

Chapter 4

ANIMALS*

* **Editors Note:** Ord. No. 2179, §§ 1--15, adopted Feb. 17, 1999, amended ch. 4 in its entirety to read as set forth in §§ 4-1--4-15. Formerly, ch. 4, §§ 4-1--4-5, pertained to similar subject matter and was derived from the 1964 Code, §§ 5-1--5-4, 5-7.

Cross References: Administration, Ch. 2; buildings and building regulations, Ch. 5; code enforcement, Ch. 6; garbage and refuse, Ch. 10; health and sanitation, Ch. 11; noise, Ch. 16; zoning, Ch. 27; certain noise prohibited, §§ 16-4, 16-5.

State Law References: Animal regulation in Broward County, Laws of Fla. 1955, Ch. 30636 as amended; HRS authority to make rules on rabies, F.S. § 381.031(1)(g)1; game and freshwater fish, F.S. Ch. 372; damage by dogs, F.S. Ch. 767; cruelty to animals, F.S. Ch. 828; livestock at large, F.S. § 588.12 et seq.

Art. I. General Provisions, §§ 4-1--4-21

Art. II. Aggressive Dogs, §§ 4-22--4-30

ARTICLE I.

GENERAL PROVISIONS*

* **Editors Note:** Ord. No. 2362, § 1, adopted Apr. 19, 2006, amended the Code by designating that §§ 4-1--4-21 be placed within an Art. I titled In general. Additionally, Art. II, §§ 4-22--4-30 was created.

Sec. 4-1. 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:

Animal shall mean every living non-human creature, excluding tropical fish.

Animal control officer or *officer* shall mean any person employed by the City of Plantation or Broward County, or such agents or employees as are designated by the city or county to perform the duties of such officer, which person is authorized to investigate on public or private property civil infractions relating to animal control or cruelty, and to issue citations as provided herein. An animal control officer is not authorized to bear arms or make arrests (unless such person is a sworn police officer).

At large means off the premises of the owner and not under the control, custody, charge or possession of the owner or other responsible persons to whom custody, control, charge or possession of an animal, either by leash, cord, chain, or other physical barrier, fence, cage, full or partial enclosure sufficient to contain the animal, has been delegated.

Broward County Animal Regulations shall mean the Broward County Animal Care and Regulation Ordinance and any and all rules and regulations promulgated thereunder.

Citation shall mean a written notice issued to a person by an officer with probable cause to believe that the person has committed a civil infraction in violation of this chapter.

City shall mean the City of Plantation, Florida.

City council shall mean the City Council for the City of Plantation, Florida.

Control shall mean the regulation of the possession, ownership, care and custody of an animal.

County shall mean Broward County, Florida.

Division shall mean the Animal Care and Regulation Division for Broward County.

Dog includes both male and female.

Harboring shall mean the act of keeping and caring for an animal or providing a premises to which the animal returns for food, shelter or care for a period of at least forty-eight (48) hours.

Kennel shall mean any place at which dogs, cats or any other animal, reptile, bird or fowl are kept for sale, breeding, boarding, treatment or grooming purposes as allowed by the zoning regulations of the city, Broward County, or both, if applicable. "Kennel" shall not include any humane society, animal protection agency or veterinarian clinic.

Owner means any person owning, keeping or harboring an animal.

Veterinarian shall mean a veterinarian duly licensed and regulated by the State of Florida in accordance with Chapter 474 of the Florida Statutes.

Wild animal shall mean any non-human primate, racoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx or any other animal so classified by the Florida Game and Fresh Water Fish Commission. (Ord. No. 2179, § 1, 2-17-99; Ord. No. 2196, § 1, 8-11-99)

Sec. 4-2. Dogs at large prohibited.

(a) It shall be a violation of this section for any person to permit any dog to be at large as defined in this chapter.

(b) It shall be a violation of this section for the owner of any dog to tie, chain or otherwise tether a dog in such a manner that it has access to public property or the property of another without the consent of the owner of such property.

(c) Any dog found by an officer to be at large may be seized and impounded and, as an alternative or in addition to impoundment, the officer finding said dog at large may issue a citation as set forth in section 4-20 of this Code. The provisions of section 4-4 of this Code shall apply to any impoundment. (Ord. No. 2179, § 2, 2-17-99; Ord. No. 2362, § 2, 4-19-2006)

Sec. 4-3. Nuisance animals.

