

ORDINANCE NO. 847

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA
AMENDING CHAPTER 14 - ANIMALS, ARTICLE I. - IV.
OF THE BAYPORT CITY CODE**

THE CITY COUNCIL OF THE CITY OF BAYPORT DOES HEREBY ORDAIN:

Section 1. Chapter 14 – Animals, is hereby amended as follows, to delete the same in its entirety and substitute the following therefore:

ARTICLE I. IN GENERAL

DIVISION I. GENERALLY

Sec. 14-1. Application; exemptions from chapter.

The sections contained within Article I. shall apply to all domestic, livestock or farm, and wild animals as described in Articles II., III., and IV. of this chapter. Except where duties are expressly stated, this chapter does not apply to hospitals, clinics and other premises operated by licensed veterinarians exclusively for the care and treatment of animals, nor to the ownership or use of service animals by disabled persons, or when animals are used by or with the permission of the city.

Sec. 14-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory structure: an outdoor enclosed shelter or exercise run intended for use by an animal.

Altered: any female animal that has been spayed or any male animal that has been neutered.

Animal control officer(s): persons of the police department designated to control the keeping of animals within the city.

Animal impound agency: location designated by the city to keep, feed, board, or restrain animals in a humane manner or quarantine and/or eradicate animals found to be diseased or rabid.

Animal, Domestic: a cat, dog, rabbit, hamster, guinea pig, gerbil, fish, indoor house bird, rodent, reptile, ferret, or similar animal adopted by, cared for, and controlled as a common pet by humans, to live and breed in a tame condition.

Animal, Licensed Domestic: a domestic cat or dog over four (4) months of age that is required to be licensed by the city.

Animal, Livestock or Farm: a cow, sheep, horse, pig, elk, bison, goat, bee, llama, ostrich, chicken, duck, turkey, guinea fowl, or similar animal raised by humans to produce food, labor, or profit, as defined by Appendix B - Zoning, Section 729 of the Bayport Code of Ordinances.

Animal, Service: a dog or other animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Animal, Wild: any mammal, amphibian or reptile which is of a species that is wild by nature or due to size, vicious nature or other characteristic, is inherently dangerous to humans.

At large: off the premises of the owner and not under the physical control (by leash) of the owner or a person designated by the owner.

Dangerous Dog: without provocation, a dog that has inflicted substantial bodily harm on a human on public or private property, killed a domestic animal while off owner's property, or been informally found by the city to be potentially dangerous, and after notification to the owner, the dog aggressively bites, attacks, or endangers the safety of a human or domestic animal.

Kennel, Commercial: any place where four (4) or more of any type of domestic or permitted wild animals over four (4) months of age are kept, raised, sold, boarded, bred, shown, treated, groomed, or kept for sporting purposes.

Kennel, Private: any place where four (4) or more of any type of domestic or permitted wild animals over four (4) months of age are kept or owned by any member or members of the household.

Owner: any person who owns, harbors or keeps or has custody of an animal, or the parents or guardians of a person less than eighteen (18) years of age who owns, harbors, keeps or has custody of an animal.

Unreasonable disturbance: animal action or behavior including, but not limited to habitual barking, yelping or howling that causes an annoyance to any person, or the creation of any noise by any animal which can be heard by any person from a location off premises where the animal is kept, and which noise occurs repeatedly over at least a five (5) minute period of time, with one (1) minute or less lapse of time between each animal noise during the five (5) minute period.

Sec. 14-3. State statutes adopted.

Minnesota Statutes, Sections 35.67, 35.68 and 35.69, related to rabies investigations and proclamations, a six (6) month time frame for the effectiveness of any rabies proclamation, and unmuzzled dogs not permitted at large, are adopted by reference as if fully set forth in this chapter.

Sec. 14-4. Animal control officer.

Persons of the police department are designated as animal control officers for the city and shall have powers necessary for the enforcement of this chapter. The police department shall be designated as the agency responsible to control the keeping of animals within the city.

