

CHAPTER 91: ANIMALS

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GENERAL PROVISIONS

§ 91.01 DEFINITIONS.

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

Elwood - General Regulations

ANIMAL. Any live, non-human vertebrate creature, domestic or wild.

ANIMAL CONTROL OFFICER. The person employed by the city whose duties shall include, among others, the enforcement of the provisions included in this chapter.

ANIMAL SHELTER. The premises owned by the city for the purpose of caring for animals which are at large, lost or otherwise homeless.

AT LARGE. Any animal shall be deemed **AT LARGE** when it is not under restraint.

ATTACK. Any behavior by an animal that constitutes an immediate and serious physical threat to human beings or other animals, whether or not such behavior results in injury to such human beings or other animals. This behavior includes, but is not limited to, snapping at, lunging at, and/or attempting to bite human beings or animals.

HARBORING. The actions of any person which permit any animal habitually to remain, lodge or to be fed within his home, store, enclosure, yard or place of business or any premises on which a person resides or controls, shall be considered **HARBORING** an animal. An animal shall be presumed harbored if it is fed or sheltered for three consecutive days.

HUMANE SOCIETY. Any organization for the prevention of cruelty to animals incorporated under the laws of the state.

KENNEL. An establishment or residence wherein any person engages in boarding, breeding, buying, letting for hire, training for a fee or selling more than two dogs and/or cats. Anyone keeping three or more dogs and/or cats four months of age or older shall be deemed a **KENNEL** operator.

OWNER. Any person, partnership or corporation owning, keeping or harboring one or more animals. An **OWNER** must provide shelter from weather for dogs or cats.

PERSON. Any individual, firm, association, joint stock company, syndicate, partnership or corporation.

PET. Any animal kept for pleasure rather than utility.

PUBLIC NUISANCE. Any animal(s) which:

- (1) Molests passers-by or passing vehicles;
- (2) Attacks other animals;
- (3) Is repeatedly at large;
- (4) Damages public or private property; or

(5) Barks, whines or howls in an excessive or continuous fashion.

RESTRAINT. Any animal secured by a leash and lead within the real property limits of its owner. Any animal not physically confined to the owner's property shall be presumed not to be under **RESTRAINT**.

STRAY. Any animal which doesn't appear, upon reasonable inquiry, to have an owner.

VETERINARY HOSPITAL. Any establishment maintained and operated by a veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

VICIOUS ANIMALS. Any animal that, by its behavior, constitutes an immediate and serious physical threat to human beings or animals.

WILD ANIMALS. Any animal not a domestic animal, with the exception of small, non-poisonous aquatic or amphibious animals and small cage birds.

TIME LIMIT WITH DOG POUND.

(1) Dogs or cats without tags will be kept at the dog pound for three days.

(2) Dogs or cats with tags will be kept five days. Every effort to contact the owner will be made. When an animal control officer is called to pick up dogs or cats on private property, the property owner must sign a release form to have the animal picked up.

('66 Code, § 4-10-1-1) (Ord. 1400, passed 11-13-95; Am. Ord. 1400, passed 4-6-09; Am. Ord. 2172, passed 5-6-13)

§ 91.02 ANIMAL CONTROL OFFICER; ENFORCEMENT.

(A) The office of Animal Control Officer is herewith created. The Animal Control Officer shall be appointed by the Mayor and shall carry out and supervise the enforcement of this chapter. The office shall be within the Elwood Police Department, and the salary shall be fixed by the Mayor and approved by the Common Council. ('66 Code, § 4-10-1-2)

(B) The provisions of this chapter shall be enforced by the Animal Control Officer and appropriate law enforcement agencies. ('66 Code, § 4-10-1-21)
(Ord. 1400, passed 11-13-95; Am. Ord. 2172, passed 5-6-13)

§ 91.03 LICENSING REQUIREMENTS.

(A) Any person owning, keeping, harboring or having custody of any dog or cat over six months of age within the municipality must obtain a license as herein provided. ('66 Code, § 4-10-1-3)

(B) Applications for a license shall be made to the Animal Control Officer. The application, one per animal, shall include the name and address of the applicant(s), a description of the animal, the appropriate fee, a rabies certificate and a leptospirosis certificate issued from a veterinarian. Application for a license must be made when the animal reaches the age of six months. The license must be applied for within 20 days of acquisition. If not revoked, licenses for the keeping of all animals shall be for one year and must be purchased on or before May 30 of each year. License fees shall not be required for seeing-eye dogs. ('66 Code, § 4-10-1-4)

(Ord. 1400, passed 11-13-95; Am. Ord. 2172, passed 5-6-13) Penalty, see § 91.99

§ 91.04 LICENSING FEES.

