

## CHAPTER 90: ANIMALS

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**GENERAL PROVISIONS**

**§ 90.001 SCOPE.**

The provisions of this chapter shall apply to the City of Benton, Kentucky, and such other so located as to lie both within and without the corporate limits of Benton.  
(Ord. 07-09-02, passed 9-17-07)

**§ 90.002 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ANIMAL.** Every domesticated and tame living creature, except members of the human race.

**AT LARGE.** Every instance in which an animal is found to be beyond the custody and control of its owner or other person responsible therefore. A dog is deemed to be **AT LARGE** when it is found off

the premises of its owner or other person responsible therefor and not under control by physical restraint such as a leash, cord or chain.

**CAT.** Any domestic feline animal, male or female, sexed or neutered.

**CONFINED.** The animal is restricted to the property of the owner by leash, cord, chain, wall or fence barrier.

**DOG.** Any domestic canine animal, male or female, sexed or neutered.

**DOG FANCIER.** A person owning or keeping on his or her property at one location up to six adult dogs for the purpose of showing in recognized dog shows, field trials or obedience trials, for working or hunting, or for improving the variety or breed in temperament or conformation with a view to exhibition in shows or trial or for use as working dogs in hunting.

**DOG HANDLER.** A licensed person who is deemed qualified by the Animal Control Officer to handle dogs.

**DOG POUND.** The Animal Control Center designated by the City Council to receive animals.

**HORSE-DRAWN VEHICLE.** A carriage or trolley powered by being pulled by one or more horses. For purposes of this chapter, the term will be used interchangeably to refer to both two-wheel and four-wheel vehicles unless the context clearly indicates otherwise.

**OWNER.** Any person keeping, harboring, or having charge or control of, or permitting any animal habitually to be or remain on, or be lodged or fed within, such person's house, yard or premises, excluding therefrom veterinarians or kennel operators temporarily maintaining on their premises, for a period of 30 days or less, animals owned by others.

**TORTURE or CRUELTY.** Every act or omission or commission whereby unjustifiable physical pain, suffering or death is caused or permitted.

**VETERINARIAN.** A member of the profession of veterinary medicine as described in the State of Kentucky Veterinary Practice, KRS 321.175 *et seq.*, or as defined by the applicable Veterinary Practice Act in any state of the United States and licensed to practice in the State of Kentucky.  
(Ord. 07-09-02, passed 9-17-07)

### § 90.003 RESTRAINING ANIMALS.

(A) Every person who is the owner of or has the care, custody or control of any cow, dog, goat, horse, ox, poultry, rabbits or any other rodent, sheep, swine or wild animal, has an absolute duty to keep the same upon the premises under the control of such person, restrained by a fence, cage, coop, chain, leash or other adequate means so that the animal shall not leave the premises upon which it is kept.

(B) It is unlawful for the owner or person having custody of any dog to allow the dog to be in a public park or other public property unless the dog is on a leash. No leash shall be more than ten feet in length. This provision shall not apply to special areas that may be designated by the City Clerk for training programs or purposes under direct obedience command.

(C) It is unlawful for the owner or person having custody of any dog to permit the dog to be at large within the City of Benton, Kentucky.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

#### **§ 90.004 KEEPING OF ANIMALS IN SANITARY CONDITIONS.**

No person shall keep any animal unless its area is kept clean and free from offensive odors, animal wastes and nuisance matter.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

#### **§ 90.005 KEEPING OF NOISY ANIMALS.**

It is unlawful for any person to keep, harbor or own any animal or poultry which by loud or frequent habitual barking, yelping, braying or other noise causes annoyance to the neighborhood or to any persons in the vicinity.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

#### **§ 90.006 UNLAWFUL FOR PERSON HAVING CUSTODY OF ANIMAL TO ALLOW ANIMAL TO COMMIT NUISANCE.**

(A) It is unlawful for the owner or person having the care, custody or control of any animal to permit, either willfully or through failure to exercise due care or control, any such animal to commit any nuisance upon any public property or any other property under the control of or in the possession of any other person, whether or not open to the public.

(B) *NUISANCE* shall mean any act, conduct or circumstance, which is injurious to health, or indecent and offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property of others.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

#### **§ 90.007 ANIMAL WASTE DISPOSAL.**

(A) It shall be unlawful for any person owning or having control or custody of any animal to permit the animal to defecate upon the public property of this city or upon the private property of another unless

the person immediately removes the feces and properly disposes of it; provided, however, that nothing herein contained authorizes such person to enter upon the private property of another without permission.

(B) Handicapped persons who use seeing-eye dogs are exempt from this section. Persons whose dogs are participating in dog shows or direct command obedience classes are exempt from this section while their animals are actually participating in such shows or classes, but all feces must be removed and disposed of immediately upon the conclusion of the show or class.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

#### § 90.008 CRUELTY TO ANIMALS GENERALLY.

(A) It is unlawful for any person to overdrive, overload, torture or cruelly beat, or unjustifiably injure, maim, mutilate or kill any animal whether belonging to himself or herself or to another, or deprive any animal of necessary sustenance, food, drink or shelter, or willfully instigate, engage in, or in any way further an act of cruelty to any animal, or any act to produce such cruelty.

(B) It shall be unlawful for any person in the city to hunt any game animals, migratory game birds, upland game birds or nongame birds. There shall be excepted from the provisions of this division the State Fish and Game Commission and its employees and agents while performing their duties as imposed by law.

(C) It shall be unlawful for any person to maliciously shoot, poison, kill, injure, abuse or ill-treat any dog, and any person who kills or injures a dog while driving a vehicle shall stop at the scene of the accident and shall immediately report the incident to the Police Department.

(D) As used in this section, the term *TO HUNT* means the search for or pursuit of game animals, game birds or nongame birds for the purpose and with the means of capturing and killing the same, and shall include the shooting, killing, capturing, wounding, injuring or crippling of game animals, game birds or nongame birds, and the pursuing, tracking, calling, baiting and decoying of such animals or birds with intent to shoot, kill, capture, wound, injure or cripple the same, and the disturbing or worrying of game animals, game birds or nongame birds, whether the same results in the shooting, killing, capturing, wounding, injuring or crippling or not, and every attempt to shoot, kill, capture, wound, injure, cripple, pursue, track, call, bait or decoy such game animals, game birds or nongame birds, and every act of assistance to any other person in shooting, killing, capturing, wounding, injuring, crippling, pursuing, tracking, calling, baiting or decoying game animals, game birds or nongame birds.

(E) As used in this section, the term *MIGRATORY GAME BIRDS* means and includes the band-tailed pigeon, the mourning dove, the white-winged dove or water fowl, commonly known as geese, brant, swans, river and diving ducks, the snipe, the rails and the coots.

(F) As used in this section, the term *NONGAME BIRDS* means and includes all wild birds other than those classified as migratory, upland game or predatory birds, as defined in KRS 150.320.

(G) As used in this section, the term *GAME ANIMALS* means and includes the elk, deer, cottontail rabbit, pygmy rabbit, mountain hare, and all species of squirrels other than ground squirrels.

(H) As used in this section, the term *UPLAND GAME BIRDS* means and includes grouse, wild turkey, bobwhite quail and other quail.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

#### **§ 90.009 RIDING HORSES WHILE INTOXICATED PROHIBITED.**

It is unlawful for any person to ride or drive a horse while under the influence of intoxicating liquor or drugs.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

#### **§ 90.010 ANIMAL FIGHTING; PIGEON SHOTS.**

It is unlawful for any person to keep or use, or be in any manner connected with or interested in the management of, or receive money or other things of value for the admission of any person to a house, apartment, pit or place to willfully procure or permit the same to be used or occupied for such baiting or fighting, or to instigate, promote, arrange or carry on, or do any act as assistant, umpire, principal, spectator or otherwise, in aid of or calculated to encourage or further any fight between birds or animals. It is unlawful for any person to provide or use pigeons or other birds, or to fire upon the same, in connection with any "shoot" which may result in the killing or injuring of any pigeons and such other birds.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

#### **§ 90.011 ABANDONING INJURED ANIMALS.**

It is unlawful for any person owning, possessing or having the care, custody and control of a maimed, disabled or infirm animal, to abandon the same, or leave it to die in a public street, road, alley or other public place, or upon the private property of himself or herself or another, more than one hour after he or she receives notice that it is left disabled.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