Any person finding any animal upon his or her property which is at large may remove said animal to the division in accordance with the Broward County Animal Regulations.

(Ord. No. 2179, § 3, 2-17-99)

Sec. 4-4. Impoundment.

(a) In addition to any other remedies provided by this chapter, an animal control officer or a police officer may seize, impound and humanely confine to an animal shelter or hospital any of the following animals:

- (1) Any dog or cat without a valid license tag;
- (2) Any animal at large;
- (3) Any animal constituting a public nuisance as provided for in section 4-3 or considered a danger to the public;
- (4) Any animal that is in violation of any quarantine or confinement order of the city's police department;
- (5) Any unattended animal that is ill, injured or otherwise in need of care;
- (6) Any animal that is reasonably believed to have been abused or neglected;
- (7) Any animal that is reasonably suspected of having rabies;
- (8) Any animal that is determined by the officer to be potentially dangerous, or dangerous due to its vicious nature and that there is a threat to public health and safety;
- (9) Any animal that a court of competent jurisdiction has ordered impounded or destroyed;
- (10) Any animal that is considered unattended or abandoned, as in situations where the owner is deceased, has been arrested or evicted from his regular place of residence.

(b) An animal control officer or police officer may also, or in lieu of impoundment, issue to the owner a civil citation pursuant to the terms of section 4-20 of this Code.

(c) When an animal is impounded, it shall be held for a period of time pursuant to applicable Broward County or state regulations. If the animal is not taken to the division, reasonable diligence shall be exercised by the city in ascertaining the ownership of said animal. The animal may be picked up between the hours of 7:00 a.m. and 11:00 p.m. at the city if the animal has not yet been transferred to Broward County or a private kennel. The final responsibility for locating an impounded animal shall be that of the owner. When an animal is impounded regarding a criminal case for abuse or neglect, the animal shall be held until such time as its disposition is determined by the court.

(d) If an impounded animal is not retrieved by the owner, the city may remove the animal to the division for disposition under the Broward County Animal Regulations. All costs of boarding, treatment, transporting and disposition of any animal shall be assessed to its owner.

(e) City police officers have no duty to impound any animal and all impoundments are purely discretionary acts.
(Ord. No. 2179, § 4, 2-17-99; Ord. No. 2362, § 3, 4-19-2006)

Sec. 4-5. Noise disturbances.

It shall be unlawful for any person or the owner or anyone having charge, control or custody thereof, to keep any animal within the corporate limits of the city which howls, yells or barks, whines, crows, cackles, or makes noise excessively or continuously so as to disturb the sleep, peace or quietude of any inhabitant of the city at any time of day or night or interferes with the reasonable use and enjoyment of neighboring premises. The owner of the property or premises upon which any animal is located shall be presumed to have charge or control of any animal violating the terms and provisions of this section.
(Ord. No. 2179, § 5, 2-17-99)

Sec. 4-6. Confinement during heat.

Any unspayed female dog or cat in heat (estrus) shall be confined during such period of time in a house, building or secure enclosure. Such enclosure shall be constructed so that no other dog or cat may gain access to the confined animal, except for intentional breeding purposes.
(Ord. No. 2179, § 6, 2-17-99)

Sec. 4-7. Licensing of dogs and cats.

(a) Any person who owns or keeps in the city a dog or cat four (4) months of age or older shall have such dog or cat licensed in accordance with Broward County Animal Regulations.

(b) Any nonresident who brings a dog or cat four (4) months of age or older into the city with the intent to reside within the city permanently, or temporarily for a period of at least six (6) months, shall have such dog or cat licensed in Broward County within thirty (30) days of arrival in accordance with Broward County Animal Regulations.

(c) The license tag required by this section shall be worn by the dog or cat at all times when off the premises of its owner, subject to the exceptions in this subsection. It shall be a violation of this section for any person to remove the license tag of any licensed dog or cat within the city except:

- (1) When the dog or cat is participating in an organized exhibition, field trial or competition, or is in training for these events, or is engaged in a legal sport under supervision of its owner, or is undergoing grooming; or
- (2) When the dog or cat is confined in a licensed kennel, grooming facility or a veterinary hospital, in which case the license tag number shall be recorded and readily identifiable with the dog or cat to which it belongs; if the animal is not licensed, the facility shall clearly indicate such on its

records; or

- (3) When a licensed veterinarian orders in writing that the license tag, collar or harness be removed for the dog's or cat's health, in which case the dog or cat shall be confined in a building, kennel or secure enclosure until the veterinarian permits the collar, harness or tag to be placed on the dog or cat.