(A) A license shall be issued only after payment of the applicable fees and the receipt of all application materials. Fees shall be as follows:

Type of animal	License fee per animal
Un-neutered male dog	\$5
Un-neutered male cat	\$3
Un-spayed female dog	\$5
Un-spayed female cat	\$3
Neutered male dog	\$1
Neutered male cat	\$1
Spayed female dog	\$1
Spayed female cat	\$1

(B) A duplicate license may be obtained for a fee of \$1. If an animal is neutered or spayed after the license fee has been paid, a refund of 75% of the original license fee can be obtained from the Animal Control Officer upon presentation of a veterinarian's written statement. The owner of any animal deemed by a veterinarian to be unfit to undergo a spaying or neutering operation shall be, upon presentation of a written statement by the veterinarian, charged the fee for spayed or neutered animals. No person shall use any license for any animal other than the animal for which it was issued.

('66 Code, § 4-10-1-6) (Ord. 1400, passed 11-13-95; Am. Ord. 2172, passed 5-6-13)

§ 91.05 TAGS AND IDENTIFICATION COLLARS.

Upon acceptance of the license application and fee, the Animal Control Officer shall issue durable tags or identification collars, stamped with an identifying number and the date of issuance. Animals must wear tags at all times when off the premises of the owner. The licensing agent shall maintain a record of the identifying number of all tags issued.

('66 Code, § 4-10-1-5) (Ord. 1400, passed 11-13-95; Am. Ord. 2172, passed 5-6-13)

§ 91.06 REVOCATION OF LICENSE.

(A) The Animal Control Officer may revoke any license if the person holding a license refuses or fails to comply with any part of this chapter. The Animal Control Officer shall provide a ten-day notice to the owner prior to revoking the license, after which time the license shall be revoked and the animal(s) owned, kept or harbored by a person shall be humanely disposed of by either the person himself or the Animal Control Officer, and no part of the license fee shall be refunded.

(B) If the person refuses to dispose of the animal(s), the Animal Control Officer shall do so and the cost of disposal shall be borne by the person in offense. If the applicant has withheld or falsified any information on the application, the Animal Control Officer shall refuse to issue a license. No person who has been convicted of cruelty to animals shall be issued a license without review by the Animal Control Officer and approval of the Common Council.

('66 Code, § 4-10-1-7) (Ord. 1400, passed 11-13-95; Am. Ord. 2172, passed 5-6-13)

§ 91.07 RABID ANIMALS; VACCINATION AND OTHER REQUIREMENTS.

(A) In the case of a dog, I.C. 35-46-3-1 shall be incorporated and enforced by appropriate state action. In the case of a cat, it shall be unlawful to own or harbor a cat over the age of six months without a valid rabies vaccination. ('66 Code, § 4-10-1-12)

(B) If an animal has bitten a person, the animal shall be impounded in the City Animal Shelter at the expense of the owner for a period determined by the Animal Control Officer in order to determine whether or not the animal has rabies. If the animal dies during the period, it shall, at the owner's expense, be sent to the proper authorities to determine whether or not it was rabid. ('66 Code, § 4-10-1-13)

(C) Any animal which has been bitten by an animal known to have rabies shall be confined for a period of six months at the owner's expense or be destroyed. ('66 Code, § 4-10-1-14)

(D) It is unlawful for any owner knowing or suspecting an animal to have rabies or leptospirosis to allow an animal to leave his premises, except to be taken to the City Animal Shelter. Every owner, upon ascertaining an animal is rabid, shall immediately notify the Animal Control Officer. ('66 Code, § 4-10-1-15)

(E) It is unlawful for a person to knowingly or intentionally harbor a dog or cat that is over the age of six months and is not immunized against rabies. (I.C. 35-46-3-1). (Ord. 1400, passed 11-13-95; Am. Ord. 1400, passed 4-6-09; Am. Ord. 2172, passed 5-6-13) Penalty, see § 91.99

§ 91.08 LIVESTOCK AND EXOTIC ANIMALS.

