

6.04 - Animal Control

Chapter 6.04 - ANIMAL CONTROL

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6.04.010 Definitions. As used in this chapter, the following words have the following meanings:

- A. "Animal" means any live, vertebrate creature, domestic or wild, except human primate.
- B. "Animal shelter" or "impoundment facility" means a facility in which to impound animals held by the city, or a humane society, pursuant to agreement or contract, acting for the city.
- C. "At large" means off the premises of the owner and not under the control of the owner.
- D. "City" means the city of Evans, Colorado.
- E. "Control" is defined in Section 6.04.020.
- F. "Code enforcement officer" means a peace officer so designated by law, the ordinances of the city, or by written order of the chief of police, to enforce the provisions of this chapter.
- G. "Exotic animal" means non-human primate, skunk, fox, raccoon, wild/exotic cat and similar animals.
- H. "Farm animal" means horse, mule, ass, sheep, goat (excluding pygmy goat), llama, swine (excluding pot belly

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pig), cow, or other cloven hoofed animals commonly known as livestock.

I. "Fowl animal" means chicken, turkey, goose, duck, guinea, household bird, pigeon and similar animals provided they are for the enjoyment of the occupants of the lot and are not kept primarily for the purpose of sale or commercial endeavor. Commercial activities must comply with all other ordinances and zoning regulations.

J. "Household" means a dwelling unit and surrounding property customarily used by a single family for living purposes.

K. "Kennel operation" means any activity which includes boarding, breeding, or care and treatment of animals for compensation or profit. Kennel operations must comply with all other ordinances and zoning regulations.

L. "Leash" or "lead" means a thong, cord, rope, chain or similar device which holds an animal in restraint, and which is not more than ten feet long.

M. "Litter" means offspring of one of the adult animals being harbored which is commonly considered to be too young to wean.

N. "Livestock" means any bovine animal, horse, mule, ass, sheep or goat (excluding pygmy goat).

O. "Neighborhood" means the area within five hundred feet of the exterior boundaries of the premises where the animal is kept.

P. "Open area" means space on a lot or parcel of ground which is used exclusively for the containment of animals and which is not covered with any structures, paving, buildings or similar appurtenances, i.e. corrals.

Q. "Owner" means any person, partnership or corporation owning any animal or animals, or having the same in his or its care, custody or control, or who causes, encourages or suffers the same to remain upon their premises for a period of three consecutive days or more.

R. "Pet animals" means domestic dog, domestic cat, rabbit, guinea pig, hamster, mouse, snake, iguana, turtle, pot belly pig, pygmy goat, ferret and similar animal provided they are for the enjoyment of the occupants of the lot and are not kept primarily for the purpose of sale or commercial endeavor.

S. "Pet shop" means the premises of any person, partnership or corporation, whether operated separately or in connection with another business enterprise that buys or sells animals on a regular basis.

T. "Premises" means real property owned, rented, leased, used, kept or occupied by a person or persons, a partnership, a corporation or governmental unit, howsoever described.

U. "Public nuisance" means any animal that:

1. Menaces or attacks persons or vehicles;
2. Menaces or attacks other animals;
3. Goes upon school premises without the per-mission of the person in charge thereof;
4. Is at large;
5. Damages private or public property;
6. Barks, howls, yelps, bawls, or makes other loud, persistent noise in a manner which, under nonmitigating circumstances, could be considered by reasonable persons of ordinary sensibilities as excessive or continuous;
7. Being a female in heat, because of the nature of its confinement, or lack of the same, has attracted other animals and caused them to congregate or remain on or about any premises;
8. Is in a public lake;
9. Any other act or condition in this chapter designated as a public nuisance.

V. "Rabies vaccination" means the inoculation of an animal with a rabies vaccine approved by the Colorado Department of Health.

W. "Raptore" means any migratory bird that is a member of falconiformes or strigiformes and, specifically, but not by way of limitation, means falcons, hawks, owls and eagles.

