

ORDINANCE NO. 54

ANIMALS

AN ORDINANCE REPEALING NO. 2 (An Ordinance Licensing and Regulating the Keeping of Dogs)

GENERAL PROVISIONS

Definitions.

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

Animal: Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom, except homo sapiens. **Animals** shall be classified as follows:

1. **Domestic Animals:** means those animals commonly accepted as a domesticated household pet. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.
2. **Non-Domestic Animals** or **Wild Animals:** means those animals commonly considered to be naturally wild and not trained or domesticated, or which are commonly considered due to size, wild nature or other characteristics to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:
 - a. Any member of the large cat family (family Felidae) including but not limited to lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
 - b. Any naturally wild member of the canine family (family Canidae) including but not limited to wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
 - c. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
 - d. Any member or relative of the rodent family including but not limited to any skunk (whether or not de-scented) raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
 - e. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including but not limited to rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
 - f. Any animal the keeping of which is licensed or prohibited by state or federal law.
 - g. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including, but not limited to bears, deer, weasels, badgers, monkeys, apes, bison and game fish.
3. **Farm Animals:** means those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals include, but are not limited to, members of the equestrian family (horses, mules, llamas, alpacas), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese, ostriches, emus), swine (including Vietnamese potbellied pigs), goats, and other animals associated with a farm, ranch, or stable.

Animal Control Authority: An agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations within its jurisdiction. The Hubbard County Sheriffs Department shall be designated as the animal control authority for the City of Nevis.

At Large: Off the premises of the owner and not under the control of the owner or a member of his or her immediate family, either by leash or otherwise.

Cat: All cats over 4 months of age. *Cat* means any male or females of the feline species, commonly accepted as domesticated household pets.

Dangerous Dog: Shall have the meaning given it in M.S. 347.50 Subd. 2 and 3.

"Dangerous dog" means any dog that has:

Subd. 2 **Dangerous Dog.**

1. without provocation, inflicted substantial bodily harm on a human being on public or private property;
2. killed a domestic animal without provocation while off the owner's property; or
3. been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

"Potentially dangerous dog" means any dog that:

Subd. 3. **Potentially dangerous dog.**

1. when unprovoked, inflicts bites on a human or domestic animal on public or private property;
2. when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
3. has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Dog: All dogs over 4 months of age. *Dog* means any male or female of the canine species, commonly accepted as domesticated household pets.

Great Bodily Harm: Shall have the meaning given it in M.S. 609.02, Subd. 8. "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

Non-Domestic or Exotic Animal: Any wild animal, reptile, or fowl which is not naturally tame or gentle but is of a wild disposition or which, because of its size, vicious nature or other characteristics would constitute a danger to human health, safety or property.

Owner: Any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog or cat.

Person: Any individual, partnership, corporation, firm, organization, department or group, however organized.

Proper Enclosure: Shall have the meaning given it in M.S. 347.50, Subd. 4. Proper enclosure.

"Proper enclosure" means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

Restrain: The animal is on the premises of the person harboring or keeping the animal or that the animal is effectively restrained by a leash, chain, or electronic control device is within 10 feet of the person having custody of it and is obedient to the command of that person.

Substantial Bodily Harm: Shall have the meaning given it in M.S. 609.02, Subd. 7(a). "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

DOGS AND CATS

Registration and Licensing Requirements: Every person who owns a dog or cat shall cause the animal to be registered and licenses as hereafter provided.

License Tag and Fees: All dogs and cats kept in this city shall be registered in the office of the City Clerk. The owner shall obtain a license and a tag for each animal and pay for a fee as the City Council may, by ordinance, adopt. The tag should be attached to the collar of the animal. If the tag is lost or stolen, the owner shall receive a duplicate license and tag upon payment to the City Clerk, a fee, as provided. The animal tags are not transferable and no refunds shall be made on any license because of leaving the city before expiration of the license period.