#### **§ 90.012 REMOVAL OF DEAD ANIMALS.**

It is unlawful for any person having charge of any animal which may die, to neglect or refuse to remove, or cause to be removed, such dead animal to the county landfill or dump, and to provide for the disposal of the same in the manner provided by law within 24 hours after having notice of the death of such animal.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

**§ 90.013 POISONING ANIMALS.**

It is unlawful for any person to administer unjustifiably any poisonous drug or substance to any animal, or to expose unjustifiably any such drug or substance with intent that the same shall be taken by an animal, whether such animal be the property of himself or herself or another; provided, that nothing herein contained shall be construed to prevent or restrict the Animal Regulation Officer, or County District Health Officer or a licensed veterinarian in the exercise and performance of the powers and duties in this chapter set forth.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

**§ 90.014 ENDANGERING ANIMALS.**

It is unlawful for any person to willfully throw, drop or place, or cause to be thrown, dropped or placed upon any road, highway, street, alley or public place, or upon the private property of another, any glass, nails, pieces of metal or other substance or device which might wound, disable or injure any animal, or to drop, place, or throw or cause to be dropped, placed or thrown any substance or device upon his or her own property with intent to wound, disable or injure any animal.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

**§ 90.015 TRANSPORTING ANIMALS.**

(A) It is unlawful for any person to carry or enclose, or cause to be carried or enclosed, in or upon any vehicle or conveyance, any animal in a cruel or inhumane manner, or so as to produce pain and suffering. Appropriate shelter, taking into account outside weather conditions, shall be provided to any animal transported or carried in or upon any vehicle or conveyance.

(B) No person, other than an individual actually working a dog for ranching purposes, shall transport or carry, on any street, highway, alley or premises to which the public has access, any dog in a motor vehicle unless the animal is safely enclosed within the vehicle or protected by a cap, container, cage or other enclosing device secured to the vehicle, or confined by means of a humane tethering device in such a manner as to prevent the dog from falling, from being thrown from or jumping from the motor vehicle.

(C) Any tethering device used to confine a dog in a motor vehicle as described in division (B) above must be a cross-tie construction secured to the animal by means of a harness and secured to the sides of the vehicle in such a manner as to ensure that the dog will remain centered in the vehicle. Tethering devices shall provide for the use of a harness and shall not include tethering by utilizing a collar, choke chain or any other device that attaches to the dog's neck.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999



**§ 90.016 OVERCROWDING ANIMALS.**

It is unlawful for any person to overcrowd in any crate, box or other receptacle, rabbits, domestic fowl or poultry, or fail to provide food, water, shelter or sanitation for same.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

**§ 90.017 SELLING OR GIVING AWAY CERTAIN ANIMALS.**

It is unlawful for any person to sell or offer for sale, barter, or give away, baby chicks, rabbits, ducklings or other fowl as pets or novelties. This section shall not be construed to prohibit the display or sale of natural chicks, rabbits, ducklings or other fowl, in proper breeder facilities by hatcheries or stores engaged in the business of selling the same to be raised for commercial purposes.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

**§ 90.018 KEEPING OF POULTRY AND LIVESTOCK.**

To the extent not otherwise allowed by Benton's planning and zoning ordinances, or not otherwise allowed by the Benton Board of Adjustments, it shall be unlawful for any person to keep or maintain any poultry or livestock including, but not limited to, chickens, any goat, horse, cow, sheep, mule or hog within the corporate limits of the City of Benton and the keeping of same shall constitute a nuisance to adjacent properties.

(Ord. 07-09-02, passed 9-17-07; Am. Ord. 23-03-02, passed 3-20-23) Penalty, see § 90.999

**§ 90.019 ARTIFICIALLY COLORED OR DYED ANIMALS OR BIRDS.**

It is unlawful for any person to dye, color or artificially treat any baby chick, rabbit, duckling, fowl or other animal.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

**§ 90.020 GIVING AWAY OF ANIMALS, FISH OR REPTILES.**

It is unlawful for any person in connection with any advertising campaign or promotion to give, or offer to give, as a gift or prize any live animal, reptile, bird or fish of any description whatsoever or for any owner, operator or agent of any carnival, fair or amusement park to use any live animal, reptile, bird or fish as or for a target or to use any live animal, reptile, bird or fish in any cruel or unusual manner; provided, however, this shall not prohibit the proper display of animals, birds, fish or reptiles in proper facilities for educational purposes.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

**§ 90.021 RESERVED.****§ 90.022 HORSES ON SIDEWALKS.**

It shall be unlawful for any person to ride, drive or lead any horse, mule or other animal of similar kind upon any sidewalk in the city, except at regular crossings, or to suffer any horse or other animal to stand thereon.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

**§ 90.023 POLICE DOGS AND HORSES EXEMPT FROM CHAPTER.**

Any and all dogs and horses in use by the Police Department shall be exempt from any and all provisions as pertains to animals, with the exception of §§ 90.070 through 90.078.

(Ord. 07-09-02, passed 9-17-07)

***ENFORCEMENT*****§ 90.030 ANIMAL CONTROL CENTER ESTABLISHED.**

(A) If required, there will be established the Animal Control Center which is and shall be maintained in such place as is provided for from time to time by the City Council. The city anticipates contracting with the Marshall County Fiscal Court for use of the county's Animal Control Center.

(B) Any contracted service which may be granted for operation of the Animal Control Center shall not become effective until a written agreement is entered into with the Marshall County Fiscal Court.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.031 ANIMAL CONTROL OFFICER AND PERSONNEL.**

(A) An Animal Control Officer may be appointed by the Mayor subject to the confirmation by the City Council, unless otherwise provided for by the City Council.

(B) The Animal Control Officers shall be city police officers or any other personnel designated by the Mayor and required to properly discharge the duties required by this chapter.

(C) The city's police officers and the personnel employed at the Animal Control Center shall be subject to the direction and control of the Mayor or his or her designee unless otherwise provided for. (Ord. 07-09-02, passed 9-17-07)

**§ 90.032 REGULATION OF HORSES TO DRAW HORSE-DRAWN VEHICLES.**

Businesses licensed to operate horse-drawn vehicles shall be issued in accordance with the Benton City Code and the holder of the license shall adhere to the following regulations in the care and treatment of service horses.

(A) Horse-drawn vehicle owners and operators shall maintain their horses in good health, abiding by the rules of good animal husbandry.

(B) Only quiet, well-trained and experienced horses with no bad habits or vices may be placed in service.

(C) Each horse in service shall have an annual health examination by a veterinarian licensed by the State of Kentucky. A report of each annual examination, including inoculations, lameness tests and general wellness, shall be on file with City Animal Control.

(D) Any horse in service with visible lameness must receive immediate medical review and must not be returned to service until healthy.

(E) All horses will have rubber compound-type or other horseshoes specifically designed for use on asphalt or cement.

(F) Horses used to pull vehicles shall conform to the size of the carriage or trolley being used to transport people. No horse will be required to pull more than three times its body weight including the vehicles, passengers and driver.

(G) No horse may be used in service in excess of five days per week and must be kept at a facility permitting "turn-out" when not in service.

(H) No horse may be used in service in excess of eight hours per day and must have one 15-minute rest period each hour.

(I) No horse may be left unattended at any time while in service.

(J) No horse shall be worked in adverse weather conditions or when road surface is slippery, ice-covered or is otherwise unsuitable to insure the safety of the animal and passengers. Horses shall not be worked whenever the temperature exceeds 90 degrees Fahrenheit.