X. "Trap" means any device used to contain or capture an animal.

1. "Humane trap" means any trap which does not cause injury to the animal trapped.

2. "Inhumane trap" means any trap which causes injury to the animal trapped.

Y. "Veterinary hospital" means any premises upon which a licensed veterinarian performs surgery, makes diagnoses, and treats diseases or the injuries to animals.

Z. "Vicious animal" means any animal that constitutes a threat to the well being or safety of human beings or other animals.

AA. "Wild animal" means any monkey (nonhuman pri-mate), raccoon, skunk, poisonous snake or reptile, jaguar, cheetah, mountain lion, wildcat, panther, margay, or any other species of cats other than ordinarily domesticated house cats, any bear, any nonpoisonous snake longer than six feet, any crocodile or alligator longer than one foot, any badger, prairie dog, beaver, muskrat, or bat, or any wolf, coyote, fox, or other species of canine other than ordinarily domesticated dogs. (Ord. 456-08: Ord. 1104-98: Ord. 1083-97: Ord. 957-95: Ord. 816-91; Ord. 703 88: Ord. 652 86: Ord. 549 82: prior code 7.04.010)

6.04.020 Control required—Running at large prohibited when.

A. All animals, except domestic cats, shall be kept under control. No owner shall permit such animals to run at large

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within the city. If any animal is found at any place within the city other than upon the premises of its owner is presumed to have violated this section.

B. Dogs. A dog shall be considered running at large when it is neither on the premises of the owner nor on a leash ten feet or less in length, attached to the dog and held by or tied to a person.

C. Livestock. No horses, asses, mules, cattle, sheep, swine or goats shall be herded or picketed upon any street, alley, ditch-bank or public ground in the city.

D. Exclusions. This section shall not apply to seeing-eye dogs accompanied by their masters, nor dogs participating in dog shows, dog exhibits, or dog-training activities to the extent that such shows, exhibits and activities are conducted in compliance with the requirements of the code. (Ord. 479-09: Ord. 703 88: Ord. 549 82: prior code §7.04.030)

6.04.025 Domestic cats.

A. It is unlawful to shoot at, wound, kill, capture, ensnare, trap, transport, net, poison, or in any other manner kill, injure or molest any domestic cat.

B. Domestic cats that have bitten a person or are sick or injured may be captured using a cage or humane live trap for quarantine and/or veterinary care. (Ord. 479-09)

6.04.030 Dog and cat licenses Required. The owner, keeper, harborer, or any other person who has assumed the responsibility for any dog or cat within the City shall secure a license for such dog or cat from the City Clerk. (Ord. 703 88: Ord. 549 82: prior code §7.04.020(1))

6.04.035 Licensing requirements and standards for possession of raptores.

A. Persons who possess and maintain falconry licenses, as required by State and Federal agencies may keep birds of prey on their premises; provided that such birds of prey are maintained according to state and federal laws and regulations.

B. No person may keep, maintain, harbor or possess in or at any one household, a combined total of more than 3 raptores.

C. Raptores shall be permitted provided they are for the enjoyment of the occupants of the lot and are not kept primarily for the purpose of sale or commercial endeavor.

D. Nothing in this section will be interpreted to waive any requirements or city ordinances related to building codes and zoning regulations. (Ord. 1104-98)

6.04.040 License Exemptions. No license shall be required for any dog or cat under the age of six months. No license shall be required for any dog or cat held for sale by any kennel or pet shop authorized to carry on business in the City. No license shall be required for seeing eye dogs. No license shall be required for dogs or cats brought into the City for less than a thirty day period and if licensed by another municipality. (Ord. 703 88: Ord. 549 82: prior code §7.04.-020)

6.04.050 Where to File – Contents. An applicant for a dog or cat license shall apply to the City Clerk Department. Such application shall be upon forms provided by the city and shall contain at least the following information:

1. Name, address and a telephone number of the owner;
 2. The call-name, breed, color and sex of the animal;
 3. Proof of current rabies vaccination;
 4. Documentation of animal neutering, if applicable.
- (Ord. 345-05: Ord. 703 88: Ord. 549 82: prior code §7.04.020)

6.04.060 - Issuance of tag – Term.

