 Breeding Moratorium.** Every female dog or cat in heat shall be confined in a building or other enclosure in such a manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or sprayed prior to being transferred to a new owner.

**119.11 Enforcing Officer.** The Council is hereby authorized to appoint any police officer(s) to enforce the provisions of this section. In the officer's duty of enforcing of this Section, he or she may from time to time, with the consent of the Council, designate certain assistants.

**119.12 Interference with Officers.** No person shall in any manner molest, hinder, or interfere with any person authorized by the Council to capture dogs, cats, or other animals and convey them to the pound while engaged in such operation. Nor shall any unauthorized person take or attempt to take from any agent any animal taken up by him or her in compliance with this Section, or in any other manner to interfere with or hinder such officer in the discharge of his duties under this Section.

**119.13 Violations and Penalties.**

**Subd. 1 Separate Offenses.** Each day a violation of this Ordinance is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this Section.

**Subd. 2 Misdemeanor.** Violation of this Section shall constitute a misdemeanor.



Adopted by the City Council of Lyle, Minnesota on April 12, 2000.

Bon Hank  
Mayor

Nana McBrer  
City Clerk

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Signatures on file  
at City Hall