(Ord. 07-09-02, passed 9-17-07) Penalty, see § 90.999

**§ 90.033 POWERS AND DUTIES OF POLICE OFFICERS SERVING AS ANIMAL CONTROL OFFICERS.**

The powers and duties of the Animal Control Officer shall be as follows:

(A) To enforce all provisions of this chapter and all laws of the state relating to the care, treatment and impounding of animals;

(B) To maintain and keep the Animal Control Center or other place where all animals which are subject to be impounded may be kept and safely held and provided with sufficient food, water and shelter;

(C) To take up, impound and safely keep any animal found to be in violation of the provisions of this chapter;

(D) To collect any costs or charges hereinafter provided in this chapter for the impounding and keeping of any animal;

(E) To enter upon any premises upon which any animal is kept, with the consent of the owner, or his agent, or to obtain a court order if required to entry upon any premises for the purpose of taking, seizing or impounding any animal found to be in violation of any of the provisions of this chapter or for the purpose of determining whether such animal is licensed or is violating the provisions of this chapter;

(F) To forthwith destroy any animal lawfully impounded which is shown by reason of injury, disease or other cause to be unfit for further use or is dangerous to keep impounded;

(G) To keep an accurate record of all animals impounded; to account for all money received and disbursed; and to record all reports received involving animals, including all reports of dog bites and the time of the report, the person making the report and the disposition of each such case; each such report shall be investigated and the animal properly quarantined or impounded in accordance with the provisions of this chapter;

(H) In the performance of his or her duties, any Animal Regulation Officer and each of his or her deputies shall have the authority to employ the use of the tranquilizer gun and all other animal control services commonly used by other animal control agencies located within the State of Kentucky.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.034 POWERS AND DUTIES OF HEALTH OFFICER.**

The Health Officer employed is empowered to enter upon any private property, with the consent of the owner, or the owner's agent, or pursuant to a court order if required for the purpose of ascertaining whether any dog or other animal kept or harbored is infected with rabies. If it shall appear to the Health

Officer or the Animal Regulation Officer that a dog or other animal has rabies, he or she shall forthwith impound for observation such animal until examined by a veterinarian and released.  
(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.035 POWERS AND DUTIES OF POLICE DEPARTMENT.**

It shall be the duty of the Chief of Police and every police officer in the city, while on duty, to assist when required in carrying out the provisions of this subchapter.  
(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.036 RESISTING OR OBSTRUCTING ANIMAL REGULATION OFFICER OR PERSONNEL UNLAWFUL.**

No person shall interfere with or oppose or resist the Chief of Police or any of his or her officers, the Animal Regulation Officer or any of his or her deputies, or the County District Health Officer or any member of the Health Department while engaged in the performance of their duties pertaining to the enforcement of this subchapter. All such officers, members and employees are hereby empowered to enforce all of the provisions of this subchapter.  
(Ord. 07-09-02, passed 9-17-07)

### ***LICENSES, PERMITS AND VACCINATIONS***

#### **§ 90.040 VACCINATION.**

(A) *Dog vaccinations are required.* Every person keeping, harboring or having a dog over the age of four months within and under city jurisdiction shall cause such dog to be vaccinated with rabies vaccine within a period of 30 days from the date of harboring, keeping or having the dog within the city, or from the date the dog attains the age of four months; provided, however, that the aforesaid provisions shall not apply so as to require the vaccination of any dog which has been vaccinated by a person licensed by the state, or by another state or nation, to practice veterinary medicine hereinafter prescribed in this section. If chick-embryo or tissue-culture vaccine was used in such vaccination, it must have been completed within two years prior to the date such dog was kept, harbored or brought into the city. If tissue-phenolized vaccine was used, such vaccination must have been completed within six months prior to the date such dog was kept, harbored or brought into the city.

(B) *Vaccination of cats and other animals.* The same vaccination procedure shall apply to cats and other animals if the County District Health Officer shall deem this prudent to ensure the safety of the public.  
(Ord. 07-09-02, passed 9-17-07)

**§ 90.041 RESERVED****§ 90.042 PERMIT FOR KEEPING DOGS FOR BUSINESS PURPOSES.**

No person shall carry on the business of keeping dogs for breeding purposes, or for the purpose of medical treatment of such dogs, or of caring for hire, or grooming, anywhere within and under the jurisdiction of the city, in a residential zone in the city, and any permit for same shall be refused. All such permits shall at all times be subject to the planning and zoning regulations of the city. Licensed veterinarians are exempt from this section.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.043 PERMIT FOR DOG KENNELS.**

Every person owning, operating or maintaining a dog kennel within and under the jurisdiction of the city, must first apply for and obtain a permit from the city to so keep and maintain the dog kennel. A **DOG KENNEL**, for purposes of this subchapter, shall be a pack or collection of dogs, exceeding four in number over the age of four months, kept or bred for hunting or sale or boarding, but shall not mean merely the house or place where the same are kept. The issuance of any permit therefor shall at all times be subject to planning and zoning regulations of the city; provided, however, that this section shall not apply to quarters maintained by political entities for the purpose of using animals in law enforcement, or to quarters maintained by veterinarians for the purpose of surveillance or treatment of dogs on a temporary basis.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.044 PREMISES INSPECTIONS.**

Every person required to obtain a permit under the provisions of this subchapter may permit his or her premises to be inspected, with his or her consent, by an Animal Control Officer or the County District Health Officer at reasonable times.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.045 RESERVED.****§ 90.046 EXEMPTIONS.**

The provisions of this subchapter shall not apply to dogs under the age of four months if kept within a sufficient enclosure, nor to dogs held by or in the custody or in the control of persons who are nonresidents of the city and temporarily sojourning therein for a period not to exceed 30 days, nor to dogs brought to the city assumably for the purpose of entering the same in any dog show or exhibition and which are actually entered in and kept at such show or exhibition, provided that it is unlawful for any such unlicensed dog to be permitted to run at large in the city.

(Ord. 07-09-02, passed 9-17-07)

***IMPOUNDMENT*****§ 90.050 IMPOUNDMENT OF DOGS GENERALLY.**

Every dog found running at large in violation of any section of this chapter or without a numbered collar or license tag as required by §§ 90.040 through 90.046, shall be impounded by an Animal Control Officer (or someone designated by him or her) at the county's dog pound and there kept for a period of not less than five days. All Animal Control Officers of the city shall capture and impound any dog found within the city which is not wearing a license issued by the city or by any other political subdivision in the county and stamped as provided in §§ 90.040 through 90.046.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.051 IMPOUNDMENT OF UNSPAYED FEMALE DOGS RUNNING AT LARGE.**

It is unlawful for the owner or any person having the control or possession of any unspayed female dog to suffer or permit the dog to run at large while the dog is in the copulating season and the owner or person in charge of such female dog shall keep the same secured upon his or her premises or in a

boarding kennel so that other dogs shall not have access thereto. Every female dog which is not kept in conformance with this section shall be immediately seized and impounded in the Animal Control Center and held subject to the provisions of this subchapter. The charge for impounding such a dog shall be \$50 for the first impounding and \$100 for each impounding thereafter if within the same season.  
(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.052 REDEMPTION OF DOGS.**

(A) If the ownership of an impounded dog is proven within the five-day impoundment period, the owner may remove it upon payment of the following impound fees:

- (1) For the first impound within a 12-month period, a fee of \$50;
- (2) If the second impound is within a 12-month period, a fee of \$100;
- (3) If the third or subsequent impound is within any 12-month period, a fee of \$250; plus a boarding fee of \$10; and
- (4) If the dog is impounded as vicious, per day, for any time over 24 hours which must go to the credit of the animal control facility.

(B) If such a dog is licensed and the collar bearing the license number has been lost, or the license tag has been lost, the same must be replaced at the expense of the owner. If the dog is unlicensed, its release must be conditioned upon the delivery of a certificate of vaccination to the Animal Regulation Officer and the payment to the Animal Regulation Officer the license fee in accordance with the provisions of §§ 90.030 through 90.036, whereupon the owner reclaiming the dog may obtain license and numbered tag.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.053 CONDITIONS FOR RELEASE OF IMPOUNDED DOGS.**

(A) *Payment of impounding fees.* The person must pay to the Animal Regulation Officer the impounding, collection and other fees as provided by law.

(B) *Proof of vaccination.* The person establishes to the satisfaction of the Animal Regulation Officer that such dog has been vaccinated with rabies vaccine within the time periods according to the other requirements as prescribed in §§ 90.40 through 90.46 and §§ 90.85 through 90.90.



(C) *Inspection for health.* The Animal Control Officer has determined that the dog is in a healthy condition.

(D) *Release of dog.* After the dog has been vaccinated, or the fee for vaccination has been paid, and if all the conditions of §§ 90.040 through 90.046 and §§ 90.085 through 90.090 have been satisfied, the Animal Control Officer shall release the dog to the person making application for the release of such dog.

(E) *Suspicion of rabies and release.* If the Animal Control Officer suspects that any dog so impounded has rabies, he or she shall hold the dog for inspection by a veterinarian. If the veterinarian determines that the dog is afflicted with rabies, it must be disposed of or confined for such time as the County District Health Officer directs. Whenever the veterinarian determines that such dog does not have rabies, it shall be released in accordance with the provisions of §§ 90.085 through 90.090.

