

## ORDINANCE NO.2

### AN ORDINANCE LICENSING AND REGULATING THE KEEPING OF DOGS

The City Council of the City of Nevis ordains:

(A) *Running at Large Prohibited* It shall be unlawful for the dog of any person who owns, harbors, or keeps a dog to run at large (off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined). A person who owns, harbors, or keeps a dog that runs at large shall be guilty of a misdemeanor. Dogs 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 Prohibited".

(B) *License Required*

(1) All dogs over the age of six months kept, harbored, or maintained by their owners in the city shall be licensed and registered with the city. The City Clerk upon payment of the license fee shall issue dog licenses. The owner shall state, at the time application is made for the license and upon the forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

(2) Upon payment of the license fee, the Clerk shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, the City Clerk shall issue a duplicate, with a charge for the duplicate tag. Dog tags shall not be transferable from one dog to another.

(3) The licensing provisions of this division (B) shall not apply to dogs whose owners are non-residents temporarily within the city, nor shall this provision apply to "seeing eye" dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.

(4) The funds received by the City Clerk from all dog licenses and metallic tags fees shall be first used to defray any costs incidental to the enforcement of this chapter including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.

(C) *Vaccination.*

- (1) All dogs kept, harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:
- (a) Rabies - with-a live modified vaccine; and
  - (b) Distemper.
- (2) A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the dog's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the dog(s). In cases where certificates are not presented, the owner or keeper of the dog(s) shall have seven days in which to present the certificate(s) to the City Clerk or officer. Failure to do so shall be deemed a violation of this section.

(D) *Impounding.*

- (1) *Running at Large.* Any unlicensed dog running at large is hereby declared a public nuisance. Any police officer may impound any dog found unlicensed or any dog found running at large and shall give notice of the impounding to the owner of the dog, if known. In case the owner is unknown, the officer shall post notice at the city office that if the dog is not claimed within the time specified in division (3) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any dog running at large.
- (2) *Biting Dogs.* Any dog that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined to a pound for a period of not less than ten days, at the expense of the owner. The dog may be released at the end of the time if healthy and free from symptoms of rabies, and by payment of all costs by the owner. If, however, the dog has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog to the owner's property.
- (3) *Reclaiming.* All dogs conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the dog is dangerous in which case it shall be kept for seven regular business days, and except if the dog is a cruelly-treated dog in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the dog from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:
- (a) Payment of the release fee and receipt of a release permit.
  - (b) Payment of maintenance costs, as provided at the pound, per day or any part of day while dog is in the pound; and

(c) If the dog is unlicensed, payment of a regular license fee, with the required valid certificate of vaccination for rabies and distemper shots.

(4) *Unclaimed Dogs.* At the expiration of the times established in division (3) of this section, if the dog has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the dog by complying with all provisions in this section, or the officer may sell the dog to the University of Minnesota, or cause the dog to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk.

(E) *Kennels.*

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

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

(F) *Proper Enclosure.*

(1) Securely confined indoors or in a securely locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. 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 barriers which prevent the dog from exiting. The enclosure shall not allow the egress of the dog in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) Have a minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of II-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1 1/4-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.

- (d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked at all times when the dog is in the pen or kennel.

(2) Location of pen, kennel, or tethered leash.

- (a) All dog enclosures and restraints must be located in the back yards of homes so as not to become a nuisance to neighboring residents.

G. *Nuisances.*

- (1) *Habitual Barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.
- (2) *Damage to Property.* It shall be unlawful for any person's dog to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.
- (3) *Cleaning up Litter.* The owner of any dog or person having custody or control of any dog shall be responsible for cleaning up any feces of the dog and disposing of the feces in a sanitary manner whether on their own property, on the property of others, or on public property.
- (4) *Other.* Any dogs kept contrary to this section are subject to impoundment

H. *Seizure of Dogs;* Any police officer may enter upon private property and seize any dog provided that the following exist:

- (1) There is an identified complainant other than the police officer making a contemporaneous complaint about the dog;
- (2) The officer reasonably believes that the dog meets either the barking dog criteria; the criteria for cruelty; or the criteria for an at large dog;
- (3) The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the dog; or that the dog was at large at this address on a prior date;
- (4) The officer has made a reasonable attempt to contact the owner of the dog and the property to be entered and those attempts have either failed or have been ignored;

- (5) The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry; and
- (6) Written notice of the seizure is left in a conspicuous place if personal contact with the dog is not possible.