(d) It shall be a violation of this section for any person to use or possess a stolen, counterfeit or forged license tag, vaccination certificate or any other documentation required by this section.
(Ord. No. 2179, § 7, 2-17-99)

Sec. 4-8. Reporting bites from animals.

Any person which has been bitten or has knowledge of or treats any person bitten by any animal shall report the incident to the Broward County Animal Care and Regulations Division (Clinic) within twelve (12) hours of the occurrence of the incident.
(Ord. No. 2179, § 8, 2-17-99)

Sec. 4-9. Suspected rabies cases.

Whenever the city is informed that any dog or cat has bitten any person and is suspected of having or showing suspicious symptoms of rabies, the city shall require that said dog or cat be quarantined by removal to the division and confined for observation at the owner's expense in accordance with the Broward County Animal Regulations or the owner may have the dog or cat confined at a veterinarian's quarantine facility at the owner's expense for the time frame provided for in the Broward County Animal Control Regulations.
(Ord. No. 2179, § 9, 2-17-99)

Sec. 4-10. Surrender of animals for quarantine.

The owner of any dog or cat that has been reported to have inflicted a bite on any person, or that has been reported as being suspected of or having or showing the symptoms of rabies, shall on demand surrender the dog or cat for confinement or observation at the owner's expense. Refusal to surrender said dog or cat shall be deemed a violation of this section. If the dog has a current rabies vaccination and no symptoms of rabies, then the owner can confine the dog at home. However, if the dog does not remain confined for said period of time, then the dog shall be removed to the division.
(Ord. No. 2179, § 10, 2-17-99)

Sec. 4-11. Interference with officer prohibited.

Any person who hinders, obstructs or otherwise interferes with an officer while discharging his or her duties under this chapter, or who takes or attempts to take any animal from any officer or from any vehicle used by the officer to transport any animal, or who takes or attempts to take any animal from the city without proper authority, or who knowingly interferes with any animal trap set by an officer or persons obtaining said traps from the city or county shall be deemed in violation of this section.
(Ord. No. 2179, § 11, 2-17-99)

Sec. 4-12. Ownership of wild animals prohibited.

No person shall own or harbor any wild animal in the city without the appropriate state permits provided for in section 372.922 of the Florida Statutes.
(Ord. No. 2179, § 12, 2-17-99)

Sec. 4-13. Animals in vehicles.

(a) No person shall leave an animal in a motor vehicle without adequate ventilation, or in such a manner as to expose the animal to extremes of heat or cold.

(b) An officer may remove and impound an animal from a vehicle if its safety appears to be in immediate danger from heat or cold or lack of adequate ventilation. The officer is authorized to take all steps reasonably necessary for the removal of such animal including, but not limited to, breaking into the vehicle. Neither the officer nor his or her agency shall bear civil liability for damage resulting from such action.

(c) No person shall transport any animal in a motor vehicle unless the animal is safely enclosed within the vehicle, or if traveling in an unenclosed vehicle (including but not limited to convertibles, pick-up and flat bed trucks) is confined by a container, cage, or other restraining device (e.g., safety harness or seatbelt) that will prevent the animal from falling from or jumping from the motor vehicle. If a container or cage is used, it shall be anchored to the vehicle in order to prevent its jostling about.
(Ord. No. 2179, § 15, 2-17-99; Ord. No. 2196, § 1, 8-11-99; Ord. No. 2311, § 1, 1-7-2004)

Sec. 4-14. Keeping of animals.

It shall be a violation of this Code for any person, firm, or corporation to own, control, keep, or harbor within the corporate limits of the City of Plantation any animal:

- (1) In an unsanitary condition;
- (2) Which is detrimental to the health or safety of any person;
- (3) In a condition which is detrimental to the health of any animal (or health of the animal);
- (4) In a condition that constitutes a public nuisance; or
- (5) In a manner which is in violation of any applicable ordinance (such as, for example, running at large).