(F) *Neutering or spaying deposit.* A neutering or spaying deposit in the amount of \$50 must be paid at the time of adoption of any dog over four months of age.  
(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.054 DISPOSAL OF UNCLAIMED DOGS.**

If the ownership of an impounded dog is not proven within five days from the date of notice to the owner, if known, then such dog may be destroyed, in a humane manner under the direction of the Animal Control Officer; provided, however, any such unredeemed dog authorized for destruction may be sold or given to any person who shall procure for such dog the necessary collar or collar and tag with license number thereof, and who shall pay the cost of vaccination or spaying as required in this chapter.  
(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.055 IMPOUND FEES FOR CATS.**

When the owner of an impounded cat calls for it to be placed in the Animal Control Center, the owner shall be required to pay the fee of \$25 which shall go to the credit of the dog pound, and a fee of \$5 per day for boarding.  
(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.056 IMPOUNDING OF STRAY ANIMALS.**

Any animal, unless otherwise provided by this chapter, except dogs, running at large or which is not restrained as herein provided, and any wild animal not kept under proper control shall be impounded and kept at a suitable location for a period of five days within which time if the ownership of the animal

is proven and the owners calls for it, the owner may remove the animal upon the payment of the sum of \$50 as the cost of the impounding and in addition thereto, the cost of maintenance thereof at the rate of \$5 per day.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.057 ADOPTION OF ANIMALS; FEES.**

A person may adopt an impounded animal from the Animal Control Center by paying:

(A) For a dog younger than four months, an adoption fee of \$15 and a deposit for neutering and spaying required by § 90.053(F);

(B) For an unaltered dog, the license fee required by § 90.040 and the deposit for neutering and spaying;

(C) For an unaltered cat, the deposit for neutering and spaying;

(D) For an altered dog or cat, an administration fee of \$15; and

(E) For any other animal, an adoption fee of \$15.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.058 SURRENDER OF ANIMALS; FACILITY ACCEPTANCE FEE.**

A person may, by delivering to the Animal Control Center, give up ownership to:

(A) An adult animal by paying a facility acceptance fee of \$15; or

(B) A litter of offspring, by paying a facility acceptance fee of \$15.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.059 DELIVERY OF TRESPASSING ANIMALS BY PROPERTY OWNERS.**

Any dog, cat, animal or fowl found doing damage or trespassing on private property in the city may be taken up by the owner of such property or his or her representative, at his or her own risk, and delivered forthwith to the Animal Control Center. Any such dog, cat, animal or fowl trespassing shall be held by the Animal Control Officer for a period as shall be deemed property by the Animal Regulation Officer and then shall be released upon demand to the person legally entitled thereto upon payment of all fees provided for in this subchapter for the keep of the dog, cat, animal or fowl and if no demand is made, then such dog, cat, animal or fowl shall be sold or disposed of as provided in this subchapter.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.060 DISPOSAL OF STRAY ANIMALS.**

If the ownership of a stray animal is not established within five days with notice to the owner, if known, then such unredeemed animal, whether domestic or wild, which by reason of age or disease, or injury or other cause is unfit for further use or danger to keep impounded shall be destroyed in a humane manner.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.061 DESTRUCTION OF DANGEROUS OR WILD ANIMALS.**

Nothing in this subchapter shall require the impounding of any dangerous beast or wild animal or the preventing of the destruction thereof in order to protect the public health, safety or general welfare.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.062 SALES OF IMPOUNDED LIVESTOCK.**

All livestock not destroyed under the provisions of this subchapter and not redeemed within five days after the same is impounded and oral notice has been given to the owner thereof, provided that if the owner cannot be determined or found, no notice shall be necessary, shall be advertised for sale by the Animal Control Officer, and a written notice shall be mailed to the registered owner at the last known address of such owner of such livestock so impounded having traceable identification within the five-day period. Immediately after due advertisement all such livestock will be put up for adoption to the highest bidder for cash. If no bids are made for the livestock, they shall be bid in by the Animal Control Officer and may thereafter be sold by the Animal Control Officer at private sale or destroyed.

(Ord. 07-09-02, passed 9-17-07)

***RABIES CONTROL*****§ 90.070 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

***HIGH-RISK SPECIES.*** Such species as the skunk, raccoon, fox, bat or coyote and such other high-risk transmitters of rabies as may from time to time be defined by the Health Officer.

**LIVESTOCK.** Includes the following:

- (1) All cattle or animals of the bovine species;
- (2) All horses, mules, burros and asses or animals of the equine species;
- (3) All swine or animals of the porcine species; and
- (4) All goats or animals of the caprine species.

**LOW-RISK SPECIES.** Such species as the gopher, mouse, hamster, various squirrels; rat (wild and pet), rabbit (wild and domestic), and all poultry (wild and domestic).

**MEDIUM-RISK SPECIES.** Includes the dog and cat.

**OWN.** To keep, harbor, or have control, charge or custody of any animal. This term shall not apply to animals owned by others which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of less than 30 days.

**PROPER AUTHORITY.** Includes the Animal Control Officer, Humane Officer, Fish and Game Warden or other law enforcement officer.

**RABIES CONTROL AUTHORITY.** The local Public Health Officer.

**STRAY.** Any animal running at large upon public or private lands in the city, whose owner is unknown in the section or place where such animal is found.

**VACCINATION AGAINST RABIES.** The inoculation of a dog or cat with rabies vaccine licensed by the United States Department of Agriculture and included in the latest Compendium of Animal Rabies Vaccines of the U. S. Department of Health, Education and Welfare, Department of Public Health Service. Such vaccination must be performed by a veterinarian.  
(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.071 RABIES VACCINATION REQUIRED.**

(A) Every dog four months of age and older shall be vaccinated against rabies. Young dogs shall be vaccinated within 30 days after they have reached four months of age. Unvaccinated dogs acquired or moved in the city must be vaccinated within 30 days after purchase or arrival, unless under four months of age, as specified above.

(B) Every dog shall be revaccinated within the intervals specified in the latest Compendium of Animal Rabies Vaccines referred to under the definition of **VACCINATION AGAINST RABIES** in § 90.070.

(C) The cost of rabies vaccine shall be fixed by the Department of Health and shall be borne by the owner of the dog.

(D) The provisions of this section with respect to vaccination shall not apply to any dog owned by a person temporarily remaining within the city for less than 30 days, or any dog brought into the city for field trial or show purposes, nor for hunting dogs in the state for less than 30 days. Such dogs shall be kept under strict supervision of the owner. However, it shall be unlawful to bring any dog into the city which does not comply with the animal health laws and import regulations of the state, which are applicable to dogs. Knowledge of animal health laws and import regulation laws is the responsibility of each animal owner. Copies of such laws and regulations and information can be obtained at the Health Department.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.072 DUTIES OF VETERINARIAN.**

(A) It shall be the duty of each veterinarian, at time of vaccinating any dog, to complete a Certificate of Rabies Vaccination in duplicate which shall include the following information:

- (1) Owner's name and address;
- (2) Description of dog (breed, sex, markings, age, name);
- (3) Date of vaccination;
- (4) Rabies vaccination tag number;
- (5) Type of rabies vaccine administered;
- (6) Manufacturer's serial number of vaccine;

(7) Date of expiration of the vaccine as set forth under the "duration of immunity" in the Compendium of Animal Rabies Vaccines.

(B) The original of the certificate shall be given to the owner and the copy shall be retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies for the interval between vaccinations specified in § 90.071. A metal or durable plastic tag, meeting the requirement of any state or federal regulations and issued by the veterinarian who has vaccinated the dog, shall be securely attached to the collar of the dog. Whenever a dog is out-of-doors, whether or not off the owner's premises, the collar with the vaccination tag must be worn.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.073 QUARANTINE OF BITING ANIMALS.**

(A) When any animal bites a human within the city, the owner of such animal shall immediately place the animal in quarantine, or the Animal Regulation Officer or any peace officer may seize such animal, whether on or off the owner's premises, and place the animal in quarantine for such period of time as may be ordered by the Animal Regulation Officer. The animal to be quarantined shall be placed in confinement with a licensed veterinarian in a veterinary hospital or other place of quarantine approved by the animal regulation officer, and such quarantine shall be at the owner's expense. Home quarantine may be authorized by the Animal Control Officer of persons duly authorized under his or her supervision, under the following conditions:

(1) The owner must show a current vaccination certificate against rabies.

(2) The quarantine holding facilities must be approved for isolating the animal from public contact.