Sec. 14-5. Implied consent for entry.

Any person who owns, possesses or harbors an animal within the city limits grants implied consent for entry upon his/her premises, without express consent, to any animal control officers or police officers for the purpose of enforcing the provisions of this chapter.

Sec. 14-6. Violations and penalties.

(a) The violation of any section of this chapter shall be considered a misdemeanor as defined in Chapter 25 – Prohibited Acts and Penalties of the Bayport City Code of Ordinances punishable by a fine or imprisonment, at the discretion of the court. Each day any violation of any section of this article shall continue shall constitute a separate offense.

(b) The city may bring an action to restrain, enjoin or abate violations of this article.

Sec. 14-7 – 14-15. Reserved.

DIVISION II. NUISANCES

Sec. 14-16. Prohibited acts.

No person who owns, harbors, or has custody of any animal shall:

- (a) Allow animal to roam or be at large in any public street, sidewalk, cemetery, open space or other public or private property within the city beyond the limits of land owned by or possessed by the owner, keeper or harborer.
- (b) Allow animal to enter any beach area or park building, whether leashed or otherwise.
- (c) Allow animal to be in any public site or open space or any property not owned or possessed by the owner without having possession of a device for the removal of feces and depository for the transmission of excrement to a proper receptacle.
- (d) Fail to remove feces from any public site, open space, or any property not owned or possessed by the owner.
- (e) Allow animal to disturb, harass or interfere with other public site or open space users or their property.
- (f) Fail to abide by state laws and city ordinances related to the licensing and muzzling of animals brought into any public site or open space.
- (g) Abandon any animal within the city or release any wild animal in any public site or open space without written permission of the agency and/or persons in control of the site.
- (h) Allow animal to damage property, plantings, or structures on public or private property of others.
- (i) Allow animal to attack, bite, show vicious habits, molest pedestrians or bicyclists, or habitually chase automobiles on the public streets or sidewalks.
- (j) Allow animal by noise to unreasonably disturb the peace and quiet of any person.
- (k) Beat, cruelly ill treat, torment, expose to extreme weather conditions, or otherwise abuse any animal or cause or permit any animal fight or other combat between animals and humans.
- (l) Fail to provide sanitary conditions for keeping an animal or prevent odors from becoming a public annoyance.
- (m) Allow animal to be left unattended in a standing or parked motor vehicle in a manner that endangers the animal's safety.

Sec. 14-17 – 14-35 Reserved.

DIVISION III. KEEPING OF ANIMALS

Sec. 14-36. Custody.

A person who owns, harbors, or has custody of any animal shall:

- (a) Keep animal under sanitary conditions and in a way that prevents the presence of offensive odors.
- (b) Confine a female animal in heat in a building or other secure enclosure in such manner to avoid contact with another animal, except for the express purpose of planned breeding, or shall be controlled on a leash while being exercised, provided it does not create a public nuisance.
- (c) Keep property clean of all fecal matter and remove on a daily basis to prevent accumulation and obnoxious odors.
- (d) Provide animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

Sec. 14-37. Accessory structures.

Outdoor shelter enclosures and exercise runs for domestic animals shall be allowed as an accessory use to a principal building or dwelling, subject to the following:

- (a) Area shall not exceed 120 square feet;
- (b) Area must be located five (5) feet from any lot line and twenty (20) feet from any habitable building on an adjacent property;
- (c) Area shall be visually obscured from adjacent property.

Sec. 14-38. Kennel license requirements.

It shall be unlawful to operate a kennel unless a permit to operate such kennel has been secured from the city council, in accordance with Appendix B – Zoning of the Bayport Code of Ordinances. Cats and dogs contained within a private kennel must wear a city issued license identification collar tag. The term of a kennel license shall be for a calendar year or balance thereof and must be renewed by February 1 of each succeeding year. License fees have been adopted and are designated in Appendix D - Fee Schedule of the Bayport Code of Ordinances. Commercial and private kennel licenses are subject to one annual inspection and periodic inspections by an animal control officer to mitigate any nuisance conditions. The city may refuse or revoke a license for unsanitary or unfit conditions.