I. *Dogs Presenting a Danger to Health and Safety of City.* If, in the reasonable belief of any person or police officer, a dog presents an immediate danger to the health and safety of any person, or the dog is threatening imminent harm to any person, or the dog is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner. Otherwise, the person or officer may apprehend the dog and deliver it to the pound for confinement. If the dog is destroyed, the owner or keeper of the dog destroyed shall be liable to the city for the cost of maintaining and disposing of the dog, plus the costs of any veterinarian examination. If the dog is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper.

J. *Diseased Dogs.*

- (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 dog that is diseased so as to be a danger to the health and safety of the city, even though the dog is properly licensed under this section.
- (2) *Confinement.* Any dog reasonably suspected of being diseased and presenting a threat to the health and safety of the public may be apprehended and confined in the pound by any person or a police officer. The officer shall have a qualified veterinarian examine the dog. If the dog is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the dog to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the dog killed under this section shall be liable to the city for the cost of maintaining and disposing of the dog, plus the costs of any veterinarian examinations.
- (3) *Release.* If the dog, upon examination, is not found to be diseased the dog shall be released to the owner or keeper free of charge.

K. *Dangerous Dogs.*

- (1) *Attack by a Dog.* It shall be unlawful for any person's dog to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.
- (2) *Destruction of Dangerous Dog.* The police officer shall have the authority to order the destruction of dangerous dogs in accordance with the terms established by this chapter.

(3) *Definitions.* For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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(a) *DANGEROUS DOG.* A dog which has:

- (1) Caused bodily injury or disfigurement to any person on public or private property;
- (2) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
- (3) Exhibited unusually aggressive behavior, such as an attack on another animal;
- (4) Bitten one or more persons on two or more occasions; or
- (5) Been found to be potentially dangerous and/or the owner has personal knowledge of the same; the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(b) *POTENTIALLY DANGEROUS DOG.* A dog which has:

- (1) Bitten a human or a domestic animal on public or private property;
- (2) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- (3) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

*L. Dangerous Dog Requirements.*

(I) *Requirements.* If the City Council does not order the destruction of a dog that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

- (a) That the owner provides and maintains a proper enclosure for the dangerous dog.
- (b) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in MS. 347.51 as may be amended from time to time;
- (c) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;
- (d) If the dog is outside the proper enclosure, the dog must be muzzled and restrained

by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

- (e) The dog must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. 347.52 as it may be amended from time to time;
- (f) All dogs deemed dangerous shall be registered with Hubbard County within 14 days after the date the dog was so deemed and provide satisfactory proof thereof to the police officer.
- (g) The dog must be licensed and up to date on rabies vaccination.

- (2) *Seizure.* The police officer shall immediately seize any dangerous dog if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.
- (3) *Reclaiming Dogs.* A dangerous dog seized may be reclaimed by the owner of the dog upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements are fulfilled. A dog not claimed under this section within 14 days may be disposed of, and the owner is liable to the city for costs incurred in confining and impounding the dog.
- (4) *Subsequent Offenses.* If an owner of a dog has subsequently violated the provisions with the same dog, the dog must be seized by the police officer. The owner may request a hearing. If the owner is found to have violated the provisions for which the dog was seized, the police officer shall order the dog destroyed in a proper and humane manner and the owner shall pay the costs of confining the dog. If the person is found not to have violated the provisions for which the dog was seized, the owner may reclaim the dog. If the dog is not yet reclaimed by the owner within 14 days after the date the owner is notified that the dog may be reclaimed, the dog may be disposed of and the owner is liable for the costs incurred in confining, impounding and disposing of the dog.

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

N. *Penalties.*

- (1) *Separate Offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable by law.

(2) *Misdemeanor*. Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable by law, with a fine not to exceed \$250.00 for each violation.

3) *Petty Misdemeanor*. Violations of Sections A, B, C, G, and M are petty misdemeanors punishable by law, with a fine of \$100.00 for each violation.

O. *Effective Date*. This ordinance becomes effective from and after its publication in the official newspaper of the City of Nevis.

Adopted this 8th day of July, 2002 by authority of Minnesota Statute Chapter 347, Sections 347.01 thru 347.55.

Attest:

Maureen K. Cirks  
City Administrator

Phillip J. Harris, Mayor