(3) A Quarantine Notice will be posted by the Animal Control Officer on the property/residence in a location(s) that is visible to anyone who enters the property/residence. The Quarantine Notice shall remain posted on said property/residence until the animal is released from quarantine or for a period of not to exceed six months. The notice shall contain the bite case number, the release date, and the following language: "As required by the provisions of § 90.073 of the Benton, Kentucky Municipal Code, the dog or other animal on these premises is hereby ordered under quarantine to be held at all times securely on a chain, leash or in a closed cage or paddock or by any other humane form of restraint designated and approved by Animal Control Officer until it is released."

(B) Any animal quarantined shall remain in quarantine for such period of time as the Animal Regulation Officer shall order, not to exceed six months, and such animal shall not be released until a written release is issued by the Animal Regulation Officer.

(C) The owner of any animal placed in quarantine shall present to the Animal Control Officer a written statement executed by a veterinarian that the animal has been examined and found to be free of the signs or symptoms of rabies and has received inoculation against rabies.

(D) It shall be the duty of the Animal Control Officer, the County District Health Officer and the Chief of Police to see that an accurate record is kept of all dog bites, including the time of report, the person making the report and disposition of the case. Each such case shall be investigated and the animal properly quarantined or impounded all in accordance with the provisions of this section.

(E) Any and all animals in use by the Police Department shall be exempt from the foregoing divisions and allowed to remain in service when adhering to the following:

(1) The animal shall have been regarded as having been on duty and engaged in an official law enforcement capacity.

(2) The animal in question shall have all required current vaccinations and be subject to an immediate examination by a licensed veterinarian as well as a follow-up examination at the end of the ten-day period.

(3) The Police Department shall assume the responsibility of observing the animal's overall physical condition within the ten-day period and documenting same. This report will be forwarded to the Animal Regulation Officer accompanied by a written report by a licensed veterinarian having examined the animal in question.

(F) Animals which have been trained and are actually being used to act as a guide for the blind need not be confined or impounded with a licensed veterinarian if the owner of such animal presents to the Animal Control Officer a written statement executed by a licensed veterinarian that the animal is free from diseases communicable to humans and that the animal has received inoculations required by city ordinances. Further, the owner shall assume the responsibility of checking the animal's overall physical condition within the ten-day period of the bite and immediately report to the Animal Regulation Officer any change in the animal's temperament.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.074 DESTRUCTION OF SUSPECTED RABID ANIMALS AND ANIMALS INFLECTING BITES.**

(A) *Destruction of high-risk species.* All animals considered to be a high-risk species may be destroyed immediately upon capture or in the process of capture by representatives of the County District Health Officer, the Animal Control Officer, any state Fish and Game Warden, or any peace officer, where there is reason to believe such animal has bitten a human being or has rabies.

(B) *Destruction of any other animal.* Any other animal which has no marking, license or other identification showing ownership, and upon reasonable and speedy inquiry, if time permits, no owner may be found, may be destroyed immediately upon capture or in the process of capture by representatives of the County District Health Officer, the Animal Control Officer, and state Fish and Game Warden, or any peace officer, where there is reason to believe such animal has bitten a human being or has rabies.

(C) *Destruction of dogs, cats, horses, cattle or other livestock, or wildlife clearly owned by a private party.*

(1) All captured dogs, cats, horses, other livestock or animals clearly owned by a private party may be destroyed immediately by order of the Animal Control Officer or his or her representative where there is reason to believe such animal has rabies and has in fact bitten a human being.

(2) All dogs, cats, horses, cattle or other livestock, or animals clearly owned by a private party, running at large upon public or private roads may be destroyed in the process of capture, when

the circumstances reasonably require such destruction to effect capture, by any representatives of the local Public Health Officer, the Animal Control Officer, any state Fish and Game Warden, or any peace officer, where there is reason to believe such animal has rabies or has in fact bitten a human being.

(3) It shall be the duty of the local Public Health Officer and the Health Department to circulate at least yearly to the director of any enforcement agency designated herein information describing the medically accepted signs of rabies in an animal and to provide current information on rabies control and other pertinent information. The director of any such designated enforcement agency shall take reasonable steps to inform his or her agents of such signs of rabies.

(4) *Disposal of animal captured and disposal of carcasses of destroyed animals.* In divisions (A), (B) and (C) above where an animal has been destroyed, the local Public Health Officer or his or her representatives shall go where the animal is and shall see to it that in accordance with written Health Department policy directives, the head is removed intact to be delivered to the Animal Disease Laboratory of the State Department of Agriculture for appropriate laboratory examination. The remaining carcass shall be destroyed or buried as prescribed by regulations governing the disposal of pathological wastes. Copies of such regulations and policy directives may be obtained at the local Public Health Office.

(5) *Live capture and destruction at quarantine facility.* If the animal in divisions (A), (B) and (C) above has not been destroyed upon capture, the animal shall be delivered to such quarantine facility as in designated by the local Public Health Officer, and there shall be destroyed and the head sent intact for appropriate laboratory examination to the Animal Diseases Laboratory of the State Department of Agriculture. The carcass shall be disposed of as prescribed by regulations governing the disposal of pathological wastes. In the destruction of any animal, humane measures shall be employed and in such a manner as to maintain the head and brain intact.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.075 HANDLING OF ANIMALS EXPOSED TO RABIES.**

Any animal of a species subject to rabies which has been bitten by a known rabid or suspected rabid animal or has been in intimate contact with a rabid or suspected rabid animal shall be quarantined in a place and manner approved by the Animal Regulation Officer for a period of six months or destroyed, with the exception that the following alternative is permitted in the case of dogs and cats: If the dog or cat has been vaccinated against rabies within two years but not less than 30 days with a canine live-virus rabies vaccine or within one year but not less than 30 days with a canine killed-virus rabies vaccine of a type approved in the latest compendium of animal rabies vaccines, the dog or cat may be revaccinated in a manner prescribed by Animal Control and quarantined in a place and manner approved by the Animal Control Officer for a period of 90 days.

(Ord. 07-09-02, passed 9-17-07)



**§ 90.076 HIGH-RISK SPECIES.**

(A) Due to the presence of rabies in skunks, raccoons, foxes, coyotes and bats, and such other high-risk transmitters of rabies as defined by the local Public Health Officer, no such animal may be intentionally kept, harbored or in any way cared for, maintained or fed on private property in the city as pets. Any such animal must be turned over to the proper authority within 48 hours of its initial entry onto the property.

(B) Any owner of any such animal who has kept or harbored such animal as a pet prior to the adoption of this section must obtain a certificate to this effect from the local Public Health Department within 90 days of such date and thereupon shall be exempt from division (A) above. No such certificate from the local Public Health Department shall be issued unless the owner produces a veterinarian's certification of good health.

(C) Any high-risk species which is kept pursuant to division (B) above must be confined in a humane and proper cage.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.077 ENFORCEMENT.**

To enforce the provisions of this subchapter, authority for the control of rabies shall be delegated to the city's Animal Control Officer.

(Ord. 07-09-02, passed 9-17-07)

**§ 90.078 EXEMPTIONS.**

The provisions of this subchapter shall not apply to dogs under the age of four months if kept within a sufficient enclosure, nor to dogs held by or in the custody or in the control of persons who are nonresidents of the city and temporarily visiting for a period not to exceed 30 days, nor to dogs brought to the city assumably for the purpose of entering the same in any dog show or exhibition and which are actually entered in and kept at such show or exhibition, provided that it is unlawful for any such unlicensed dog to be permitted to run at large in the city.

(Ord. 07-09-02, passed 9-17-07)

***DANGEROUS DOGS*****§ 90.085 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**ATTACK.** The deliberate action of a dog, whether or not in response to a command by a person, to bite, to seize with its teeth or to pursue any man, animal or inanimate object, with the intent to destroy, kill, wound, injure or otherwise harm the object of its action.

**BODILY HARM.** This term has the same meaning as physical injury as set forth in KRS 500.080(16).

**DANGEROUS.** A dog determined to be a **DANGEROUS** dog under this subchapter.

**DOMESTIC ANIMAL.** A domestic animal includes, but is not limited to, the following: any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

**PROPER ENCLOSURE OF A DANGEROUS DOG.** The secure confinement of a dangerous or vicious dog either indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and a secure top and shall also provide protection from the elements for the dog. If the pen or structure has no bottom secured to the sides, the sides must be embedded at least two feet into the ground.