(A) No person shall have or keep any goat, sheep, pig, hog or other swine, horse, mule, pony, cattle, rabbit, chicken, duck, goose, turkey, guinea, or any other species of livestock, farm animal or fowl, including but not limited to any llama or ostrich, within the city limits. No person shall present or have in a public place or a place of public resort, any reptile or amphibian unless securely contained in a cage or similar device.

(B) Any poisonous or venomous animal, reptile or insect must be registered with the Elwood City Police Department. No fee is required. A penalty of \$25 per animal per incident will be assessed for non-compliance or failure to register the animal, reptile or insect. An owner or occupant of the premises where a poisonous or venomous animal, reptile or insect is kept shall post a sign on the front door which shall be provided upon registration and shall state "Warning: Poisonous or venomous animal, reptile or insect".

(Ord. 1400, passed 11-13-95; Am. Ord. 1400, passed 8-6-07) Penalty, see § 91.99

§ 91.09 RESTRAINING ANIMALS; IMPOUNDMENT PROCEDURES.

All animals shall be kept under restraint. No owner shall fail to exercise due care and control of his or her animals to prevent them from becoming a public nuisance. Every female animal in heat shall be confined in a building or secured enclosure in a manner that the female animals cannot come into contact with another animal or the same species except for planned breeding. Every vicious animal, as determined by the Animal Control Officer, shall be confined by the owner within a building or secured enclosure and shall be securely muzzled or caged whenever off the premises of the owner. Unrestrained and nuisance animals shall be taken by the police or Animal Control Officer and impounded in the City Animal Shelter, and there confined in a humane manner. If by a license tag or other means, the owner of an impounded animal can be identified, the Animal Control Officer shall immediately, upon impoundment, notify the owner by telephone or mail. An owner re-claiming an impounded dog or cat shall pay a \$10.00 per day boarding fee for each day the animal was impounded, plus a fine of \$12.50 for the first offense, \$25.00 for the second offense, \$50.00 for the third offense (plus a citation for public nuisance) and the fourth offense will result in surrender of the animal to the city and placement for adoption. Any animal not re-claimed by its owner within five working days shall become the property of the local government authority and shall be placed for adoption in a suitable home or humane euthanasia. An owner may surrender an animal to the city for a fee of \$20.00.

('66 Code, § 4-10-1-8) (Ord. 1400, passed 3-1-76; Am. Ord. passed 6-1-92; Am. Ord. passed 11-13-95; Am. Ord. passed 8-6-07; Am. Ord. passed 12-3-07; Am. Ord. 1400, passed 5-8-08; Am. Ord. 2172, passed 5-6-13) Penalty, see § 91.99

§ 91.10 POISONING ANIMALS.

No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by an animal, provided that it shall not be unlawful for a person to expose on his own property, common rat or mouse poison mixed only with vegetable substances or unmixed.

('66 Code, § 4-10-1-11) (Ord. 1400, passed 11-13-95) Penalty, see § 91.99

§ 91.11 GIVING ANIMALS AS PRIZES.

No person shall give away any live animal, fish, reptile or bird as a prize for, as an inducement to enter any contest, game or other competition, as an inducement to enter a place of amusement or offer the vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

('66 Code, § 4-10-1-9) (Ord. 1400, passed 11-13-95) Penalty, see § 91.99

§ 91.12 MOTOR VEHICLES ACCIDENTS INVOLVING ANIMALS.

Any person who, as the operator of a motor vehicle, strikes an animal shall stop at once and immediately report the injury or death to the animal's owner. In the event the owner cannot be ascertained or located, the operator shall at once report the accident to the appropriate law enforcement agency or to the Animal Control Officer.

('66 Code, § 4-10-1-10) (Ord. 1400, passed 11-13-95; Am. Ord. 2172, passed 5-6-13)

§ 91.13 ADOPTION OF ANIMALS.

The Animal Control Officer, with the approval of the Common Council, may promulgate policies and regulations for the adoption of animals from the City Animal Shelter.

('66 Code, § 4-10-1-16) (Ord. 1400, passed 11-13-95; Am. Ord. 2172, passed 5-6-13)

§ 91.14 DISPOSITION OF FUNDS.

All fees or monies collected shall be paid to the Clerk-Treasurer or Animal Control Officer. Money so paid shall be transmitted to the Clerk-Treasurer, shall be placed in a special fund and shall be used in carrying out the provisions of this chapter.

