

## Chapter 5

### ANIMAL CONTROL

#### 4-5-1: RUNNING AT LARGE PROHIBITED:

Any person or persons keeping, harboring, possessing, caring for, or having any custodial duties over any animal that is found at large upon the streets, alleys, or any other public place or upon any other premises without the consent of the person in possession of such premises, within the city, is responsible for such animal being at large and is in violation of this section, unless:

- A. Such animal is controlled by a leash not exceeding eight feet (8') in length;
- B. Such animal is confined in a motor vehicle; or
- C. When such animal is in the immediate care and control of a competent and responsible attendant. (Ord. 369, 5-30-2000)

#### 4-5-2: NUISANCE:

It shall be unlawful for any person or persons keeping, harboring, possessing, caring for or having any custodial duties over any animal to fail to exercise proper care and control of such animal to prevent it from becoming a public nuisance. Such person or persons shall be guilty of allowing such animal to become a public nuisance when the animal:

- A. Makes excessive, continuous, or untimely barking or other noise;
- B. Molests pedestrians or chases motor vehicles;
- C. Trespasses upon public or private property in such a manner as to damage the property; (Ord. 369, 5-30-2000)
- D. Discharges feces upon public property or private property without the consent of the owner of such property; or
- E. Is repeatedly at large.
- F. No person owning or having the care, custody, possession or control of a dog shall:
  - 1. Fail to have in his/her possession the equipment necessary to remove his/her dog's fecal matter when accompanied by said dog in any park or public pathway.
  - 2. Fail to remove the fecal matter deposited by his/her dog in any park or public pathway before the owner leaves the immediate area where the fecal matter was deposited.
- G. No person owning or having the care, custody, possession, or control of a dog shall permit or allow such dog to enter the playground/water feature areas at any municipal park at any time.
- H. This section shall not apply to:
  - 1. Police officers and their service animals during the official performance of their duties;
  - 2. Handlers of search and rescue animals during the official performance of their duties; or
  - 3. Persons with disabilities utilizing assistance animals. (Ord. 447, 5-13-2003)

**4-5-3: VICIOUS DOG:**

A dog of any age, male or female, which, when unprovoked, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon the streets, sidewalks, any public grounds or places or private property not owned or possessed by the owner of the dog; or a dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of persons or domestic animals; or any dog which bites, inflicts injury, assaults or otherwise attacks a person or domestic animal without provocation; or any dog owned or harbored primarily or in part for the purpose of fighting or any dog trained for fighting.

Notwithstanding the above definition of a "vicious dog", no dog may be declared vicious if an injury or damage sustained by a person who, at the time such injury or damage was sustained, was committing a wilful trespass or other tort upon the premises occupied by the owner of the dog; or was teasing, tormenting, abusing, or assaulting the dog; or was committing or attempting to commit a crime.

No dog may be declared vicious if the injury or damage was sustained as a result of teasing, tormenting, abusing or assaulting the dog. No dog may be declared vicious if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

Any person who is found guilty of owning, harboring, or has in his/her possession any vicious dog or dogs shall be guilty of a misdemeanor and punished as provided in section [4-5-4-3](#) of this chapter. (Ord. 369, 5-30-2000)

**4-5-4: ENFORCEMENT:**

The city clerk or authorized individual(s) are authorized to enforce the provisions of this chapter and are designated as peace officer for such purpose. The city clerk or authorized individual(s) shall be and are hereby authorized to make all necessary seizures and keep and remove any animal in violation of the provisions of this chapter. The city clerk or authorized individual(s) shall issue a notice of ordinance violation for a violation of any of the provisions herein. The notice of ordinance violation may be signed by any person in whose presence a violation occurred and be witnessed by the city clerk or authorized individual(s) whose name shall be endorsed on the notice of ordinance violation. (Ord. 369, 5-30-2000)

**4-5-4-1: DETERMINATION OF VICIOUSNESS AND DESTRUCTION OF VICIOUS DOGS:**

The city clerk or authorized individual(s) shall capture, impound and may destroy any dog found to be vicious pursuant to the determination of this section. The determination of viciousness and disposal of such dogs shall be as follows:

**A. Determination Of A Vicious Dog:**

1. In the event that the city clerk or authorized individual(s) has probable cause to believe that a dog is vicious, the city clerk or authorized individual(s) are hereby empowered to seize and impound such dog. In the event the owner refuses to surrender the dog to the city clerk or authorized individual(s), the city clerk or authorized individual(s) may employ any legal means to seize the dog.
2. The director of the Idaho Humane Society or his designated representative shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious. The director of the Idaho Humane Society or his designated representative shall conduct or cause to be conducted an investigation and shall notify the owner of the dog that a hearing will be held, at which time the owner may have the opportunity to present evidence why the dog should not be declared vicious. The owner of the dog has the burden of proof to show the dog is not vicious. The hearing shall be held no less than five (5) days nor more than ten (10) days after service of notice upon the owner of the dog. The hearing shall be informal and be open to the public.
3. After the hearing, the owner of the dog shall be notified in writing of the determination. The notice of the determination shall be mailed to the owner of the dog with the presumption that the owner of the dog received the notice not more than three (3) days from the date the notice was mailed.

**B. Destruction Of Vicious Dog:**

1. If the determination is made that the dog is vicious, the dog shall be subject to destruction after ten (10) days from the date the notice of determination of viciousness was mailed to the owner of the dog. If the owner of the dog contests the determination, the owner may, within five (5) days of receiving such determination, bring a petition in magistrate court, in the fourth judicial district, in the state of Idaho, in and for the county of Ada, wherein the dog is owned, praying that the court conducts its own hearing on whether or not the animal should be declared vicious. The petition shall be governed by the Idaho rules of civil procedure. The owner of the dog has the burden of proof to show the dog is not vicious. The destruction of the dog shall be stayed pending the outcome of the appeal.
2. If the court finds that the dog is not vicious as defined by this chapter, such dog may be released into the custody of the owner upon payment to the shelter or animal control officer of the expenses of impounding such dog.
3. If the court finds that the dog is vicious as defined by this chapter, such dog shall be subject to destruction by the Idaho Humane Society, Inc. (Ord. 369, 5-30-2000)

**4-5-4-2: ADMINISTRATIVE PROCEDURE:**

In order to eliminate burdening the court system with certain violations of this chapter, and as a convenience to the public, the named defendant on a notice of ordinance violation may pay the fixed penalty set forth below to the city clerk, in person or by mail, within fourteen (14) days of the date of issuance of the notice of ordinance violation:

Code Section	First Offense	Second Offense	Subsequent Offenses
<a href="#">4-5-1</a>	\$25.00	\$50.00	\$50.00
<a href="#">4-5-2</a>	25.00	50.00	50.00

In the event payment is not made in accordance with the administrative procedure set out herein, the uniform citation alleging an ordinance violation shall be filed in the magistrate division of the district court. (Ord. 369, 5-30-2000)

**4-5-4-3: VIOLATIONS; PENALTY:**

Any person violating any of the provisions of this chapter for which a fixed penalty has not been set is guilty of a misdemeanor which is punishable by a fine not to exceed three hundred dollars (\$300.00) or by imprisonment in the county jail for a term not to exceed six (6) months, or by both such fine and imprisonment. (Ord. 369, 5-30-2000)

**4-5-5: DOG LICENSES AND SPECIAL PROVISIONS:**

- A. Licenses, Application, Fees: It shall be unlawful to keep, maintain, harbor or possess upon the premises of any household a dog unless the owner or person in charge shall have obtained a dog license for such dog. All dog licenses shall be valid until December 31 of each calendar year. The owner, or person having charge, of any dog within the city shall make application to the clerk or the humane shelter director and pay a license fee according to the following schedule: (Ord. 369, 5-30-2000)

Nonneutered or nonspayed dogs	\$25.00
Nonneutered or nonspayed dogs (senior citizen fee)	25.00
Spayed or neutered dogs	10.00
Spayed or neutered dogs (senior citizen fee 60 years old)	5.00
Late fee - after February 1	5.00