(Ord. 07-09-02, passed 9-17-07)

## § 90.086 REGISTRATION.

(A) *Determination.* Any person who has been attacked by a dog, or anyone on behalf of such person, a person whose domestic animal has been killed or injured without provocation, or any police officer or Animal Control Officer may make a complaint before a district judge or the County Attorney, charging the owner or a person having the care, custody or control of such a dog with harboring a dangerous dog. The determination of a dog as a dangerous dog shall be made by the district judge upon evidence of the dog's history or propensity to attack without provocation based upon an incident in which the dog has done one or more of the following:

(1) Caused substantial bodily harm to a human being without provocation on public or private property;

(2) Killed or caused bodily harm to a domestic animal without provocation while off the owner's property;

(3) Attacked a human being without provocation;

(4) Been used in the commission of a crime; or

(5) Owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

(B) *Report of determination.* The district judge shall make a report of a determination under division (A) above to the Chief of Police.

(C) *Certificate required.* It is unlawful for an owner to have a dangerous dog without a certificate of registration issued under this subchapter. Failure to have a required certificate of registration is a misdemeanor.

(Ord. 07-09-02, passed 9-17-07)

#### § 90.087 EXCEPTIONS.

This subchapter shall not apply to dogs used by law enforcement officials for police work, certified guide dogs for the blind, hearing dogs for the deaf nor aid dogs for any handicapped person.

(Ord. 07-09-02, passed 9-17-07)

#### § 90.088 REQUIREMENTS.

(A) *Enclosure and insurance.* The Animal Control Officer shall issue, upon payment of all fees required under division (B) below, a certificate of registration to the owner of such animal within 30 days of notification, in writing, that the dog has been determined to be dangerous and that the owner has presented sufficient evidence of:

(1) A proper enclosure to confine a dangerous dog and the posting on the premises with a clearly visible warning sign (containing letters at least two inches in height) that there is a dangerous dog on the property. In addition, the owner shall conspicuously display a sign with a warning symbol that informs children of the presence of a dangerous dog.

(2) A proper enclosure includes, but is not limited to, the following:

(a) An enclosure constructed of not less than 11-gauge chain link fencing or other material of equal strength as approved by Animal Control. The floor(s) need not be concrete provided that a perimeter footing of at least 24 inches in depth of concrete is utilized. The enclosure fencing shall be securely fixed to the pad or footing. A roof over the entire enclosure shall be constructed of not less than 11-gauge chain link fencing and securely fixed to all sides of the enclosure. All fencing and gate(s) shall be at least six feet in height.

(b) All animals shall at all times have access to an area sheltered from adverse climatic conditions. All sheltered areas must be located inside the enclosure. All entrances to the enclosure must be secured by a padlock at all times.

(c) *Size requirements for enclosures.*

1. Small breeds (20 pounds or less):
  - a. Four feet in width by six feet in length for one dog; and
  - b. Add an additional two feet in width for each additional dog.
2. Medium breeds (under 40 pounds and over 20 pounds):
  - a. Six feet in width by 12 feet in length for one dog; and
  - b. Add an additional four feet in width for each additional dog.
3. Large breeds (40 pounds or more):
  - a. Twelve feet in width by 18 feet in length for one dog; and
  - b. Add an additional six feet in width for each additional dog.

4. Enclosures of other dimensions may be approved by the Animal Control Officer on a case-by-case basis; and

(3) A surety bond in the amount of \$100,000 issued by an insurer authorized to do business in the State of Kentucky, payable to any person(s) injured by the dangerous dog; or

(4) A policy of liability insurance, such as homeowner's insurance, issued by an insurer authorized to do business in the State of Kentucky in the amount of at least \$100,000, insuring the owner for any personal injuries inflicted by the dangerous dog. The policy shall contain a provision requiring the City of Benton, Kentucky to be named as an additional insured for the sole purpose of being notified by the insurance company providing coverage of cancellation, termination or expiration of the liability insurance policy.

(B) *Fee.* The registration fee for a dangerous dog certificate shall be \$500. This registration fee shall be in addition to any other fees collectable under this subchapter.

(C) *Other requirements.* The owner shall sign a statement attesting that:

(1) The owner shall maintain and not voluntarily cancel the liability insurance or surety bond required herein during the period for which licensing is sought unless the owner ceases to own the dangerous dog prior to the expiration of the license; and

(2) The owner shall immediately notify the Animal Control Officer or the Benton Police Department once the owner has knowledge that the dangerous dog is at large, is unconfined, has attacked

another animal, has attacked a human being, has died or has been sold or given away. If the dangerous dog has been sold or given away, the owner shall provide the Animal Control Officer with the name, address and telephone number of the new owner of the dangerous dog.  
(Ord. 07-09-02, passed 9-17-07)

#### § 90.089 CONTROL OF DANGEROUS DOGS.

It is unlawful for an owner or the person having the care, custody or control of a dangerous dog to permit the dog to be outside the required enclosure unless the dog is muzzled and restrained by a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length. The dangerous dog shall be under the direct control and supervision of the owner or the person having the care, custody or control of the dangerous dog. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or registration, but shall prevent it from biting any person or animal or from destroying property with its teeth.  
(Ord. 07-09-02, passed 9-17-07)

#### § 90.090 PUBLIC SAFETY AND PENALTIES.

(A) *Failure to register and restrain.* A dangerous dog shall be immediately confiscated and impounded by any Animal Control Officer or police officer or sheriff upon the occurrence of any of the following:

- (1) The dog is not validly registered under this subchapter;
- (2) The owner does not secure and maintain the liability insurance coverage or post the required bond under § 90.88;
- (3) The dog is not maintained or confined in the proper enclosure;
- (4) The dog is outside of the dwelling of the owner or of the person having the care, custody or control of the dog, or outside the proper enclosure and not under the required physical restraint of the owner or of the person having the care, custody or control of the dog. A violation of this section is a misdemeanor.

(B) *Attacks upon persons or animals.* If a dangerous dog, through the intentional, reckless or negligent conduct of the dog's owner or of the person having the care, custody or control of the dog, attacks a person or attacks another domestic animal, said person shall be guilty of a misdemeanor. In addition, the dangerous dog shall be immediately confiscated and impounded, placed in quarantine for the proper length of time and, thereafter, be destroyed in an expeditious and humane manner, with the costs of quarantine and destruction to be borne by the dog's owner.

(C) *Mandatory reporting.* All known incidents of dog attacks in the city of Benton, Kentucky, shall be reported to the Animal Control Officer, who shall investigate each incident and take the appropriate steps if a dog has been determined to be dangerous.  
(Ord. 07-09-02, passed 9-17-07)

### ***RESTRICTED ANIMALS***

#### **§ 90.100 FINDINGS AND PURPOSE.**

The City Council hereby finds and declares:

(A) That there is an increasing incidence of importation of restricted animals into the city by the residents thereof;

(B) That such animals, in the absence of proper care and supervision by their owners, constitute a potential danger to the health and safety of the residents of the city;

(C) That, at present, no guidelines exist to ensure that such animals will receive proper care and supervision upon their importation into the city; and therefore

(D) That the enactment of the provisions of this subchapter is necessary under the police powers granted to the city to protect the health and safety of the residents of the city.  
(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.101 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

***CANINE.*** Includes any member of the dog family not customarily domesticated by man.

***FELINE.*** Includes any member of the cat family not customarily domesticated by man.

***HOOFED ANIMAL.*** Includes any ungulate animal not customarily domesticated by man.

***PRIMATE.*** Includes any mammal having more than four digits with nails on hands and feet, binocular vision, a large brainpan and other such characteristics. ***PRIMATE*** does not include any *Homo sapiens*.

***RAPTOR.*** Includes any bird of prey.

**REPTILE.** Includes any venomous member of the class of Reptilia of the families Elapidae (cobras, coral snakes, kraits, mambas), Hydrophiidae (sea snakes), and Viperidae (adders and vipers); of the general Heloderma (beaded lizards and Gila monsters) and Thelotornis (bird snakes); and of the species Dispholidis typus (boomslang); and any nonvenomous member of the order Crocodylia (alligators, caimans, crocodiles) and of the following species: Eunectes murinus (anaconda), Liasis amthystinus (amethystine python), Python molurus (Burmese python, Ceylonese python, Indian python), Python reticulatus (reticulated python), and Python sebae (African rock python).

**RESTRICTED ANIMAL.** Includes any bear, canine, feline, hoofed animal, marsupial, primate, raptor and reptile.

(Ord. 07-09-02, passed 9-17-07)

### **§ 90.102 APPLICATION FOR PERMIT TO KEEP RESTRICTED ANIMALS.**

The Animal Control Officer or his or her designee shall consider applications for permits to keep restricted animals within the city. After consideration of an application, the Animal Control Officer shall recommend approval or denial of the permit to the City Council. A recommendation of approval may be made upon such conditions as the Animal Control Officer deems necessary to ensure that the animals will receive proper care and supervision and to protect the health and safety of residents of the city.