If any of the conditions stated above are found, then such conditions constitute a Code violation and may be prosecuted by the city through any means available. Incident to a prosecution of this section, the city may remove the affected animal from the premises for emergency veterinary care and shall afford the owner or custodian of the animal a hearing as soon as reasonably possible concerning the animal removal. In addition to a fine for a violation of this section, the city may recover any incurred costs of veterinary care.
(Ord. No. 2196, § 2, 8-11-99; Ord. No. 2311, § 1, 1-7-2004)

Sec. 4-15. Dogs on park property.

No dogs shall be permitted in city parks except as provided for herein. Dogs shall be permitted in specified areas of parks as may be designated by resolution. No animal waste shall be allowed to remain in any such area. All animal waste shall be disposed of by the person in control of the animal in a waste container. Dogs shall be permitted in all city parks in connection with city approved programs (such as, but not limited to, dog obedience classes) and special events when the event pertains specifically to dogs. (Ord. No. 2196, § 3, 8-11-99; Ord. No. 2311, § 1, 1-7-2004)

Secs. 4-16--4-19. Reserved.

Sec. 4-20. Enforcement of violations.

- (a) Any person committing a violation of this chapter shall be cited therefor and be deemed to be charged with a civil infraction.
- (b) An animal control officer or a law enforcement officer who has probable cause to believe that a person has committed an act in violation of this chapter shall have the discretion to issue either a warning with no civil penalty or a citation for a civil penalty in the amount designated in section 4-21.
- (c) Any person cited for a violation of this chapter shall sign and accept a citation acknowledging receipt of the citation and indicating a promise to appear in county court if such person wishes to contest the charges. Any person who willfully refuses to sign and accept a citation issued by an officer shall be guilty of a misdemeanor of the second degree, punishable as provided by section 775.082 or section 775.083 of the Florida Statutes.
- (d) Any person cited with a violation of this chapter may either pay the civil penalty or contest the citation within ten (10) days of receiving the citation. Payment of the civil penalty or notice of contesting the citation shall be mailed or hand delivered to the Record Systems Coordinator of the Records Division of the Plantation Police Department within ten (10) days of the issuance of the citation at the following address: Record Systems Coordinator, City of Plantation Police Department, 451 NW 70th Terrace, Plantation, Florida 33317. A payment or notice bearing the proper address and postage, postmarked on or before the expiration of the ten (10) days from the issuance of the citation shall be deemed to have been filed timely regardless of the date of its receipt by the city. If the person cited pays the civil penalty or fails to contest the citation, he or she shall be deemed to have admitted the infraction and to have waived his or her right to a non-jury trial on the issue of the commission of a violation.
- (e) Upon receipt of a timely notice contesting a citation, the city shall file a municipal information and the county court shall set a time for a non-jury trial on the issue of the commission of a violation and the applicable civil penalty. If the violator has failed to pay the civil penalty in a timely manner or contest the citation in a timely manner, the city shall file a petition for order to show cause and the county court shall issue an order to show cause requiring the person to appear before the county court and explain why action on the citation has not been taken. If any person who is issued such order fails to appear in response to the county court's directive, that person may be held in contempt of court.
- (f) Violations of this chapter which result in the unprovoked biting, attacking or wounding of a

domestic animal; violations resulting in the destruction or loss of personal property; second or subsequent violations of animal cruelty provisions; violations resulting in the issuance of a third or subsequent citation to persons, may require the person to have a mandatory court appearance and such person shall not have the option of paying the fine instead of appearing in court.

(Ord. No. 2179, § 13, 2-17-99; Ord. No. 2311, §§ 1, 2, 1-7-2004)

Sec. 4-21. Amount of civil penalties.

(a) Any person cited for an infraction under this chapter, who elects not to contest the citation shall pay a civil penalty in an amount as follows. The amount must be remitted in accordance with subsection 14-20(d) above:

- (1) Fifty dollars (\$50.00) for the first offense.
- (2) One hundred dollars (\$100.00) for the second offense.
- (3) Two hundred dollars (\$200.00) for the third offense.
- (4) Four hundred dollars (\$400.00) for the fourth and any subsequent offense.