14-39 – 14-45. Reserved.

DIVISION IV. IMPOUNDMENT

Sec. 14-46. Animal impound agency.

The city shall establish a designated animal impound agency annually by resolution of the city council which shall house and feed any restrained or impounded animal in a humane manner.

Sec. 14-47. Impoundment authorized.

The city or an animal control officer may seize, impound or restrain any animal found seriously injured, diseased, dangerous, roaming or running at large, a cat or dog without a city license tag attached to its collar in any public site or open space, or any wild animal kept in violation of this chapter. Upon impounding or restraining an animal under this section, the city shall provide notice to the owner or, if the owner is unresponsive or unknown, shall post notice of such impoundment at the city administrative office. If an animal is diseased, vicious, dangerous, rabid or exposed to rabies and such animal cannot be

impounded after a reasonable effort, or cannot be impounded without serious risk to the persons attempting it, such animal may be immediately killed by or under the direction of an animal control officer or police officer.

Sec. 14-48. Reclaiming or eradication; fees.

Outstanding fees must be paid to the city prior to reclaiming any animal impounded or in the case of eradication, fees may be assessed to the owner. Upon payment of fees, the city will issue an impoundment release receipt, which must be presented by the owner to the animal impound agency to reclaim an animal. All fees associated with impounding, boarding, restraining, eradicating, and licensing any animal are the responsibility of the owner and are established in Appendix D – Fee Schedule of the Bayport Code of Ordinances. If an animal is not claimed within the time period in accordance with the animal impound agency's policy and proper notice is posted at the city administrative office, the animal shall be eradicated or placed in the custody of some other suitable person. The city shall not be liable to anyone who may challenge the city's decision to place an animal in the custody of some other suitable person, after the completion of the procedure outlined in this section.

Sec. 14-49 – 14-55. Reserved.

DIVISION V. RABIES CONTROL

Sec. 14-56. Inoculation.

All cats and dogs in the city over the age of four (4) months shall be inoculated for rabies. Rabies inoculation must be kept current and must be certified by a veterinarian.

Sec. 14-57. Animal bites; exposure to rabies.

- (a) Any police or animal control officer of the city may enter upon the private property of any person in pursuit of any animal under probable cause to believe that such animal has bitten a person or animal, or that such animal is rabid.
- (b) Except as expressly authorized by law, it shall be unlawful for any person, other than an animal control officer, police officer or agent of the city acting pursuant to this article, to eradicate any animal which has bitten any person or animal unless such animal has been determined to be or is rabid.
- (c) If any person who owns, possesses or harbors any animal within the city learns that the animal has bitten any human, such person shall immediately impound the animal for a period of fourteen (14) days under the supervision of the police department and keep such animal apart from other animals until it is determined whether such animal has rabies. The impoundment may be by the person owning the animal if such animal has a current rabies vaccination at the time the bite occurred. If the animal does not have a current rabies vaccination at the time the bite occurred, the animal must be impounded at the city's animal impound agency or with a licensed veterinarian at the owner's expense. If the animal is found to be rabid, it shall be eradicated with any such fees for eradication to be assessed to the owner.
- (d) If the owner cannot be advised of an animal bite within two (2) hours following its occurrence, or if the owner fails to impound the animal as required by this section, the city or the animal control officer shall cause the animal to be so impounded. If the animal is found to be rabid, it shall be eradicated. If it is found not to be rabid, it shall be returned to the owner, provided the owner first pays for the cost of keeping the animal. If the owner does not pay such cost within fourteen (14) days after he/she has been notified to claim or retrieve his/her animal, the animal may be eradicated, with any such fees for

eradication to be assessed to the owner. The city shall not be liable to anyone who may challenge the city's decision to eradicate an animal after the completion of the procedure outlined in this paragraph.