Rabies and Distemper Inoculation: No license shall be issued for a dog or a cat unless the owner shall show written evidence that the animal has been inoculated for the prevention of rabies within the past 2 years.

Terms of License: The license period shall be for the whole or unexpired portion of the year ending on the ensuing March 31.

New Residents in the City: Any person who moves into and becomes a resident of the city and who owns a dog or cat within the city shall cause the same to be registered and licensed as provided herein within a period of not more than 30 days after becoming a resident of the city.

Running at Large:

1. It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large.
2. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor.
3. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited."

Dog and Cat Nuisances:

1. It shall be unlawful for any owner to fail to exercise proper care and control of his or her animal to prevent them from becoming a public nuisance.
2. It shall be considered a nuisance for any animal to bark or cry excessively; to molest, annoy, or bite any person if the person is not on the property of the owner or custodian of the animal; or to damage, defile, or destroy public or private property.
3. Failure of the owner or custodian of a dog or cat to prevent the animal from committing a nuisance is a violation of the chapter.

Confinement of Certain Animals: Every dog or cat in heat shall be confined in a building or other secure enclosure, in a manner that it cannot come into contact with another dog or cat except for planned breeding.

Impoundment and Redemption Procedures: The city will abide by rules and regulations set up by any shelter operated under the auspices of the Humane Society.

OTHER ANIMALS

General Prohibition: It shall be unlawful for any person to keep or harbor any cattle, sheep, goats, swine, or poultry within the city limits except in areas zoned agricultural, except as may be permitted according to the following requirements:

1. A one-time permit may be issued to occupants which allow domestic poultry keeping on single residential dwelling properties.
2. The permit shall run with the applicant for a specified property and shall expire upon discontinuance of the use. Changes in permit applicant on the same property, or the same applicant on a different property, shall require the issuance of a new permit.

3. All animals and confinement areas(s) shall be maintained in a healthy and sanitary condition.
4. The applicant shall provide a written management plan. The plan shall include a diagram of the confinement area drawn to scale on a parcel site plan.
5. The confinement area define shall contain no greater than 10 poultry.
6. The confinement area is required to meet twice the required side and rear yard zoning setback requirements for accessory structures as described in the Zoning Ordinance #36.
7. Poultry shall be confined in an appropriate structure and fenced run area.
8. The confinement structure and fenced run area shall not be located between a principal structure and any residential street, with the exception of a platted alley.
9. The confinement structure shall contain a roof and finished exterior walls consisting of year-round weather materials.
10. The confinement area shall not consist of any type of vehicle or equipment, whether or not operative.
11. Poultry confinement area shall not be located upon any part of an SSTS area. (Sub-surface sewage treatment system)
12. The poultry owner shall prevent animal noise coming from occurring on the property which is audible from adjacent or nearby properties. Roosters are hereby prohibited.
13. Poultry odors shall not be detectible on adjacent or nearby properties.
14. The poultry owner shall prevent conditions which constitute a public nuisance.

Animals at Large: No person shall permit any horse, mule, donkey, or pony of which he or she is the owner, caretaker, or custodian to be at large when it is off the premises owned or rented by the owner and not under his or her individual restraint.

Non-Domestic or Exotic Animals: It is unlawful for any person to keep, maintain or harbor animals as theretofore described.

HUMANE TREATMENT

Improper Care: It shall be unlawful for any owner to fail to provide animals with sufficient good and wholesome food and water, proper shelter and protection from weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

Cruelty To Animals: It shall be unlawful for any owner to beat, cruelly ill-treat, torment, or otherwise abuse any animal.

Diseased Animals:

1. Running at large: No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of any persons in the city.
2. Confinement: Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended, seized, and confined in an impound facility by the animal control authority. The animal control authority shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the public, the animal control authority shall cause such animal to be killed and shall properly dispose of the remains. The owner of

the animal killed under this section shall be liable to the city for the cost of maintaining, destroying and disposing of the animal, plus the costs of any veterinarian examinations and those from any impound facility, as applicable.