(Ord. 07-09-02, passed 9-17-07)

### **§ 90.103 PERMIT TO KEEP RESTRICTED ANIMALS REQUIRED.**

(A) It is unlawful for any person to keep any restricted animal within the city without a permit.

(B) To obtain a permit to keep a restricted animal within the city, a person must make written application therefor to the Animal Control Officer. The application must contain such information as the Animal Control Officer deems necessary to assist him or her in determining whether the permit should be issued. If a restricted animal is to be imported into the city, a copy of the written approval received from the State Department of Fish and Game must accompany the application. In the case of reptiles, as defined in this subchapter, species and number limits will not be attached to the permit. If the holder of a permit moves to another address in the city, the new address must be registered with Animal Control within ten days. Within 30 days after receiving notice of said move, Animal Control shall notify adjacent property owners within 200 feet of the property on which the restricted animal will be kept that a restricted animal will be kept on said property. Notice shall be given personally or by mail.

(C) Each application must be accompanied by a nonrefundable fee of \$100 payable to the Animal Control Center to defray the cost of notice to adjacent property owners.

(D) Upon receipt of the completed application and after notice having been given to adjacent property owners within 200 feet of the property on which the restricted animal will be kept, the Animal Control Officer may issue a permit.

(E) Within ten days after the decision of the Animal Control Officer to grant or deny the permit, an aggrieved applicant or resident residing within 200 feet of the property on which the restricted animal will be kept may appeal the decision of the Animal Control Officer to the Benton City Council by filing a written petition with the City Clerk. The City Council shall hold a public hearing to consider whether a permit shall be issued. In the event the City Council determines that a permit should be issued, a written permit shall be drafted containing such conditions as the City Council deems necessary for the protection of the health and safety of the city residents and of the restricted animal(s).

(F) Any condition imposed on the approval of the permit shall be strictly adhered to by the applicant and failure to do so constitutes cause for its immediate revocation.

(G) In the event the Animal Control Officer issues the permit, the Animal Control Officer shall maintain a record of the date of issuance of, any conditions imposed thereon, and the person to whom a permit has been issued pursuant to this subchapter. Upon request of Animal Control, animal(s), premises, facilities, equipment and any necessary permit(s) must be made available for inspection for the purpose of ascertaining compliance with the provisions of this subchapter.

(H) *Exceptions.* This section does not apply to:

(1) Legally operated zoos or circuses unless the Animal Control Officer, the County Health Officer or a veterinarian engaged by the city shall give 24 hours' notice that by reason of inadequate caging or other means of protection of the public from such animal(s) or by lack of adequate sanitation measures or by another hazard connected with the animal(s) involved, the public health and welfare will be endangered;

(2) Any service or helping animal, pursuant to a permit issued by the Animal Control Officer that is trained or being trained to assist a physically disabled person by the augmentation of one or more of the senses of touch, taste, smell, hearing or sight, provided such training is or has been done under the auspices of a recognized organization that regularly provides such animals for such purposes. Such animals must be kept and maintained subject to the provisions of this chapter;

(3) The owner or a proprietor of a pet store or other business duly licensed by the city to sell restricted animals as defined in this subchapter.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.104 PROVISIONS FOR RESTRICTED ANIMALS; MINIMUM REQUIREMENTS.**

The following minimum enclosure and shelter requirements shall be adhered to before a restricted animal may be kept pursuant to a permit issued under the provisions contained in § 90.103:

(A) *Primates.*

(1) Enclosures for small-size primates such as marmosets and squirrel monkeys shall be not less than three feet by four feet by four feet (48 cubic feet) for two or fewer of such primates. The size



of the enclosure shall be increased by not less than one foot by three feet by four feet (12 cubic feet) for each additional small-size primate.

(2) Enclosures for medium-size primates such as capuchins shall be not less than six feet by six feet by six feet (216 cubic feet) for two or fewer of such primates. The size of the enclosure shall be increased by two feet by four feet by six feet (48 cubic feet) for each additional medium-size primate.

(3) Enclosures for large-size primates such as spider monkeys, woolies and macaques shall be not less than ten feet by ten feet by eight feet (800 cubic feet) for two or fewer of such primates. The size of the enclosure shall be increased to ten feet by 20 feet by eight feet (1,600 cubic feet) when there are more than two but fewer than five of such primates. The size of the enclosure shall be increased by four feet by ten feet by eight feet (320 cubic feet) for each additional primate thereafter.

(4) Enclosures for large-size primates such as chimpanzees, gorillas, orangutans and gibbons shall meet American Association of Zoological Parks and Aquariums (AAZPA) specifications unless the Animal Control Officer determines, under the circumstances, that other specifications are appropriate.

(5) Enclosures for small and medium size primates shall be constructed of not less than 11-gauge chain link or heavy wrapped wire. The floor of such enclosure shall consist of concrete, wood or gravel. All enclosures shall have a secure top.

(6) All primates shall have access at all times to an area sheltered from adverse climatic conditions. The sheltered area shall be heated during the winter months.

(7) The Animal Control Officer may require security fencing surrounding any primate enclosure if he or she determines, under the circumstances, that such fencing is warranted.

**(B) *Felines.***

(1) Enclosures for small-size felines such as margays, servals and ocelots shall be not less than ten feet by ten feet by six feet (600 cubic feet) for two or fewer of such felines. The size of the enclosure shall be increased by six feet by six by six feet (216 cubic feet) for each additional small-size feline.

(2) Enclosures for large-size felines such as cougars, leopards and jaguars shall be not less than ten feet by 20 feet by eight feet (1,600 cubic feet) for one of such felines. The size of the enclosure shall be increased to 20 feet by 20 feet by eight feet (3,200 cubic feet) when there are more than one but fewer than four of such felines. The size of the enclosure for four or more of such felines shall be established by the Animal Control Officer on a case-by-case basis.

(3) Enclosures for lions shall be not less than 15 feet by 20 feet by eight feet (2,400 cubic feet) for each lion. No more than one lion may be housed in each enclosure. When more than one lion is kept, each additional enclosure may adjoin the primary enclosure.

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(4) Enclosures for tigers shall be not less than 15 feet by 20 feet by ten feet (3,000 cubic feet) for each tiger. No more than one tiger may be housed in each enclosure. When more than one tiger is kept, each additional enclosure may adjoin the primary enclosure.

(5) Enclosures for small-size felines shall be constructed of not less than 11-gauge chain link or heavy wrapped wire. Enclosures for large size felines shall be constructed of not less than 9-gauge chain link. The floor of all enclosures for felines shall consist of concrete or wood. Gravel or dirt flooring may be used if the enclosure is properly secured against escape by such felines through digging. All enclosures shall have a secure top.

(6) All felines shall have access at all times to an area sheltered from adverse climatic conditions.

(7) The enclosure requirements for felines set forth above may be waived by the Animal Control Officer if he or she finds that the size and disposition of the feline are such that the feline poses no danger to public health and safety.

**(C) *Canines.***

(1) Enclosures for canines such as wolves and coyotes shall be not less than ten feet by 20 feet by six feet (1,200 cubic feet) for one of such canines. The size of the enclosure shall be increased to 20 feet by 20 feet by six feet (2,400 cubic feet) when there are more than one but fewer than five of such canines. The size of the enclosure for five or more of such canines shall be established by the Animal Control Officer on a case-by-case basis.

(2) Enclosures for canines shall be constructed of not less than 9-gauge chain link. The floor of such enclosures shall consist of concrete or wood. Gravel or dirt flooring may be used if the enclosure is properly secured against escape by such canines through digging. All enclosures shall have a secure top.

(3) Canines may be kept in areas other than enclosures of the type described in division (B) above, if approved by the Animal Control Officer. However, the area shall be fenced to a height of not less than six feet by at least 11-gauge chain link.

(4) All canines shall have access at all times to an area sheltered from adverse climatic conditions.

**(D) *Reptiles.***

(1) Reptiles must be kept in cages or enclosures of such size and construction or confined in such a manner as to preclude the possibility of escape. Cages, enclosures or confinement must be of such size as to permit the animal's reasonable freedom of movement.

