

JN12LWPB.O1

RECOMMENDED BY: PUBLIC SAFETY COMMITTEE  
SUBMITTED BY: CITY ATTORNEY

ORDINANCE NO. 07-103

AN ORDINANCE TO AMEND TITLE 6, "HEALTH AND ENVIRONMENTAL CONTROL," CHAPTER 1, "ANIMALS AND FOWL," ARTICLE A, "GENERAL PROVISIONS," SEC.6-1-1, "DEFINITIONS." TO AMEND THE DEFINITIONS TO ADD THE DEFINITION OF CATS AS NECESSARY TO ADD CATS TO BE COVERED BY THE ARTICLE A, TO MODIFY AND CLARIFY THAT THE FACILITY IS AN ANIMAL CONTROL CENTER AND TO CLARIFY THE RELATIONSHIP BETWEEN THE CITY OF BIRMINGHAM AND THE ANIMAL CONTROL OFFICER; TO FURTHER AMEND ARTICLE B, "DOGS," TO INCLUDE CATS, TO AMEND SEC. 6-1-11, TO AMEND SEC. 6-1-11, "ENFORCEMENT" CLARIFY THE SPECIFIC PERSON WHO MAY ENFORCE THE ORDINANCES IN ARTICLE B; TO AMEND SEC.6-1-12 "INOCULATION," TO INCLUDE CATS; TO AMEND SEC. 6-1-13, "KENNEL LICENSES," TO INCLUDE CATS CONSISTENT WITH THE ZONING DEFINITION OF KENNEL; TO AMEND SEC. 6-1-14, "RUNNING AT LARGE; PROHIBITED," TO INCLUDE CATS; TO AMEND SEC. 6-1-18, "IMPOUNDMENT;GENERALLY," TO MODIFY THE REFERENCES TO ANIMAL CONTROL CENTER TO BE CONSISTENT WITH THE DEFINITIONS SECTION AND TO ADD CATS TO BE CONSISTENT WITH OTHER SECTIONS; TO AMEND SEC. 6-1-19, "SAME; REDEMPTION GENERALLY;SALE OR DISPOSAL OF UNREDEEMED DOGS," TO INCLUDE CATS AND TO REFLECT A CHANGE TO ANIMAL CONTROL CENTER FROM RABIES CONTROL CENTER; TO AMEND SEC. 6-1-20, "SAME;FEES," TO CHANGE THE SET FEE SCHEDULE TO ONE APPROVED BY COUNCIL, TO INCLUDE VETERINARIAN FEES TO BE RECOVERED FOR EMERGENCY TREATMENT AND THAT ALL SUCH FEES SHALL BE PAID TO THE DIRECTOR OF FINANCE; AND FURTHER TO AMEND SEC. 6-1-21 "KEEPING VICIOUS DOGS; DESTRUCTION OF ANIMAL FOR HUMANE REASONS," TO PROVIDE DUE PROCESS FOR THE OWNER OF THE ANIMAL PROPOSED TO BE DESTROYED.

BE IT HEREBY ORDAINED by the Council of the City of Birmingham that the following section of Title 6, "Health and Environmental Control," Chapter 1, "Animals and Fowl," Article A. "General Provisions," Sec. 6-1-1, "Definitions;" and Article B, "Dogs," Sec. 6-1-11, "Enforcement," Sec. 6-1-12, "Inoculation," Sec. 6-1-13, "Kennel licenses," Sec. 6-1-14, "Running at large; prohibited," Sec. 6-1-18, "impoundment; generally," Sec.6-1-19, "Same; redemption generally; sale or disposition of unredeemed dogs," Sec. 6-1-20, "Same; fees," and Sec. 6-1-21, "Keeping vicious dogs; destruction of animal for humane reasons," are hereby amended to read as follows:

**ARTICLE A**  
**General Provisions**

**6-1-2 Definitions.** For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (1) *At large.* A dog or cat shall be deemed to be at large when it is not under physical restraint by its owner or a competent person having charge or control of it or when it is not confined within a wall, fence, vehicle or other enclosure in such a manner as to effectively prevent it from escape.
- (2) *Cat.* All members of the feline family.
- (3) *Dog.* All members of the canine family.
- (4) *Exposed to rabies.* A dog or cat has been exposed to rabies within the meaning of this chapter if it has been bitten by, or been exposed to, any animal known to have been infected with rabies.
- (5) *Gender.* Whenever in this chapter a word is used in the masculine gender, it shall be deemed to mean and include both the masculine and feminine gender.
- (6) *Kennel.* Any person, group of persons or corporation engaged in the business of breeding, buying, selling or boarding dogs or cats.
- (7) *Owner.* Any person having a right of property in a dog or cat or who has care of it or acts as its custodian or who keeps it, allows it food and refuge on or about any premises occupied by that person or persons or who harbors it in any manner.
- (8) *Animal control center.* Any premises designated by the city for the purpose of impounding and caring for animals under the Rabies Act for the confinement under municipal ordinances or state laws.
- (9) *Animal control officer.* The person or persons employed by the Supervisor of the animal control center or otherwise authorized by the city to assist the supervisor of the animal control center in the performance of his duties.
- (10) *Supervisor, animal control center.* The person authorized by the city to supervise the operation of the rabies control at the animal control center and to perform other duties as required by the municipal ordinances or state law.
- (11) *Under restraint.* Controlled by a leash, cord, chain or similar means in the hands of the owner or tethered in a humane manner so as to remain upon private premises and in the presence of the owner or any competent person. (Code 1964, Sec. 7-1)"

## **Article B. Dogs and Cats**

**Sec. 6-1-11. Enforcement.** The provisions of this article may be enforced by any police officer of the city, the supervisor of the animal control center, any animal control officer authorized by the city or any other duly authorized employee of the city; provided however, that these enforcement provisions shall not be construed to limit citizens from making duly sworn complaints to a magistrate of the city for violations of Sec. 6-1-14, Running at Large (Code 1964, Sec. 7-11)

**Sec. 6-1-12 Inoculation.**

It shall be unlawful for the owner or any person to possess, keep or harbor in the city any dog or cat over three (3) months of age which has not been inoculated against rabies within the preceding 12 months and tagged as required by sections 3-7-2 and 3-7-4, Title 3, Code of Alabama, Recompiled, 1975.

**Sec. 6-1-13 Kennel licenses.**

No person, group or corporation shall engage in the business of buying, selling, boarding or breeding dogs or cats unless a business license for the current license year shall have first been issued therefore by the director of finance. (Code 1964, Sec. 7-13, as amended by Ord. No. 92-207, 8/4/92)

**Sec. 6-1-14. Running at large; prohibited.**

It shall be unlawful for the owner or any person having charge or control of a dog or cat to allow it to be or to run at large. (Code 1964, Sec. 7-14)

**Sec. 6-1-18. Impoundment; generally.**

(a) Any dog or cat found running at large may be picked up by an animal control officer or rabies officer and impounded in the shelter designated as the animal control center and there confined in a humane manner for a period of not less than three (3) days, and thereafter be disposed of in a humane manner if not claimed by its owner; provided however, when the owner or person in charge of any such dog or cat found at large or running at large is known or made known to the animal control officer, and that dog or cat is otherwise in compliance with the other requirements of Articles B and C of this chapter, any officer authorized as set forth in Article B may issue a citation for ordinance violation to the owner or person in charge, in lieu of the impoundment. Any officer authorized as set forth in Article B Section 6-1-11 shall be authorized hereby to issue a citation of ordinance violation to the owner or person in charge of a dog or cat found at large or running at large.

(b) After the legal detention period has expired and an impounded dog or cat has not been claimed by its owner, the supervisor of the animal control center may transfer the title to and give ownership of any dog or cat held in the animal control center to: (1) the humane society or any responsible Alabama animal adoption society, said society agreeing to provide for the inoculation of said animal to the satisfaction of the supervisor, but not being required to pay any fee; (2) to any person deemed by the supervisor to be a responsible and suitable owner who shall agree to comply with the provisions of this article, including the inoculation and payment of fees herein required.