(b) Any person cited for an infraction under this chapter who elects to contest the citation and is found to have committed the violation, or any person who does not elect to contest the violation but fails to pay the applicable civil penalty in a timely manner as set forth in subsection 14-20(d), shall pay a civil penalty in an amount as follows:

- (1) One hundred dollars (\$100.00) for the first offense.
- (2) Up to five hundred dollars (\$500.00) for the second and any subsequent offense.

(c) The city may assess against such persons all costs incurred by the city for transportation, impoundment, confinement, treatment or disposition of their animal.
(Ord. No. 2179, § 14, 2-17-99; Ord. No. 2311, §§ 1, 3, 1-7-2004)

ARTICLE II.

AGGRESSIVE DOGS

Sec. 4-22. Intent and purpose.

This article is intended to utilize the authority and powers of the city in order to secure for the citizens of this city the protection of their health, safety and welfare. It is intended to be applicable to "aggressive dogs" which are defined herein. This article is designed to regulate "aggressive dogs" and to ensure responsible handling by their owners through registration, confinement, and liability insurance. The unique history, nature and characteristics of aggressive dogs have been determined to require the special regulations and provisions contained within this article, which the city council hereby finds reasonable and necessary.

(Ord. No. 2362, § 4, 4-19-2006)

Sec. 4-23. Relation to other ordinances.

This article is in addition to the requirements and regulations of any other provision of this chapter pertaining to dogs. In event of a conflict, this article shall control.
(Ord. No. 2362, § 4, 4-19-2006)

Sec. 4-24. Definition.

(a) Except as provided in subsection (d) below, the term *aggressive dog*, as used within this article, shall mean any dog which shall at any time have bitten any human being unless specifically excluded in this article, or which at any time has killed or seriously injured another domestic animal.

(b) The term *bitten or bite*, as used within this article, shall mean a bite inflicted by a dog, which at a minimum, punctures or breaks the tissue forming the external covering of the body or the skin segment of the integumentary system (which is composed of a layer of tissues that protect underlying muscles and organs).

(c) The term *seriously injured*, as used within this article, shall mean any injury which:

- (1) Requires hospitalization for more than forty-eight (48) hours, commencing within seven (7) days from the date the injury was received;
- (2) Results in a fracture of any bone;
- (3) Causes a permanent disability (exclusive of scarring); or
- (4) Involves any internal organ.

(d) *Exclusions.* Any dog that has bitten any human being while such dog was protecting the owner, the owner's property or members of the owner's family from criminal activity and with such criminal activity being documented in a city police report is not an aggressive dog; or the city canine unit; or any dog that has killed or seriously injured another domestic animal while such dog is completely on the property of its owner; a dog protecting its puppies less than eight (8) weeks of age, or dogs not classified in subsection (d) under eight (8) weeks of age.

(e) *Hearings.* The owner of a dog classified as an aggressive dog, as provided for herein, shall have ten (10) business days (from the date the owner receives the notice that his or her dog is being classified as an aggressive dog) to request a hearing as provided for below in section 4-29 of this Code.
(Ord. No. 2362, § 4, 4-19-2006)

Sec. 4-25. Financial responsibility requirements.

(a) Every owner of an aggressive dog shall, at all times that he or she owns the dog, maintain and be able to provide evidence of his or her financial responsibility for bodily injury or death of any person or persons or for damage to property owned by any other person which may result from the ownership, keeping or maintenance of such dog. Proof of financial responsibility shall be a condition precedent to the city approving

the dog's registration.

(b) Financial responsibility shall be evidenced by filing with the police department a certificate of insurance from an insurance company authorized to do business in the state, valid for the one-year registration period. The city will be a certificate holder such that the city will be notified if the insurance coverages expire or terminate. The city's risk manager is hereby empowered to establish specific insurance requirements uniform to all aggressive dogs depending on the insurance markets, from time to time. The city's risk manager will also provide the owners of aggressive dogs with insurance information within a reasonable time period upon request.