3. Release: If the animal, upon examination, is not found to be diseased within the meaning of this section, the animal shall be released to the owner as provided in this chapter.

Declaration/Designation of Dangerous or Potentially Dangerous Dog: The provisions of M.S. 347.50 through 347.565 (commonly referred to as the “Dangerous Dog Regulations”) are hereby adopted and incorporated herein by reference, as the same may be amended from time to time, and must be adhered to in all respects, except as otherwise explicitly provided in this section. The animal control authority may declare a dog to be dangerous or potentially dangerous when the animal control authority has probable cause to believe that a dog is dangerous or potentially dangerous as those terms are defined in this chapter. In addition to those factors defining dangerous or potentially dangerous dog, the following factors may be considered in determining whether to designate a dangerous or potentially dangerous dog.

1. Whether any injury or damage to a person by the dog was caused while the dog was protecting or defending a person or the dog’s offspring within the immediate vicinity of the dog from an unjustified attack or assault.
2. The strength and size of the dog, including jaw strength, and the animal’s propensity to bite humans or other domestic animals.
3. Whether the dog has wounds, scarring, is observed in a fight, or has other indications that the dog has been or will be used, trained, or encouraged to fight with another animal or whose owner is in possession of any training apparatus, paraphernalia or drugs used to prepare such dogs to fight with other animals.

Registration of Dangerous or Potentially Dangerous Dogs:

1. No person may own a potentially dangerous dog or dangerous dog in this jurisdiction unless the dog is registered as provided in this section. The owner of, or person keeping, a dangerous or potentially dangerous dog must register the dog in accordance with M.S. 347.51. The owner must obtain a registration certificate annually from the city and must register a newly declared dangerous or potentially dangerous dog within 14 days after notice that a dog has been declared dangerous or potentially dangerous. Regardless of any appeal of such designation that may be requested, the owner must comply with the requirements of M.S. 347.52(a) and (c) regarding proper enclosures and notification to the city upon transfer or death of the dog, until and unless the City Council or a court of law reverses the declaration/designation.
2. The animal control authority shall issue a certificate of registration to the owner of a dangerous dog if the owner presents sufficient evidence that the requirements of M.S. 347.51 to 347.52 have been met:
 - a. A proper enclosure exists for the dangerous dog and a posting on the premises with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property pursuant to M.S. 347.51, Subd. 2a.
 - b. A surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$300,000 payable to any person injured by the dangerous dog, or a liability insurance policy issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog.
 - c. The owner has paid an annual registration fee, of not more than \$500, with such amount set by the City Council by ordinance, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section.
 - d. The owner has had a microchip identification implanted in the dangerous dog or potentially dangerous dog pursuant to M.S. 347.515.

Dangerous Dog Designation Review: Beginning 6 months after a dog is declared a dangerous or potentially dangerous dog, an owner may request annually that the animal control authority review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the animal control authority finds sufficient evidence that the dog's behavior has changed, the authority may rescind the dangerous dog designation.

Exemptions: Any dog used by law enforcement officials for police work shall be exempt from this subchapter. Also, dogs that may not be declared dangerous if the threat, injury, or damage was sustained by a person:

1. Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog.
2. Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog.
3. Who was committing or attempting to commit a crime.

Tag: A dangerous dog registered under this section must wear a standardized, easily identifiable tag, identifying the dog as dangerous, affixed to the dog's collar at all times.

Appeal of Designation:

1. **Notice and appeal hearing.** After a dog has been declared dangerous or potentially dangerous or has been seized for destruction pursuant to M.S.347.54, the city shall give notice pursuant to M.S. 347.541 to the owner. The owner may appeal this designation or seizure in writing on the form required by the City Clerk within 14 days of the date of the notice of declaration or seizure. Failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing. If an appeal is properly and timely filed with the City Clerk, a hearing will be held pursuant to M.S. 347.541.
2. **Appeal fee.** In addition to any other fees under this chapter, the owner must pay an appeal fee for an appeal hearing that will be established from time to time by the City Council.
3. **Time of hearing and hearing officer.** Pursuant to M.S. 347.541, Subd. 4, the appeal hearing will be held within 14 calendar days of the written request for hearing. The hearing officer must be an impartial employee of the city and shall be the City Administrator, or the City Administrator's designated representative, unless the City Administrator determines that another impartial person be retained by the city to conduct the hearing.
4. **Decision and costs.** If the declaration/designation or destruction is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000, in addition to all maintenance and related costs for impound and/or destroying and disposing of the dog shall be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within 10 days after the hearing. The decision shall be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy shall be provided to the Hubbard County Sheriff's Office. The decision of the hearing officer is final.
5. **Failure to comply with order.** Any owner who fails to comply with an order to destroy a dangerous dog or a potentially dangerous dog or fails to otherwise comply with an order from the animal control authority, hearing officer or City Council is guilty of a misdemeanor. In addition, the animal control authority will confiscate/seize the dog and have it destroyed in a proper and humane manner and the costs thereof will be the responsibility of the owner.

DESTRUCTION AND CONFISCATION

Quarantine of Certain Dogs and Cats: Any dog or cat, which bites a person, shall be quarantined for the time as may be directed by the animal control authority. During the quarantine the animal shall be securely confined and kept from contact with any other animal. At the discretion of the animal control authority, the quarantine may be on the premises of

the owner, however, if the animal control authority requires other confinement, the owner shall surrender the animal for the quarantine period to the animal shelter, or shall, at his or her own expense, place it in a veterinary hospital.

Confiscation of dangerous Dogs: The animal control authority having jurisdiction shall immediately seize any dangerous dog if:

1. After 14 days, after the owner has been given notice that the dog is dangerous, the dog is not properly registered with the animal control authority, under this chapter and M.S. 347.51, and the owner does not secure the proper liability insurance or surety coverage as required.
2. The dog is not maintained in a proper enclosure.
3. The dog is outside of the proper enclosure and not under physical restraint of a responsible person as required under this chapter and M.S. 347.52.
4. The dog is not sterilized within 30 days, pursuant to M.S. 347.52.
5. If the owner of the dog is convicted of a crime for which the dog was originally seized, the court may order that the dog be confiscated and destroyed in a proper and humane manner, and that the owner pay the costs incurred in confiscating, confining, and destroying the dog.

Dangerous Animals and Safety Emergencies: The animal control authority of this city is hereby authorized and empowered to kill any animal found in violation of this subchapter whenever the animal cannot be safely taken up and impounded. No impounding or killing of any animal shall exempt the owner or keeper of the animal from the penalties provided in this subchapter. If, in the reasonable belief of any person or animal control authority, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or animal control authority may immediately kill the animal in a proper and humane manner. Otherwise, the person or animal control authority may seize the animal and deliver it to an impound facility for confinement. If the animal is destroyed or impounded, the owner of the animal destroyed shall be liable to the city for the costs of destroying, maintaining and/or disposing of the animal, plus the costs of any veterinarian examinations and those from any impound facility, as applicable. If the animal is found not to be a danger to the health and safety of the city in the judgement of the animal control authority, it may then be released to the owner.

Provision of Reclamation: A dog, cat, or dangerous dog seized under this subchapter may be reclaimed by the owner of the dog or cat upon payment of impounding and boarding fees, and presenting proof to the appropriate animal control authority that the requirements have been met. An animal not reclaimed within 7 days may be disposed of as provided in § [90.085](#), and the owner is liable to the animal control authority for costs incurred in confining and disposing of the animal.

Subsequent Offenses: If a person has been convicted of a misdemeanor for violating a provision of this subchapter, and the person is charged with a subsequent violation relating to the same animal, the animal must be seized by the animal control authority having jurisdiction. If the owner is convicted of the crime for which the animal was seized, the court shall order that the animal be destroyed in a proper and humane manner and the owner pay the cost of confining and destroying the animal. If the person is not convicted of the crime for which the animal was seized, the owner may reclaim the animal upon payment to the animal control authority of a fee for the care and boarding of the animal. If the animal is not reclaimed by the owner within 7 days after the owner had been notified that the animal may be reclaimed, the animal may be disposed of as provided under § [90.085](#) and the owner is liable to the animal control authority for the costs incurred in confining, impounding, and disposing of the animal.