1. Issuance Of Metal License Tag: Upon receipt of such application and payment of fees, the person issuing the license shall issue a receipt designating the owner's name and the number of the license, the sex (or status of spayed or neutered) of the dog and the amount paid by owner, together with a metal tag bearing the number corresponding to that upon the receipt.
  2. Lost Tags: If a license is lost, the clerk or director of the Idaho Humane Society or other designated agent shall, upon application and payment of five dollars (\$5.00), issue a duplicate tag. Licenses for the following year may be purchased within thirty (30) days prior to the expiration date.
  3. Certificate Of Neuter Required: A certificate of neuter or spay issued by a veterinarian or the Idaho Humane Society shall be required to be present at the time the license is applied for in order to secure the license rate for a neutered or spayed dog.
  4. Exception For Guide Dog: License fees shall be waived for any guide dog that has been properly trained for and is used to guide a blind or partially blind person, a person with impaired hearing or any other severely disabled person who requires a guide dog. To qualify under this exception, the owner and user of the dog must be medically certified as having a visual or hearing impairment by a licensed medical doctor. (Ord. 488, 12-7-2004)
- B. Imitation License Tags: It shall be unlawful for any person to allow any dog owned, kept or harbored by him to wear a license tag received on account of a former licensee or to wear any imitation of the license tag issued by the city for that year.
- C. Training And Exercise Grounds: The city council may designate such areas of the public park or other public grounds of the city which may be used, subject to the rules and regulations as may be prescribed, for the training or exercise of dogs. Dogs within such areas so designated need not be controlled by leash, but shall be under the control of a responsible person and controlled by whistle, voice or other effective command.

D. Collar; Tag: Every dog shall at all times wear a substantial, durable collar, to which shall be securely attached the required license tag. (Ord. 369, 5-30-2000)

#### **4-5-6: RABIES VACCINATION:**

A. Certificate Required: The owners of all dogs required to be licensed under this chapter shall present to the city licensing department, prior to being issued a dog license, a valid rabies vaccination certificate issued by a licensed veterinarian.

B. Guidelines: A rabies certificate shall be considered valid within the following guidelines:

1. Within one year from the date of issue when the dog vaccinated was less than one year old.
2. Within three (3) years from the date of issue when the dog vaccinated was one or more years of age. (Ord. 488, 12-7-2004)

#### **4-5-7: RABIES CONTROL:**

A. Proclamation Of Mayor: The mayor of the city is hereby authorized and empowered to issue a proclamation upon order of the city council whenever the prevalence of rabies in the city and vicinity deems it necessary calling attention of the public to the necessity of complying with the provisions of this chapter relative hereto.

B. Running At Large During Prevalence Of Rabies: It shall be unlawful for the owner or keeper of any dog to permit such dog to run at large within the limits of the city, during the prevalence of rabies in the city, or after the issuance of a mayor's proclamation as provided in subsection A of this section.

C. Quarantine:

1. Keeping Dog Afflicted With Rabies: It shall be unlawful for any person to own, keep or harbor any dog afflicted with rabies.
2. Confinement; Fee; Disposition: It is hereby made the duty of any owner of a dog showing symptoms of rabies, or of an unvaccinated dog which has bitten any person causing an abrasion of the skin, to surrender the dog for confinement at the Idaho Humane Society, or to a licensed veterinarian, for a minimum of ten (10) days. If such dog shall be determined free of rabies, the same shall be returned to the owner upon payment of the regular fee for keeping dogs impounded. If such fee is not paid, the dog shall be subject to disposal as provided by law. At the discretion of either the Idaho Humane Society, the Central District health department, or the lieutenant in charge of the Ada County sheriff's department substation in the city of Eagle, the quarantine of a dog may be upon the premises of the owner, or the person in charge of such dog, if the dog is securely confined, kept from contact with other animals and is submitted to a veterinarian for examination at the owner's expense to determine whether or not the dog is rabid. (Ord. 488, 12-7-2004)