(c) As an alternative to maintaining the insurance otherwise required, proof of financial responsibility may also be evidenced by establishing cash escrow with the city as escrow agent or by establishing a security escrow where the city holds securities (and stock or other powers appropriate to liquidate such securities) as an escrow agent. The value of the escrow of cash and securities shall at all times be maintained in the minimum amount of ten thousand dollars (\$10,000.00) per dog. In the event at any time the escrow is reduced as provided herein, it shall be a requirement that the value of the escrow be restored to its required minimum amount. In the event there is no violation of this article and there is no police report during the registration period for which the escrow is maintained that the dog bit or seriously injured a human or animal, then the escrow shall be continued to be maintained. In the event of a police report that a dog for which the escrow is maintained bit a human or seriously injured a domestic animal, the city shall notify the victim (or parent, guardian, or owner of the victim if the victim is a minor or domestic animal) and may use the cash or liquidate the securities and use the net proceeds thereof to reimburse the human (or parents or legal guardian of the human if the injured human is a minor) for any unpaid hospital or medical or rehabilitation treatment, or for any veterinary care or treatment provided to the domestic animal. In the event of a violation of this article the city may use the amount in escrow to pay for any enforcement action the city may take, including but not limited to seeking an order requiring the dog involved to be destroyed. This paragraph shall be supplemental to other methods of enforcing the city's laws that are available to the city. The registrant shall reimburse the city for any legal costs incurred by the city in establishing, monitoring, or performing the escrow. Additionally, and in addition to the registration fee provided in this article, the city shall be entitled to charge an escrow fee of one hundred dollars (\$100.00) per dog per registration period to offset administrative costs and expenses that the city incurs in monitoring the escrow. Finally, in the event of a cash escrow, the city may commingle the funds with other city funds, may keep any investment return thereon, will only be required to account for the principal thereof, and only the principal thereof will be used to determine the minimum amount of such escrow for maintenance purposes.

(Ord. No. 2362, § 4, 4-19-2006)

Sec. 4-26. Control requirements.

(a) Aggressive dogs must at all times be securely confined indoors or confined in a secure and totally enclosed and locked pen. Pens shall have a roof over all surface area of the enclosure which roof may be chain link, bottom will consist of either concrete deck or no concrete deck but have buried eighteen (18) inches underground a chain link bottom. All pens require a permit from the city's building department. Electronic fences are not acceptable forms of confinement.

(b) At any time that an aggressive dog is not confined as required in subsection (a) above, the dog shall be muzzled in such a manner as to prevent it from biting or injuring any person or animal; and in addition thereto, kept on a leash no longer than six (6) feet which shall be physically attached to an adult eighteen (18)

years of age or older.

(c) An exception to this section is hereby provided for any aggressive dog while participating in any lawful dog show, contest or exhibition sponsored by a dog club, association society, or similar organization (during any exhibition at which time judging occurs at any dog show).
(Ord. No. 2362, § 4, 4-19-2006)

Sec. 4-27. Registration.

(a) Every owner of an aggressive dog in the city shall register the dog with the police department, and comply with all requirements to maintain such registration. It shall be a violation of this Code to own or harbor an aggressive dog that has not been registered or whose registration has been cancelled by the city. The registration shall include the following: name, address and telephone number of the dog's owner; identify where the dog is harbored, if different from the owner's address; a complete identification of the dog, including the dog's sex, color and any other distinguishing physical characteristics; proof of rabies vaccination; and proof of the liability insurance or other evidence of financial responsibility required pursuant to this article. In addition, the city may require the owner to purchase a conspicuous dog collar chosen by the police department to be worn by the dog at all times. The registration shall also include a requirement that in the event the city institutes legal action to seek the destruction of the aggressive dog as a result of a violation of this article, the owner shall be required to reimburse the city for all costs and expenses incurred, including a reasonable attorney's fee. A registration fee of fifty dollars (\$50.00) shall be required. The registration fee and fees charged by the city to serve as escrow agent are subject to increase as provided by section 2-600 of this Code. Each registration shall be for one-year, and at the end of one-year registration period, a new registration shall be required for as long as the dog remains within the city.

(b) Animals classified at any time following the time for compliance in section 4-29 below as aggressive dogs shall be registered with the police department and apply for dog pen permits, if applicable, no later than three (3) days after such classification.
(Ord. No. 2362, § 4, 4-19-2006)

Sec. 4-28. Notice of keeping of dog.

Upon the written complaint of any person that a person owns or is keeping or harboring an aggressive dog on premises in the city, the police department may forthwith cause the matter to be investigated, and, if after investigation the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring any such aggressive dog in the city and has not properly registered under this article, the police shall forthwith send written notice to such person requiring such person to either apply for a registration and dog pen permits under this article, or remove the animal from the city or request a hearing to determine whether the dog should be classified as an aggressive dog - all within ten (10) business days from the date the person received the notice.
(Ord. No. 2362, § 4, 4-19-2006)

Sec. 4-29. Hearings concerning the classification of a dog as an aggressive dog/violations.