(c) Immediately upon the impounding of any dog or cat, the supervisor of the animal control center shall make every reasonable effort to notify the owner of the dog or cat so impounded and inform the owner of the conditions under which they may regain custody of these dogs or cats. (Code 1964, Sec. 7-17, as amended by Ord. No. 79-8, 1/23/79)

**Sec. 6-1-19 Same; redemption generally; sale or disposition of unredeemed dogs or cats.**

(a) The owner shall be entitled to resume possession, of any impounded dog or cat, except as hereinafter provided in the cases of fierce, dangerous or vicious dogs, upon compliance with the inoculation requirements of this article and the payment of impoundment and board fees herein

required.

(b) Release of Dogs or Cats by the Supervisor of the Animal Control Center.

(1) No impounded dog over the age of three (3) months shall be released from the animal control center unless or until the same is inoculated and a proper certificate thereof and tag therefore is presented or obtained as required in this article or the ordinance or regulation of the city, town or county in the state where that dog or cat is to be taken and remain. An owner or other person entitled to possession of an impounded dog or cat who does not have the required inoculation certificate and tag for the dog or cat shall have the dog or cat inoculated at the animal control center by a licensed veterinarian, upon payment of the fee, or any sums as may be hereafter authorized therefore by state law.

(2) It shall be the duty of the supervisor, or his assistant, to furnish a copy of all receipts issued under this subsection promptly to the health department, along with the names and addresses of all persons to whom these receipts have been issued.

(3) Any dog or cat impounded under the provisions of this section and not reclaimed by its owner within three (3) days: (i) may be humanely destroyed by the supervisor, or his assistant; or (ii) the supervisor may transfer title to it and give ownership of it as provided in section 6-1-18(b).

(4) The owner of a dog or cat impounded and not redeemed within the detention period provided for in this article shall be responsible for the fees and charges herein required and incurred, whether or not the dog or cat is claimed.

(5) In the event any dog or cat is voluntarily left for disposal by its owner, the supervisor of the animal control center shall have complete authority either to destroy any such dog or cat in a humane manner without holding the same for redemption, or if any such dog or cat is healthy, to give the same to a new owner, upon proper inoculation and payment of all required fees by the new owner. (Code 1964, Sec. 7-18, as amended by Ord. No. 92-205, 8/4/92)

**Sec. 6-1-20. Same; fees.**

Any dog or cat impounded hereunder may be reclaimed as herein provided upon payment by the owner to the supervisor of the animal control center or his assistant of the fee approved by the City for (i) board, (ii) the inoculation fee, if necessary plus any penalty due, (iii) impounding fee, and (4) any veterinarian cost for emergency. All board fees, inoculation fees, impoundment, veterinarian fees for emergency treatment, and kennel permit fees shall be remitted to the city's director of finance. (Code 1964, Sec. 7-19, as amended by Ord. No. 92-206, 8/4/92)

**Sec. 6-1-21. Keeping vicious dogs; destruction of animal for humane reasons.**

(a) The owner shall confine within a building or secure enclosure every fierce, dangerous or vicious dog, and not take that dog out of the building or secure enclosure unless the dog is on a leash and is securely muzzled. The owner of the dog shall post a written notice in letters not less than two (2) inches high upon the place of confinement so as to be easily seen warning that a vicious dog is on the premises. It shall be prima facie evidence that a dog is fierce, dangerous or vicious if it fiercely or viciously bites or attacks another animal not on its owner's premises or if it shall bite, attack or fiercely or viciously assault or chase, any person who is not at the time on the owner's premises.

(b) Any dog as is described in the foregoing subsection (a) of this section, found at large, shall be impounded by the animal control officers in the animal control center and when in the judgment of a licensed veterinarian and/or the supervisor of the animal control center,

that dog should be destroyed for reasons of public safety or humane reasons, it may not be redeemed. (Code 1964, Sec. 7-20)

(c) If it is determined by a licensed veterinarian that the dog should be destroyed, the owner shall be notified in writing within twenty-four (24) hours of such decision or one business day. The owner shall have seven (7) days to file an appeal of the decision with the supervisor of the animal control center and the city clerk. The city clerk shall place the appeal before the city council within ten (10) days for a hearing on the decision to destroy the dog.

Adopted by the Council of the City of Birmingham June 19, 2007 and Approved by the Mayor June 28, 2007

  
City Clerk 