('66 Code, § 4-10-1-20) (Ord. 1400, passed 11-13-95; Am. Ord. 2172, passed 5-6-13)

§ 91.15 OWNER RESPONSIBILITY FOR ANIMAL ATTACKS.

(A) It shall be unlawful for an owner or keeper of an animal to allow that animal to attack or injure a person who did not provoke the animal prior to the attack.

(B) Owners of rental property may be responsible for any animal harbored on their property. In the event a problem arises with a tenant in the enforcement of this section, the owner of the rental property shall assist the city in the enforcement. If the property owner fails to assist with the enforcement of this section, the property owner may become responsible and cited into court in accordance with the provisions of this section.

(C) It shall be a defense to prosecution under this section if:

(1) The attack occurred in an enclosure in which the animal was confined without means of escape, there was posted at the main entrance of the enclosure a notice to beware of the animal and the person attacked entered the enclosure without invitation; or

(2) The person was attacked during the commission or attempted commission of a criminal act on the property of the owner or keeper of the animal.

(D) The liability imposed by this section shall not reduce, substitute for or in any manner be deemed to be in derogation of the rights accorded victims of dog bite injury or property damages as provided for in I.C. 15-5-12 *et seq.*, any successor statutes or by common law.
(Ord. 1400 passed 8-6-07; Am. Ord. 1400, passed 12-3-07; Am. Ord. 1400, passed 4-6-09) Penalty, see § 91.99

§ 91.16 FEE FOR SURRENDER OF ANIMAL.

An owner surrendering an animal to the city will be assessed a fee of \$10 per animal surrendered.
(Ord. 1400, passed 4-6-09)

§ 91.17 ABANDONED OR NEGLECTED ANIMAL.

It is unlawful for a person who owns a dog or cat to recklessly, knowingly, or intentionally abandon or neglect such animal. (I.C. 35-46-3-7).
(Ord. 1400, passed 4-6-09) Penalty, see § 91.99

KENNELS**§ 91.25 PERMITS REQUIRED; PROCEDURE.**

(A) No person shall operate a kennel without first obtaining a permit in compliance with this chapter. Each facility regulated by this chapter shall be considered a separate enterprise and shall require an individual permit. ('66 Code, § 4-10-1-17)

(B) The applicant must apply to the Zoning Board of Appeals for a special exception to operate kennels on their property. The applicants must meet all of the requirements for a kennel. Then the applicant must submit a full set of prints showing kennel sites, construction of kennels and location of kennels on site plans for approval of the Zoning Board.

(C) After the kennel is approved by the Zoning Board then the applicant must submit the approved form to the Clerk-Treasurer for the proper kennel license. The licenses are good for the calendar year in which they are written for the person or persons receiving approval and must be renewed by January 31 of the following year. The special exception is good for the person or persons to whom it is written only and change of ownership requires a new kennel license.

('66 Code, § 4-10-1-18)

(Ord. 1400, passed 11-13-95) Penalty, see § 91.99

§ 91.26 PERMIT FEES.

(A) Kennel permit fees are as follows:

Number of accommodated animals	Fees per permit
For each kennel authorized to accommodate 15 animals	\$100
For each kennel authorized to accommodate 15 to 50 animals	\$150
For each kennel authorized to accommodate more than 50 animals	\$200

(B) No fee shall be required of any veterinary hospital, animal shelter or government-operated zoological park or laboratory.

('66 Code, § 4-10-1-19) (Ord. 1400, passed 11-13-95)

§ 91.27 KENNEL REQUIREMENTS.

(A) All kennels will be kept in a sanitary condition. Dog runs will be hard-surfaced for easy cleaning. All animals will be separated except for mating or tending young.

(B) Kennels with less than 15 animals over the age of four months shall be separated from nearest residence or business by not less than 200 feet.

(C) Kennel with over 15 but less than 50 animals shall be separated from nearest residence or business by not less than 300 feet.

(D) Kennel with over 50 animals shall be separated from nearest residence or business by not less than 400 feet.

('66 Code, § 4-10-1-17) (Ord. 1400, passed 11-13-95) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) A person who violates any provision of § 91.15 shall be subject to a fine for any such violation of not less than \$500. If the violation results in the animal causing serious bodily injury to any person, the court, upon request, shall order the animal forfeited and/or destroyed.

(Ord. 1400, passed 11-13-95; Am. Ord. 1400 passed 8-6-07; Am. Ord. 1400, passed 12-3-07)