A. Upon acceptance of the completed license application, documentation of current rabies vaccination and animal neutering, if applicable, and payment of the license fee, the City Clerk Department shall issue a durable tag stamped with an identifying number and expiration date. Such tag shall be issued as follows:

- a) One year licenses shall be valid for the twelve (12) months following the date of issuance.
- b) Two year licenses shall be valid for twenty-four (24) months following the date of issuance.
- c) Three year licenses shall be valid for thirty-six (36) months following the date of issuance.

B. Such license shall be issued concurrent with the issuance of the certificate of rabies vaccination with the following exceptions:

- a) If the rabies vaccination is to expire in less than one year, a license may not be issued until the animal is re-vaccinated; or
- b) If the rabies vaccination is to expire in less than two years, then a one year license may be issued; or

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c) If the rabies vaccination is to expire in less than three years, then a one or two year license may be issued. Licenses issued for dogs and cats shall be valid for a maximum of three years. Dogs and cats brought into the City shall be licensed no later than thirty days from the date they are brought into the City.

C. In order to entitle any applicant to a license under the provisions of this chapter, such applicant shall produce and display to the City Clerk Department proof of current rabies vaccination. This certificate must be issued by a licensed doctor of veterinary medicine certifying that the dog or cat has been vaccinated for rabies and when such vaccination will expire. (Ord. 345-05: Ord. 747-89: Ord. 703 88: Ord. 549 82: prior code §7.04.020)

6.04.070 License Fee. The city requires all dogs and cats over the age of six months to be licensed. Each applicant for a license shall be required to pay the appropriate license fee. Such fee is established by city council by resolution. (Ord. 1124-98: Ord. 747-89: Ord. 703 88: Ord. 549 82: prior code §7.04.020)

6.04.080 Record of Tags issued. The City Clerk Department shall maintain a record of all tags issued according to this Chapter. (Ord. 345-05: Ord. 703 88: Ord. 549 82: prior code §7.04.060)

6.04.090 Tag requirements.

A. Each dog or cat so licensed shall be provided by its owner, keeper or harborer with a collar or harness of suitable material, to which such license tag shall be securely fastened, and its owner shall keep such collar or harness with such tag fastened thereto on such dog or cat.

B. It is unlawful for any owner, keeper, harborer or any other person who has assumed the responsibility for a dog or cat to permit such dog to wear any license tag other than the one issued by the city for the dog or cat. (Ord. 345-05: Ord. 703 88: Ord. 549 82: prior code §7.04.020)

6.04.100 License Duplicate tags Ownership changes.

A. In the event a tag issued pursuant to this chapter is lost or destroyed, a new tag may be obtained from the city clerk upon payment of the appropriate fee. Such fee is established by city council by resolution.

B. In the event the ownership of a licensed dog or cat is changed, the new owner must license such dog or cat within thirty days of purchase and in accordance with the provisions of this chapter. (Ord. 345-05: Ord. 1126-98: Ord. 747-89: Ord. 703 88: Ord. 549 82: prior code §7.04.020)

6.04.110 Rabies control. The owner of every dog or cat over the age of six months shall cause such dog or cat to be inoculated against rabies, and such owner shall obtain from a licensed veterinarian a rabies vaccination certificate and tag. The tag shall be required to be attached to the collar or harness, as required in subsection A of Section 6.04.090. (Ord. 703 88: Ord. 549 82: prior code §7.04.060)

6.04.120 Confinement of female dogs and cats in heat. The code enforcement officer may order any unspayed female dog or cat that is in a stage of estrous (heat) and is not properly confined, or is creating a public nuisance, to be removed to a boarding facility or a veterinary hospital until the period of estrous is finished. All expenses incurred as a result of such order shall be paid by the animal's owner. Failure to comply with such an order is a violation of this section, and the animal may be impounded at the owner's expense. (Ord. 703 88: Ord. 549 82: prior code §7.04.050)

6.04.130 Animal defecation Owner responsibility.

A. Any owner, taking the animal upon any public way or other public property in the city, shall immediately remove or cause to be removed, and lawfully dispose of all fecal matter left on such property by the animal.