- (e) Any animal known to be diseased, vicious, dangerous, bitten by a rabid animal or exposed to rabies shall be impounded and eradicated; provided, however, that such animal may be immediately eradicated if with reasonable effort it cannot first be taken up and impounded. If such an animal is impounded, it shall not be eradicated if the owner makes provision for suitable quarantine for a period of not less than six (6) months, or proof of immunization is furnished and booster injections are given by a licensed veterinarian at the expense of the owner.

Sec. 14-58 – 14-65. Reserved.

ARTICLE II. DOMESTIC ANIMALS

DIVISION I. GENERALLY

Sec. 14-66. Number limited.

No person, except a kennel licensee, shall own, harbor or keep more than three (3) of any type of licensed domestic animals over four (4) months of age on any property. Service animals are exempt from this provision.

Sec. 14-67. License requirements; fees.

No person shall own, harbor, or keep any cat or dog of more than four (4) months of age without securing a license from the city. A license shall not be issued to the owner without the certificate of the veterinarian inoculation for rabies being presented at the time of application for the license. Upon licensure, the city shall issue a license identification collar tag to the owner, who shall be responsible for affixing and seeing that the tag is constantly worn by the cat or dog and in such a manner that it may be easily seen by officers of the city. The term of a license shall be for a calendar year or balance thereof and must be renewed by February 1 of each succeeding year. Failure to renew a license or obtain a new license within sixty (60) days of acquiring a cat or dog or establishing residence in the city may result in a late license penalty. License fees have been adopted and are designated in Appendix D - Fee Schedule of the Bayport Code of Ordinances.

Sec. 14-68. Existing domestic animals; compliance procedures.

Any person keeping more than three (3) licensed domestic animals at the time this article is adopted has 365 days in which to comply with the provisions of this article. Extensions beyond 365 days may be granted by the city administrator or his/her designee for good cause, but in no case shall such extension permanently exempt a person from the requirements of this article. Article I., Division IV. shall apply if, upon notification by the police department, a person has not complied with this article within the specified timeframe or if animal is deemed to be an immediate threat to public health or safety, as determined by the police department.

Sec. 14-69 – 14-75. Reserved.

DIVISION II. DANGEROUS DOGS

Sec. 14-76. Declaration.

If a dog is declared to be vicious, dangerous, or found to be a threat to public safety, an animal control officer or police officer may require the animal to be impounded, quarantined, and/or registered as

a dangerous dog as defined by Minnesota Statutes, Section 347.50, Subdivision 2. This Division shall not apply to dangerous dogs used by law enforcement officials for police work.

Sec. 14-77. Dangerous Dog Registration process; fees.

Upon a dangerous dog declaration, the police department shall provide a written “dangerous dog and right of hearing notice” to the owner, who shall register the dangerous dog within fourteen (14) days of receipt of the notice. Failure to do so by the owner shall result in seizure of the dog by the city. The term of a registration shall be for a calendar year or balance thereof and must be renewed by February 1 of each succeeding year until the dog is deceased. Registration fees have been adopted and are designated in Appendix D - Fee Schedule of the Bayport Code of Ordinances. As part of the registration application, the owner must agree to abide by the dangerous dog registration requirements and demonstrate sufficient evidence that:

- (a) A proper enclosure exists for the dangerous dog on the owner’s property. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.
- (b) A posting on the premises with a clearly visible warning sign that there is a dangerous dog on the property, including a warning symbol to inform children.
- (c) The owner has secured a surety bond issued by a surety company authorized to conduct business in the State of Minnesota payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in the State of Minnesota insuring the owner for any personal injuries inflicted by the dangerous dog in the sum of at least \$300,000.
- (d) The owner has had microchip identification implanted in the dangerous dog, and the name of the microchip manufacturer and identification number of the microchip has been provided to the police department. If the microchip is not implanted by the owner, it may be implanted by the city, with all costs related thereto to be borne by the owner.
- (e) The dog has been sterilized or will be sterilized at the owner’s expense within thirty (30) days of the dangerous dog notice to the owner. If the dog is not sterilized within said 30 days, the city shall seize the dog and have it sterilized at the owner’s expense.
- (f) If the owner rents the property where the dog will reside, the owner has disclosed to the property owner prior to entering or renewing the lease agreement that a dangerous dog will reside at the property.

The police department will issue a certificate of registration and collar tag to the owner of the dangerous dog upon meeting all registration requirements. The owner shall be responsible for affixing and seeing that the collar tag is constantly worn by the dangerous dog and in such a manner that it may be easily seen by the public and officers of the city. The owner shall additionally be responsible to pay an annual fee as provided in Appendix D - Fee Schedule of the Bayport Code of Ordinances, for the dangerous dog declaration.

Sec. 14-78. Appeal of declaration; Hearing Officer.

- (a) The owner of a dog that has been declared dangerous may appeal the declaration and request a hearing. The appeal request must be submitted in person or in writing to the police department within fourteen (14) calendar days of receipt of the written “dangerous

dog and right of hearing” notice. The owner must immediately comply with the requirements of Section 14-77(a) and continuing until such time as the hearing officer issues an opinion. All actual costs of the care, keeping, appeal, and disposition of the dangerous dog are the responsibility of the owner or person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

- (b) The city administrator is designated as the hearing officer for all appeals of a dangerous dog declaration. The appeal hearing shall be scheduled with the hearing officer and the hearing officer shall issue a decision on the matter within ten (10) days after the hearing. The decision shall be hand delivered or sent by registered mail to the owner as soon as practicable. If the dangerous dog declaration is upheld by the hearing officer, actual expenses of the appeal hearing will be the responsibility of the owner as provided in Appendix D - Fee Schedule of the Bayport Code of Ordinances.

Sec. 14-79. Warning Symbol.

Once a dangerous dog certificate has been issued by the city, the city must provide, for posting on the owner’s property, a copy of a warning symbol to inform children there is a dangerous dog on the property. The warning symbol must be the uniform symbol provided by the Minnesota Commissioner of Public Safety. The city may charge the owner of a dangerous dog a reasonable fee to cover its administrative costs and the costs of providing the warning symbol.

Sec. 14-80. Request to rescind declaration.

Beginning six (6) months after a dog is declared dangerous, the owner may request that the city annually review the declaration. The declaration will be reviewed as soon as practicable at the beginning of each calendar year. The owner must provide written evidence that the dog’s behavior has changed due to age, alteration, environment, obedience training, or other factors. If the city finds sufficient evidence that the dog’s behavior is no longer dangerous, it may rescind the dangerous dog declaration.

Sec. 14-81. Relocation; transfer of ownership.

If a dangerous dog is relocated to another city, the dog must be registered as a dangerous dog in its new jurisdiction. If the ownership of a dangerous dog is transferred, the current owner must notify the new owner that the dog has been declared as dangerous and provide the new owner's name, address, and telephone number to the police department.

Sec. 14-82. State statutes adopted.

Minnesota Statutes, Sections 347.50 through 347.56, as amended, shall be incorporated into this Division as if fully set forth herein.

Sec. 14-83 – 14-85. Reserved.

ARTICLE III. LIVESTOCK AND FARM ANIMALS

Sec. 14-86. Number limited.

No person shall own, harbor or keep livestock or a common farm animal as defined within this chapter, unless in accordance with Appendix B – Zoning, Section 729 of the Bayport Code of Ordinances. No person shall own, harbor, or keep more than any combination of four (4) small birds or fowl, including a chicken (hen), turkey, duck, or pigeon. No small birds or fowl are allowed on any property that contains three (3) or more dwelling units.