Destruction of Certain Dogs and Cats:

1. Upon sworn complaint by the animal control authority to the county court any one of the following facts exist:
 - a. Any dog or cat at any time has destroyed property or habitually trespassed in a damaging manner on property of persons other than the owner.

- b. Any dog or cat at any time has attacked or bitten a person outside the owner's or custodian's premises.
 - c. Any dog or cat is vicious or shows vicious habits or molests pedestrians or interferes with the driving of automobiles on the public streets; or
 - d. Any dog or cat is a public nuisance as heretofore defined.
2. The judge shall issue a summons directed to the owner of the animal commanding him or her to appear before the court to show cause why the animal should not be seized by any police officer, or otherwise disposed of in the manner authorized in this subchapter. Upon the hearing and finding the facts true as complained of, the court may either order the animal killed or order the owner or custodian to remove it from the city, or may order the owner or custodian to keep it confined to a designated place. If the owner or custodian violates the order, any police officer may impound the animal described in the order. The costs of all proceedings described herein shall be assessed against the owner or custodian of the animal, if the facts in the complaint are found to be true; or to the complainant if the facts are found to be untrue.

Destruction of Animals in Certain Circumstances: Notwithstanding § [90.085](#), a dog that (i) inflicted substantial or great bodily harm on a human being on public or private property without provocation, (ii) inflicted multiple bites on a human on public or private property without provocation; (iii) bit multiple human victims on public or private property in the same attack without provocation; or (iv) bit a human on public or private property without provocation in an attack where more than 1 dog participated in the attack, may be destroyed in a proper and humane manner by the animal control authority. The animal control authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker as provided in § [90.069](#).

Enforcement: The animal control authority shall enforce the provisions of this chapter and any other applicable laws, statutes, or rules, pertaining to the protection of animals and persons. It shall also constitute a violation of this chapter for any person, within the city, to violate a statute or rule of the State of Minnesota dealing with the care, keeping, or treatment of animals. Any police officer or such other animal control authority as designated by the City Council, having reasonable cause to believe that a person has or is violating a provision of this chapter or the conditions, limitations, restrictions or prohibitions of any permit or license the city issues under this chapter, may apply to the appropriate authority as prescribed by law for a warrant empowering the police officer or animal control officer to enter the dwelling or residence of the owner or keeper of any animal for the purpose of investigating the same and to demand the owner's or keeper's presentation of the animal to the police officer or animal control authority.

Interference with Animal Control Authority Prohibited:

1. No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council or animal control authority to capture and seize dogs, cats, or other animals and convey them to an impound facility while such person is engaged in their official capacity of animal care and control duties, operation, and functions on behalf of the city. Nor shall any unauthorized person break open an impound facility, or attempt to do so, or take or attempt to take from any agent thereof any animal taken up by him or her in compliance with this chapter, or in any other manner interfere with or hinder such person or animal control authority in the discharge of his or her duties under this chapter.
2. A violation of any section of this city ordinance is a misdemeanor. Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section.

Penalty:

1. Any person violating any provisions of this chapter or the provisions of M.S. 374.51, 347.515, or 347.52 shall be guilty of a misdemeanor.
2. It is a misdemeanor to remove a microchip from a dangerous or potentially dangerous dog, to fail to renew the registration of a dangerous dog, to fail to account for a sign a false affidavit with respect to a dangerous dog's death or removal from the jurisdiction, or to fail to disclose ownership of a dangerous dog to a property owner from whom the person rents property.

3. Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this section. A person who is convicted of a second or subsequent violation of division (1) or (2) above is guilty of a gross misdemeanor.