B. Any owner, taking any animal upon any private property other than his own, shall immediately remove or cause to be removed, and lawfully dispose of all fecal matter left on such property by the animal. (Ord. 703 88: Ord. 549 82: prior code §7.04.160)

6.04.140 Nuisance animals designated.

A. Any animal that menaces or attacks persons, vehicles or other animals, goes upon school premises without the permission of the person in charge thereof, damages, destroys or injures any shrubbery, plants, flowers, lawn, fence, or other property, either private or public, or is at large, is declared to be a public nuisance, and the owner shall be deemed responsible for the actions of the animal.

B. Areas in which animals are kept shall be maintained in a manner which does not create odors, dust, noise or drainage offensive to the senses of smell, hearing, or sight, thereby constituting a hazard or nuisance to the use or enjoyment of adjoining properties. (Ord. 456-08: Ord. 1083-97: Ord. 703 88: Ord. 652 86: Ord. 549-82: prior code §7.04.080)

6.04.150 Noisy animals.

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A. It is unlawful for the owner, keeper, harborer, or any other person who has assumed the responsibility for an animal, to permit such animal kept in any yard, house or other place to bark, howl, yelp, bawl, or make other loud and persistent noise, in a manner which, under nonmitigating circumstances, could be considered by reasonable persons of ordinary sensibilities as excessive or continuous.

B. The code enforcement officer, police officer, or other designated officer of the city shall have authority, without liability, to use all reasonable means to abate such nuisance, including the authority to impound such animal, upon receipt of a complaint, where the owner is absent from the premises; provided, however, that this authority does not extend to entering the owner's dwelling or other building upon the owner's premises.

C. Upon impoundment of an animal for violation of this section, such officer shall attempt to notify the absent owner by reasonable means as soon as possible and such animal may not be destroyed until the owner is notified and has had the opportunity to reclaim the animal from impoundment. (Ord. 1126-98: Ord. 703 88; Ord. 549 82: prior code §7.04.110)

6.04.160 Animal bites Report and animal quarantine requirements.

A. The owner of any animal that bites a human being shall report the occurrence to the code enforcement officer when known to him or reported to him, and shall deliver the animal to the code enforcement officer, and shall provide such further information requested by the code enforcement officer.

B. Any animal that bites a human being shall be quarantined pursuant to one of the following procedures for a period of not less than ten days:

1. The code enforcement officer in his discretion may allow the animal to be quarantined on the owner's premises. Otherwise, the animal shall be quarantined in the animal shelter or a veterinary hospital at the expense of the owner.

2. Every person having knowledge thereof shall report to the code enforcement officer any suspected or positively diagnosed occurrence of rabies, and any biting by any suspected or confirmed rabid animal.

3. No person shall kill any suspected or confirmed rabid animal except in defense of a human being or other animal, or to prevent the escape of such suspected or confirmed rabid animal.

4. No person shall remove the dead body of any suspected or confirmed rabid animal from where the animal was killed or found.

5. If rabies has been diagnosed by a veterinarian or medical doctor in any animal, such animal shall be summarily destroyed, and its brain sent immediately to the State Health Department in Denver for positive verification at the owner's expense; or the animal or its body may be disposed of according to law, regulation or order of the Department of Health.

6. If a standard rabies incubation period has not been established for a particular species of animal, any animal of that species has been diagnosed as rabid, or is reasonably suspected of being rabid, it shall be summarily destroyed, and if involved with another animal or human, a necropsy shall be performed to determine if the other animal is contaminated by rabies.