Sec. 14-87. Small bird/fowl permit requirements; fees.

No person shall own, harbor or keep a small bird or fowl without first obtaining a permit, and in accordance with Appendix B – Zoning, Section 729 of the Bayport Code of Ordinances. The term of a permit shall be for a calendar year or balance thereof and must be renewed by February 1 of each succeeding year. Permit fees have been adopted and are designated in Appendix D - Fee Schedule of the Bayport Code of Ordinances. Properties with a permit are subject to one (1) annual inspection and periodic inspections by an animal control officer to mitigate any nuisance conditions. The city may refuse or revoke a permit for unsanitary or unfit conditions.

Sec. 14-88. Compliance procedures.

Any person keeping or maintaining animals in violation of this article at the time it is adopted has thirty (30) days in which to comply with the provisions of this article. However, if the city deems the animal is an immediate public health or safety hazard, the city may use discretion to impound and/or eradicate the animal immediately, and the city shall not be liable to any person challenging the decision to impound and/or eradicate the animal. Extensions beyond thirty (30) days may be granted by the city administrator or his/her designee for good cause, but in no case shall such extension permanently exempt a person from the requirements of this article. Article I., Division IV. shall apply if, upon notification by the police department, a person has not complied with this article within the specified timeframe or if an animal is deemed to be an immediate threat to public health or safety, as determined by the police department.

Sec. 14-89 – 14-95. Reserved.

ARTICLE IV. WILD ANIMALS

Sec. 14-96. Species.

Wild animals include, but are not limited to:

- (a) Any breed in the large cat (felidae) family such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats.
- (b) Any breed in the dog (canidae) family such as wolves, coyotes, dingoes and jackals, except domesticated dogs.
- (c) Any crossbreed between dogs and coyotes or dogs and wolves, but not including crossbred domesticated animals.
- (d) Any poisonous snake such as a rattlesnake, coral snake, water moccasin, puff adder, or cobra.
- (e) Any snake or reptile which by its size, vicious nature or other characteristic is dangerous to human beings.
- (f) Any raccoon or fox, unless certified by a veterinarian to be free of rabies and kept pursuant to a valid DNR permit, such certification to be obtained within seven (7) days of receipt of the animal.
- (g) Any bear, ape, gorilla, monkey (unless a service animal) or badger.
- (h) Any other animal or reptile which is commonly considered wild and not domesticated.

Sec. 14-97. Keeping and feeding prohibited; exceptions.

No person shall own, harbor, or keep or provide an artificial food source for any wild animal within the corporate limits of the city except as permitted pursuant to the provisions of this article and the following exceptions:

- (a) A public zoo or other institution engaged in a permanent display of animals, any bona fide research institution or veterinary hospital may be issued a conditional use permit provided applicable zoning requirements are met.
- (b) Above-ground feeders, intended to provide limited seed or suet for small, common backyard birds.
- (c) The raising of wild animals for pelts may be permitted by conditional use permit provided all applicable state requirements are met.
- (d) A handicapped person using a wild animal for assistance may be permitted provided all applicable state and federal requirements are met.

Sec. 14-98. Compliance procedures.

Any person keeping or maintaining a wild animal in violation of this article at the time it is adopted has thirty (30) days in which to comply with the provisions of this article. However, if the city deems the animal is an immediate public health or safety hazard, the city may use discretion to impound and/or eradicate the animal immediately, and the city shall not be liable to any person challenging the decision to impound and/or eradicate the animal. Article I., Division IV. shall apply if, upon notification by the police department, a person has not complied with this article within the specified timeframe or if an animal is deemed to be an immediate threat to public health or safety, as determined by the police department.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication according to law. Passed by the City Council for the City of Bayport this 7th day of December, 2015.



Susan St. Ores, Mayor

Attest:



Logan Martin, City Administrator