(a) *Notice of hearing.* Upon receipt of a timely, written request for hearing, the city shall issue a notice of violation and schedule a hearing to be held as soon as possible and shall provide the owner of the dog

tentatively classified as aggressive pursuant to section 4-24 of this article, with no less than five (5) calendar days' written notice.

(b) *Hearing procedures.*

- (1) Upon the scheduling of a hearing before the code enforcement board or special master, notice thereof shall be furnished to the violator by certified mail, return receipt requested, by personal service, or as may be authorized by law for civil court actions or depositions. This notice shall contain the date, time and place of hearing.
- (2) At the hearing, the burden of proof shall be upon the city representative to show, by the greater weight of the evidence, that the dog in question should be classified as an aggressive dog.
- (3) The code enforcement board or special master may, for good cause shown, postpone or continue the hearing.
- (4) In making its determinations the code enforcement board or special master shall consider the facts and circumstances surrounding the incident, including but not limited to, the age of the dog, the health of the dog, the age of the human or domestic animal, the health of the human or domestic animal, the activity of the dog or human immediately prior to the bite, the activity of the human or domestic animal immediately prior to the bite, the past interaction between the dog and human or domestic animal, the location of the bite, and any previous history of the dog biting another animal or human, after the effective date of this article.
- (5) At the conclusion of the hearing, the code enforcement board or special master shall issue findings of fact, based upon evidence of record, and conclusions of law, and shall issue an order determining whether or not the dog in question is an aggressive dog, and determining whether or not the owner is in compliance with this article. This order may command the dog owner to take whatever steps are necessary to comply with the requirements of this article by the time announced at the hearing and later placed in the order. A failure to comply with the term stated in the order may result in fines, a lien or other enforcement action.
- (6) Every enforcement order shall be signed by the code enforcement board or special master and shall be filed in the office of the city clerk.

(Ord. No. 2362, § 4, 4-19-2006)

Sec. 4-30. Enforcement.

(a) This article shall not be deemed to be violated unless the alleged violator knew or should have known after a reasonable inquiry that the dog, which is the subject of the alleged violation, is an aggressive dog under the provisions of this article.

(b) The city may seek to enforce violation of this article in accordance with chapter 6 of this Code (by prosecuting the case in front of the code enforcement board or special magistrate) with each day of the violation being a separate offense. If the city, acting through its representative prevails in prosecuting any case, the city shall be entitled to receive all costs incurred in prosecuting the case before the code enforcement board

or special master. The finding shall be made by announcement at the hearing by the code enforcement board or special master. The order shall be announced orally at the hearing and shall be reduced to writing and mailed to the violator and the city. A certified copy of such order may be recorded in the public records of the county.

(c) The city may also choose to prosecute violations in accordance with the procedures set forth in section 4-20 of this Code. However, any person cited for an infraction under this article, who elects not to contest the citation shall pay a civil penalty in an amount as follows which must be remitted in accordance with subsection 14-20(d) of this Code:

- (1) One hundred dollars (\$100.00) for the first offense.
- (2) Two hundred dollars (\$200.00) for the second offense.
- (3) Four hundred dollars (\$400.00) for the third and any subsequent offense.

Any person cited for an infraction under this article who elects to contest the citation and is found to have committed the violation, or any person who does not elect to contest the violation but fails to pay the applicable civil penalty in a timely manner as set forth in subsection 14-20(d) of this Code, shall pay a civil penalty in an amount as follows:

- (1) Two hundred dollars (\$200.00) for the first offense.
- (2) Up to five hundred dollars (\$500.00) for the second and any subsequent offense.

The city may assess against such persons all costs incurred by the city for transportation, impoundment, confinement, treatment or destruction of the animal.

(d) In the event the aggressive dog bites a human being, or seriously wounds or kills another animal, the city may determine at any time to seek a court order requiring the aggressive dog to be destroyed for a violation of this article. In addition, the city may ban aggressive dogs from all city owned property.
(Ord. No. 2362, § 4, 4-19-2006)