7. When there has been a positive diagnosis of rabies within the city, the chief of police may declare a city wide quarantine for a reasonable period of time. During the period of such quarantine, every owner of animals shall confine his or her animals within the premises of the owner, and shall not transport, take or remove his or her animal from the city without the prior written consent of the code enforcement officer. (Ord. 1126-98: Ord. 703 88: Ord. 549 82: prior code §7.04.060)

6.04.170 Certain animals prohibited. It shall be unlawful for any person to keep, harbor, care for or possess the following animals within the city of Evans.

A. Any animal having poisonous bites.

B. Any farm animal, as defined in this chapter, on properties with less than 5000 square feet of open area designed to be used and used by the animals. Furthermore, an additional 2500 square feet of open area is required for each animal in excess of three. This open area must be located at least 50 feet from any residence, business or other building intended for human habitation.

C. Any wild or exotic animal, as defined in this section.

D. Authorized licensed kennel operations as defined in this chapter are exempt from the prohibitions described within this section. (Ord. 816-91: Ord. 703 88: Ord. 549 82: prior code §7.04.170)

6.04.180 Vicious animals.

A. "Vicious animal" means:

1. Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or

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2. Any animal which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance; or
 3. Any animal which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or
 4. Any animal owned or harbored primarily or in part for the purpose of fighting, or any animal trained for fighting; or
- B. No person shall own, keep, harbor or possess any vicious animal in the city; provided, however, that an animal shall not be deemed a vicious animal because it has attacked or bitten any of the following persons:
1. Any person engaged in the unlawful entry into or upon the animal owner's property where such animal is kept;
 2. Any person engaged in the unlawful entry into the animal owner's automobile or other vehicle wherein such animal is confined;
 3. Any person engaged in attempting to stop a fight between such animal and another animal;
 4. Any person engaged in attempting to aid such animal when it is injured.
- C. For the purpose of this section, a person is lawfully upon the private property of such owner when he is on the property in the performance of any duty imposed upon him by the laws of this state or city, or the law or postal regulations of the United States, or when he is on such property at the invitation, expressed or implied, of the owner thereof.
- D. It is the duty of the code enforcement officer, police officer, or other designated officer of the city, to investigate all complaints concerning vicious or dangerous animals. After such investigation, the officer shall determine whether such animal is vicious or dangerous.
- E. If the code enforcement officer, or any such police officer of the city, deems an animal to be vicious, he may issue a written warning to the owner of such animal, stating his determination that such animal is vicious, and shall request the owner to comply with requirements F. through I. of this section for vicious animals; and he may cause charges to be filed in municipal court against the owner, alleging the vicious propensities of such animal.
- F. Confinement. The owner of a vicious animal shall not suffer or permit the animal to go unconfined. A vicious animal is "unconfined" if the animal is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the animal. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.
- G. Leash and Muzzle. The owner of a vicious animal shall not suffer or permit the animal to go beyond the premises of the owner unless the animal is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any human or other animal.
- H. Signs. The owner of a vicious animal shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious animal on the premises. A similar sign is required to be posted on the pen or kennel of the animal.
- I. Insurance. Owners of a vicious animal must provide proof to the city clerk of public liability insurance in the amount of at least \$100,000.00, insuring the owner for any personal injuries inflicted by his or her vicious animal. (Ord. 703 88: Ord. 549 82: prior code §7.04.070)

6.04.190 Disposal of animals by court order Conditions. If a complaint has been filed in the municipal court of the city against the owner, keeper, harbinger, or any other person who has assumed responsibility for any animal within the city for violation of this chapter, the municipal court judge shall have the authority, upon making the finding that such animal constitutes a nuisance or that such animal is a vicious animal, and further, that such animal, as a result, constitutes a real and present danger to the citizens of the city, to order that the animal be destroyed in a humane fashion. (Ord. 703 88; 549 82: prior code §7.04.090)

6.04.200 Accidents injuring animals Report required. Any person who, while driving a motor vehicle, strikes or injures any domestic animal shall:

- A. Stop immediately and report the incident to the owner of the animal;
- B. If, after reasonable searching, the driver cannot locate the owner, immediately report the incident to the code enforcement officer or the police. (Ord. 703 88: Ord. 549 82: prior code §7.04.140)

6.04.210 Dead or injured animals. Animals killed or injured on or along public streets are considered to have been running at large, and the code enforcement officer, police officer, or other designated officer of the city may remove such animals therefrom and, in his discretion, may take those animals needing medical attention to the animal shelter or a veterinarian. The owner of any animal receiving such medical attention shall be responsible for any cost incurred. The city is not and will not be liable for the costs of treatment of such animals. (Ord. 703 88: Ord. 549

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82: prior code §7.04.040)

6.04.220 Impoundment authorized when—Prosecution for violations.

A. It shall be lawful for the code enforcement officer, police officer or other designated officer of the city to impound dogs which have been found running at large, or to return the dog to the owner, keeper, harborer, or any other person who has assumed the responsibility of the dog, and issue to such person a penalty assessment citation or summons and complaint citation for the violation of this chapter.

B. It shall be no defense to a prosecution under subsection A of section 6.04.020 that the dog alleged to have run at large was impounded in connection to the incident, nor shall the payment of a redemption fee protect the owner, keeper, harborer or other person who has assumed responsibility for the dog from prosecution for a violation of the provisions of this chapter. (Ord. 479-09: Ord. 703 88: Ord. 549 82: prior code §7.04.100)

6.04.230 Redemption of impounded animals – Conditions.

A. The owner or other person having a legal right to the possession of any animal which has been impounded pursuant to this chapter, unless there are pending charges of animal care under Section 6.04.300, shall have the right to redeem the animal from the shelter facility during the time that the animal is kept there, and until the animal is disposed of pursuant to this chapter. The person seeking to redeem the animal shall satisfy the code enforcement officer or other person lawfully in charge of the redemption that such person is in fact the owner of the animal, or is the person having the lawful right to the possession of the animal.

B. As an additional condition to the right to redeem, the owner, keeper, harborer, or other person who has assumed the responsibility for a dog or cat not licensed must, within seven days of the date of redemption, provide proof of a vaccination certificate for the dog or cat and an animal license. Non-compliance may subject such person to receive another summons or penalty assessment for violation of this chapter. (Ord. 273-04: Ord. 1126-98: Ord. 816-91: Ord. 703 88: Ord. 549 82: prior code §7.04.100)

6.04.240 Livestock Impoundment conditions. Any livestock found running at large in the city shall be impounded by the code enforcement officer, police officer, or other designated officer of the city. (Ord. 703 88: Ord. 549 82: prior code §7.04.100)

6.04.250 Livestock Holding following impoundment.

A. All livestock so impounded by the officer under Section 6.04.240 shall be kept and controlled by the officer until the owner, or such other person who shall be legally entitled to possession of such livestock, shall call for the same and take control thereof.

B. In the event no authorized person takes possession of the impounded livestock within twenty four hours after the same shall have been impounded by such officer, then the State Board of Stock Inspection Commissioners, or an authorized brand inspector representing said board having authority to move such livestock to a safe and practical place within the immediate vicinity, to be held during a legal advertising period, will be notified, and the livestock will be released to such authority. (Ord. 703 88: Ord. 549 82: prior code §7.04.100)

6.04.260 (Repealed by Ordinance No. 1126-98).