(2) Cages or enclosures for venomous reptiles must not be constructed of wire unless the wire is at least two layers thick and designed in such a way as to prevent accidental envenomation through the wire. Such cages or enclosures must have a venomous reptile warning sign affixed thereto and must be equipped with a locking latch.

(3) The cages or enclosures must be kept in a clean and sanitary condition.

(4) The animal(s) must be provided with adequate food, water, shelter and veterinary care. Domestic cats and dogs shall not be used as a source of food.

(5) The animal(s) must be kept in a manner so as not to threaten or annoy any person or normal sensitivity. The animals may be displayed to the public whenever members of the public are forewarned that they may be displayed in the open.

(6) Such animal(s) must be kept upon or transported in escape-proof enclosures to private property which the animal's owner or the person who has a right to control the animal(s) owns or has a right to possess or use. If venomous, as defined in this subchapter, such animal(s) must be kept upon or transported to such property in enclosures which will also prevent accidental envenomation. All other means of transportation are prohibited unless authorized by Animal Control.

(E) *Bears, hoofed animals, marsupials and raptors.* The size of enclosures for bears, hoofed animals, marsupials and raptors shall be established by the Animal Control Officer on a case-by-case basis. The Animal Control Officer may require that the enclosures be at least equal in size to county, state or federal zoo enclosures for such animals. Raptors shall be kept in accordance with all applicable provisions and standards therefore which are found in the falconry regulations of the board of wildlife commissioners of the state.

(F) *Fencing and gate requirements.* The Animal Control Officer may require that security fencing and double gates be installed with any enclosure if he or she determines that such fencing and gates are warranted.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.105 TIMES AND CONDITIONS WHEN ANIMAL MAY BE REMOVED FROM ENCLOSURE.**

(A) In recommending the issuance of a permit to keep a restricted animal, the Animal Control Officer shall specify at what times and under what conditions the animal may be removed from its enclosure. In imposing its conditions, the Animal Control Officer shall consider, among other things, and in the following order of priority:

(1) The effect on public health and safety if such removal is allowed;

(2) Whether the need exists for secure restraint of the animal, by leash or other device, while the animal is removed from the enclosure;

(3) Whether and by what method, the animal will be transported to other areas within or without the city; and

(4) Whether the method of transportation of the animal is adequate to ensure public health and safety.

(B) Except in cases of emergency wherein the life, health or safety of the restricted animal is threatened or immediate medical treatment is required, the owner thereof shall strictly adhere to each condition imposed by the animal control officer pursuant to division (A) above. Failure to do so constitutes cause for immediate revocation of the permit to keep the animal.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.106 REVOCATION OF PERMIT.**

(A) A permit issued pursuant to § 90.103 may be revoked by the City Council, after hearing, for failure by the permittee to comply with any conditions imposed by the City Council or failure to comply with any provision of this subchapter.

(B) If a permit is revoked, the owner of the animal which is the subject of the permit shall transfer ownership of the animal by sale or gift to another person who is capable of compliance with this chapter or shall remove it from the city. If the animal is transferred, the transferee shall immediately apply for a permit to keep such animal. If a permit is not obtained by the end of a 60-day period, the animal shall be removed from the city.

(Ord. 07-09-02, passed 9-17-07)

#### **§ 90.107 IMPOUNDMENT OF ANIMALS.**

(A) Any restricted animal which is kept by any person in contravention of this subchapter may be taken up and impounded by the Animal Control Officer for the protection and health of the animal itself. Whenever possible, the Animal Control Officer shall take up and impound the animal in the presence of the owner thereof.

(B) If an animal is impounded pursuant to division (A) above, the owner thereof shall be notified of that fact by the Animal Control Officer either in person or, if the owner is not present when impoundment occurs, by certified mail, return receipt requested. Notification shall be considered completed on the date that the owner of the animal is personally notified or, if by certified mail, on the date indicated on the return receipt.

(C) Any animal impounded pursuant to this section shall be cared for at the expense of the owner thereof for a period of not more than 30 days. During the period of impoundment, the owner may reclaim the animal by paying the expenses incurred by the Animal Control Officer for the animal's care and by complying fully with the provisions of this subchapter. Upon the impoundment of any reptile(s),

as defined in this subchapter, a minimum fee of \$25 per day must be paid before the owner may reclaim the animal(s). Upon subsequent impoundment of any reptile(s), as defined in this subchapter, belonging to the same owner, the animal(s) will be held by Animal Control at the expense of the owner pending District Court judgment and the city retains the right to confiscate any such animal(s).

(D) At the end of the impoundment period, or sooner if the animal has been abandoned by its owner, the animal may be sold by the Animal Control Officer to the highest bidder and all money received from the sale may be applied toward payment of expenses of the animal's impoundment. Each person who bids on the animal shall submit his bid in writing to the animal control officer and shall submit an application for a permit to keep the animal pursuant to § 90.093. Application fees shall be refunded to all unsuccessful bidders. If the amount of the highest bid exceeds the expenses of impoundment, the excess shall be refunded to the former owner of the animal if the owner's identity is known. If the owner's identity is not known, all money received shall be retained by the city and deposit it to the General Fund.

(E) If the impounded animal is sold, the Animal Control Officer shall notify the buyer of the permit and other requirements of this subchapter and shall ensure that the buyer has complied or is in the process of complying with such requirements before releasing the animal to his or her custody.

(F) If the animal is not sold during the impoundment period, the Animal Control Officer shall, by classified advertisement in a newspaper of general circulation in the city, notify interested persons that the animal is available for purchase at the Animal Control Center. The advertisement shall appear daily in the newspaper for a period of not less than two weeks and shall be placed in the section of classified advertisements where animals are advertised for sale. The Animal Control Officers shall sell the animal to the highest bidder at the end of the two-week period in the same manner as prescribed in divisions (D) and (E) above.

(G) If the Animal Control Officer is unable to sell the animal he or she may destroy it in a humane manner or may give the animal to any person who is capable of complying with this subchapter. (Ord. 07-09-02, passed 9-17-07)

**§ 90.108 RESPONSIBILITY OF PROPRIETOR OF PET STORE OR OTHER BUSINESS DULY LICENSED TO SELL RESTRICTED ANIMALS, OR RESTRICTED ANIMAL OWNER.**

(A) Any proprietor of a pet store, or other business duly licensed within the city to sell restricted animals, or any owner of a restricted animal, shall be required to provide to any purchaser of any restricted animal an application for a permit to keep such animal. The sale or change of ownership of any restricted animal referred to in this subchapter by a pet shop or a private party shall be reported to the Animal Control Officer in writing within 15 days. This section shall apply only to purchasers who intend to keep the restricted animal within the city limits. Failure to supply such application shall be grounds upon which the business license of the pet store may be revoked, in addition to possible criminal prosecution.

(B) The restricted animal owner shall take adequate safeguards to prevent unauthorized access to the animal(s) to preserve animal and public safety. In the event of escape the owner shall immediately notify Animal Control and make every reasonable effort to recapture the animal(s). The owner shall reimburse Animal Control for any costs incurred in recapturing restricted animals, and accept financial responsibility for any medical costs or any damage to public or private property caused by the animal(s). (Ord. 07-09-02, passed 9-17-07)

**§ 90.999 PENALTY AND ENFORCEMENT.**

(A) Any violation of this chapter may be enforced by the Marshall County Animal Control Officer, Benton City Police Department or Marshall County Sheriff's Department as a misdemeanor through District Court unless a stronger penalty is allowed by the KRS.

(B) As an alternative to enforcement through District Court, any violation of this chapter shall constitute a civil offense pursuant to KRS 65.8808(1) unless otherwise prohibited by KRS 65.8808(3) and enforced by Benton's Code Enforcement Board under Chapter 41 of the Benton Code of Ordinances with the amount of the penalties being as follows:

<i>Violation</i>	<i>Amount</i>
90.003 - Restraining animals	\$100
90.006 - Allowing animal to commit nuisance	\$150
90.008 - Cruelty to animals generally	\$500
90.018 - Keeping of poultry and livestock	\$50
90.040 - Vaccination	\$50
Any offense of the chapter not otherwise specifically addressed	\$100

(C) In the event a violation is enforced as a civil penalty then the same violation shall not be enforced as a criminal penalty.

(D) Each day during which a stationary violation continues, except in cases in which a given time has been allowed for corrective action to be taken, shall be a separate and distinct offense. (Ord. 07-09-02, passed 9-17-07; Am. Ord. 23-03-02, passed 3-20-23)