6.04.270 Impoundment Disposition of unredeemed animals. Any animal which has been impounded at the shelter facility and not redeemed may be adopted out or disposed of in a humane manner by the Northern Colorado Animal League no less than seventy two hours after twelve midnight of the day the animal was impounded in accordance with the shelter's policy. (Ord. 1126-98: Ord. 703 88: Ord. 549 82: prior code §7.04.100)

6.04.280 Impoundment Records required. The code enforcement officer or other person lawfully in charge of the impounding, shall make or cause to be made a written record of all circumstances pertaining to the impounding of animals. Such records shall be in sufficient detail so that the provisions of this chapter for multiple violations can be enforced. (Ord. 1126-98: Ord. 703 88: Ord. 549 82: prior code §7.04.100)

6.04.290 Fees Amendment authorized when. Whenever this chapter imposes or requires that a fee be paid, as distinguished from any penalty that may be imposed pursuant to Section 6.04.340, the city council may amend the amount of such fees from time to time by resolution. (Ord. 703 88: Ord. 549 82: prior code §7.04.190)

6.04.300 Animal care Unlawful activities designated. It is unlawful for any owner, keeper, harborer, or any other person to:

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A. Fail to provide adequate food and water, proper shelter, veterinary services, and with humane care or treatment necessary to maintain the good health of the animal and to prevent suffering by the animal, while such animal is in his or her custody for more than twelve consecutive hours;

B. Commit or cause to be committed any act of cruelty, harassment or torture to any animal, or to cause such animal to be wounded, mutilated, strangled or killed, unless such act is necessary to defend a person or other animal from immediate attack or as otherwise authorized by law or ordinance. Nothing in Section B will be interpreted to prohibit the act of humane euthanasia at the direction of a licensed Doctor of Veterinary Medicine;

C. Abandon an animal; in this context, "abandon" means to leave the animal unattended for more than seventy two consecutive hours;

D. Confine any animal within a parked, closed vehicle, without allowing cross ventilation to prevent the animal from suffering heat exhaustion, heat stroke or death. Any code enforcement officer, police officer, or other designated officer for the city, observing any animal suffering from violation of this subsection, may enter the vehicle, leaving written notice in the vehicle, and shall impound such animal to protect its own well being. Any such officer making an entry into any vehicle for the purpose of this subsection is immune from suit or liability, criminal or civil, for, caused by or arising out of such entry;

E. Take and deliver to the animal shelter or elsewhere an animal, not his own, from any enclosed lot, premises or other building, not his own, unless he shall have first received permission from the owner of such animal, as well as otherwise authorized by this chapter;

F. Without the consent of the owner, release any dog from restraint, except when necessary to preserve the life of such animal; provided, however, when an animal has been released under such necessity, the person making such release shall immediately inform the code enforcement officer that he has done so or, in the alternative, shall immediately return the animal to the custody of its owner;

G. Tie or otherwise physically fasten any animal to any object on a public way, or so near to a public way that the animal may go upon the same, and to leave the animal and depart the immediate vicinity thereof;

H. Tie or otherwise physically fasten any animal in such a manner as to create an immediate physical danger to the well being of the animal;

I. Expose any known poisonous substance, whether mixed with food or not, so that a reasonable person would know or should know that such substance would probably cause animals to be attracted thereto, eat thereof, and be poisoned thereby; provided, however, this subsection does not make unlawful the poisoning of rats or mice with commercial rat poison mixed with vegetable substances;

J. Set any type of steel jaw trap, or any other inhumane trap which, by its nature, may kill or maim any animal, including a human; provided, however, this subsection does not prohibit the use of common rat and mouse traps;

K. Keep, maintain, harbor or possess in any one household, a combined total of more than four pet or fowl animals within the city of Evans. A litter of the pet animals or fowl animals lawfully harbored may be kept until such time that a natural weaning period, as determined by the city, has expired. A household located on one (1) acre or more of land may have a total of 12 fowl animals, provided an open area of at least 100 square feet per animal is provided and such open area is located at least 50 feet from any residence, business or other building intended for human habitation.

A request for a variance may be made to the regulations of this subsection K. Such request must be submitted on a petition form prescribed by the City and accompanied by the submittal fee established by City Council by resolution. The petition form shall be filed with the City Clerk and shall be accompanied by a letter explaining why the variance should be granted. Additional supporting evidence such as letters of support from surrounding property owners, photographs, and maps may be submitted and may be required by the City. The City Council shall hold a public hearing and make the final decision to grant the requested variance, grant a variance with a lesser number of animals than the request, or deny the variance. Notice of the public hearing shall be published at least ten days prior to the hearing in a newspaper of general circulation in the City and notice of the public hearing shall be posted on the premises at least ten days prior to such hearing. At the public hearing, the City Council shall base its decision on the following criteria:

1. The variance is in harmony with the intent and purposes of this chapter and with other relevant City ordinances; and

2. The variance will not result in damage to adjoining properties, nor an unreasonable amount of noise or smell, and will not otherwise be materially detrimental to the public welfare; and

3. The variance is appropriate, given the size, shape, topography, and/or location of the property upon which the animals are to be kept.

City Council may impose conditions, safeguards and limitations as it deems appropriate for the protection of persons and property upon the granting of any such variance. The variance, if approved, shall be granted by resolution. In the event of violation of any of the conditions, safeguards, or limitations imposed, or to the extent that such variance may constitute a nuisance, pursuant to notice and hearing, the City Council may revoke the variance

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granted. In the event that the homeowner has received more than two (2) convictions in Municipal Court under Chapter 6 of the Evans Municipal Code, there shall be a presumption of a nuisance.

L. Cause, instigate, encourage or permit any dogfight, cockfight, bullfight, or other combat between animals, or between animals and humans;

M. At any time within the corporate limits of this city, frighten, shoot at, wound, kill, capture, ensnare, trap, net, poison, or in any other manner kill, injure or molest any wild birds, or injure the nest, eggs or young of such birds; provided, however, this section does not apply to English or European house sparrows or starlings; and provided further, the chief of police has authority to grant a permit for when, in his opinion, they have become a threat to the health and safety of the neighborhood. (Ord. 372-06: Ord. 354-05: Ord. 256-04: Ord. 816-91: Ord. 703 88: Ord. 549 82: prior code §7.04.120)

6.04.310 Protective custody for animals receiving inhumane treatment.

A. Any animal found receiving inhumane treatment, as described in Section 6.04.300 of this chapter, may be removed and impounded at the expense of the owner by the code enforcement officer, police officer, or other designated officer of the city.

B. Any animal whose life reasonably appears to be endangered may be so removed and impounded, whether or not in the presence of its owner.

C. Impoundment under this Section shall not exceed 20 days, unless there is a Court Order providing otherwise, after which such animal may be disposed of in accordance with the provisions of Section 6.04.270. (Ord. 273-04: Ord. 703 88: Ord. 549 82: prior code §7.04.130)

6.04.320 Enforcement Obstructing an officer prohibited. No person shall knowingly resist, oppose, obstruct or interfere with any officer from enforcing the provisions of this chapter, or by threats or otherwise intimidate or attempt to intimidate any such officer in the discharge of his official duty. (Ord. 703 88: Ord. 549 82: prior code §7.04.150)

6.04.330 Damaging impoundment facility prohibited. It is unlawful for any person to break open, destroy, or damage any door, gate, fence or enclosure used by the city as an animal shelter or impoundment facility, or to take or attempt to take therefrom any animal impounded therein without having approval from the shelter operator. (Ord. 1126-98: Ord. 703 88: Ord. 549 82: prior code §7.04.180)

6.04.340 Violation – Penalty. The violation of or failure to comply with the provisions of this chapter shall constitute an offense against the City, and subject the offender to punishment as follows:

	Minimum	Maximum
First Offense	\$25	\$1,000
Second Offense	\$50	\$1,000
Third Offense	\$75	\$1,000

The minimum fines set forth shall be mandatory and shall not be suspended for any reason. Each day any violation continues shall constitute a separate offense and is punishable accordingly. Any person charged with a fourth offense shall be required to appear in municipal court. For a conviction under Section 6.04.300 (animal care), the offender may be punished with a fine of up to \$1,000.00 and imprisonment of up to one (1) year. (Ord. 273-04: Ord. 842-92: Ord. 703 88: Ord. 549 82: prior code §7.04.200)

Code Documents



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