

TITLE 2

ANIMALS

- 2-1 Livestock and Fowl
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TITLE II

ANIMALS

CHAPTER 1

LIVESTOCK AND FOWL

Section:

- 2-1-1: Not to Permit to Run at Large
- 2-1-2: Pounds
- 2-1-3: Breaking Pound
- 2-1-4: Restriction on Keeping Certain Animals: Not to Run at Large
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2-1-1: Not to Permit to Run at Large

If any person shall willfully suffer or permit any horse, mule, burro, sheep, goat, swine, cow, steer, other livestock, or domestic fowl, to stray or roam at large, within the corporate limits of the Town Of Olathe, he shall, for each and every animal so found at large in said corporate limits, be guilty of a misdemeanor.

2-1-2: Pounds

The Board of Trustees, by motion or resolution, shall determine the location of the pound for use of the Town Of Olathe for impounding stock, dogs, and other animals.

2-1-3: Breaking Pound

Any person or persons, who shall take or attempt to take any animal or animals out of the Town Pound without legal authority, shall be deemed guilty of a misdemeanor.

2-1-4: Restriction on Keeping Certain Animals: Not to run at Large (Ord. 2011-06)

- A. Livestock, poultry, fowl and other animals may be kept within the Town only in the following circumstances:
 - 1. Livestock, poultry, fowl and other animals may be kept in zoning or use districts AA, AB, RR, and R, which allows it as a permitted use,

an approved conditional use, or an approved use subject to review under restricted conditions.

2. Livestock may be kept only at locations throughout the Town where a minimum of one acre, clear of structures, is provided per animal on the premises and animals are kept at least 40 feet from adjacent property.

B. Maintenance Standards:

1. All premises, pens, cages or structures where livestock, poultry, fowl, or other animals are kept shall be kept in a clean, dry and sanitary condition.
2. All premises, pens, cages or structures where livestock, poultry, fowl, or other animals are kept shall be maintained so that the reasonable use of adjacent property is not adversely affected because of unreasonable odors, noise, insects or other nuisance created as a result of the above mentioned animals.

C. Limit on Large Animals:

It shall be unlawful to keep, maintain, harbor or possess on the premises of any one dwelling unit more than 1 large animal per acre. Provided, however, it shall be an affirmative defense to prosecution under this section if a person had more animals and was in possession of them at the premises on the date this ordinance comes into effect.

Limit on Poultry, Fowl and Other Animals:

It shall be unlawful to keep, maintain, harbor or possess on the premises of any one dwelling unit more than 6 (six) chickens, ducks, geese or other poultry, fowl, or small animals.

- D. Animals Not to Run At Large: Animals, livestock, poultry, fowl shall not be permitted to run at large within the Town of Olathe.

E. Enforcement:

1. It shall be unlawful to violate the provisions of this Chapter.
2. Violations of this Chapter are hereby declared to be a nuisance, which may be abated in accordance with law.

2-1-5: To Impound: Fees

The Olathe Police Department shall take up and impound any animal found running at large contrary to the provision of this Chapter, and for such taking up and impounding the Town shall charge for each animal the sum equal to the amount necessary for feeding and caring for such animal while impounded. (Ord. 2009-13)

2-1-6: Citizens may take up animals

It shall be lawful for any citizen of the Town to take up any animal found running at large contrary to the provisions of the Chapter, and immediately deliver the same to the Olathe Police Department, who upon being satisfied as to the animal's being at large contrary to the provisions hereof, shall take such animal and proceed in like manner as if the animal had been taken up in the first instance by the Olathe Police Department. (Ord. 2009-13)

2-1-7: Provisions of Statutes Adopted

The provisions, procedure, and grant of powers of the state statutes authorizing police departments to take up animals running at large contrary to ordinance and the sale thereof, are hereby adopted and accepted by the Town Of Olathe, so far as such acts refer to and affect incorporated towns. (Ord. 2009-13)

2-1-8: Net Proceeds to be paid in Town Treasury

All money arising from such sale or taking up of any such animal or animals shall after deducting the expenses and costs provided for in this Chapter be paid by the Olathe Police Department into the Town Treasury. (Ord. 2009-13)

2-1-9: Owner May Claim Proceeds

At any time within one year after such sale the owner of any stock or animals sold in pursuance of the provisions of this Chapter may make proof before the Mayor of this Town of his ownership and whenever the Mayor shall be clearly satisfied that such claimant was the actual owner of any stock so sold he shall report the same to the Board of Trustees and the Trustees shall direct a warrant to be drawn on the Town Treasury for the amount of money paid to the Treasury by the Olathe Police Department from the sale of such stock or animals proven. If proof of ownership shall not be made within one year from the date of such sale the proceeds shall be forfeited to the Town. (Ord. 2009-13)

TITLE II

ANIMALS

CHAPTER 2

DOGS

Section:

- 2-2-1: General Provisions
- 2-2-2: Running – At – Large Prohibited
- 2-2-3: Impoundment
- 2-2-4: Vicious Animals
- 2-2-5: Rabies Control
- 2-2-6: License Required
- 2-2-7: Dog Attacks and Rabies
- 2-2-8: Nuisance
- 2-2-9: Interference with Enforcement
- 2-2-10: Penalty
- 2-2-11: Limit on Dogs
- 2-2-12: Cruelty to Animals

2-2-1: General Provisions

- A. For purpose of this Chapter “custodian” shall mean any person possessing, harboring, keeping or exercising control over any dog.
- B. For the purpose of this Chapter “Town” shall mean the Town of Olathe, Colorado and any agent or employee thereof authorized by the Board of Trustees to administer and enforce the provisions of this Chapter.
- C. The Board of Trustees may issue such additional regulations as may be necessary for the enforcement administration and interpretation of this Chapter and any amendment hereto, and may provide for a dog catcher and his salary.

2-2-2: Running – At – Large Prohibited

- A. It shall be unlawful for any owner of custodian of any dog to fail to confine it or cause it to be confined to the premises of said owner or custodian unless the dog is under effective and immediate control of

the owner or custodian by a leash cord, chain or other restraining device not more than 8 feet in length.

- B. It shall be unlawful for any owner or custodian of any dog to fail to have the dog under effective and immediate control of said owner or custodian by leash, cord, chain or other restraining device not more than 8 feet in length at all times that such dog is within the Town unless the dog is upon the premises of said owner or custodian.
- C. It is the purpose of this Section to impose strict liability on the owner or custodian of any dog with respect to running – at – large.

2-2-3: Impoundment

- A. Any animal in violation of Section 2-2-2 may be impounded or caused to be impounded by the Town.
- B. The Mayor may provide with the approval of the Board of Trustees for a dog pound to be operated by the Town or for the Town, by contract either within or without the Town.
- C. Within 24 hours of impounding any dog, a written notice of impoundment shall be posted on the door of the Police Department describing the dog, unless the owner of the dog has been notified. The notice shall remain posted until the dog is reclaimed, destroyed, sold, or otherwise removed from the pound. (Ord. 2009-13)
- D. The owner or custodian of any dog so impounded may reclaim the dog within a reasonable time period, if the dog is still at the facility upon payment of impoundment fees, as set by the Animal Control Services Agreement, plus any veterinary charges, feeding charges, and license fee, if applicable. No unlicensed dog will be released and rabies vaccination for the dog if required. (Ord. 2009-13)
- E. If any dog so impounded has not been reclaimed after a reasonable amount of time; the dog may be destroyed or disposed of by sale. No unclaimed dog shall be sold without it being vaccinated for rabies and licensed if required. (Ord. 2009-13)

2-2-4: Vicious Animal

- A. It shall be unlawful for the owner or custodian to keep or harbor any vicious animal within the Town, unless said animal is properly confined in accordance with the provisions herein.

- B. A vicious animal is defined as any animal that, without provocation, bites or attacks persons or other animals; approaches any person or other animal with vicious or terrorizing behavior or an apparent attitude of attack, whether or not the attack is consummated or is capable of being consummated; or has acted in a manner that causes or should cause its owner or custodian to know that the animal is potentially vicious.
- C. It shall be an affirmative defense to charges under this Subsection that the actual or intended victim of any attack has made an unlawful entry into the residential dwelling structure of the animal's owner or custodian, or has threatened or attacked a person or animal lawfully within said dwelling structure, or has threatened or attacked an owner or custodian of the animal.
- D. Dwelling structure for the purposes of this Subsection, shall mean any enclosed building, or portion thereof, which provides actual living facilities.
- E. Any animal which is reasonably believed to be vicious and which is not properly confined in accordance with the provisions herein may be impounded if it constitutes a danger to any person or animal. The animal shall remain impounded until the completion of legal proceedings. The owner or custodian shall be responsible for costs of impoundment, and the animal may be destroyed if such costs are not paid.
- F. Proper confinement for purposes of this Subsection, shall mean the following:
1. While on the premises of the owner or custodian, the animal shall be confined within a dwelling structure, or within a securely fenced enclosure with fastened sides and top or with four fastened sides of no less than six feet in height. The enclosure must be permanently fastened at the bottom, and be of such material and construction that the animal cannot exit the enclosure on its own. Enclosures shall be properly signed for warning.
 2. While off the premises of the owner or custodian, the animal shall be leashed and muzzled and under the physical control of the owner or custodian at all times, unless otherwise confined within a closed vehicle.

- G. If the Court determines that the vicious animal poses a serious danger to the health and safety of other persons or animals, it may order the animal to be removed from the municipality or destroyed. Such determination may be based upon, but is not necessarily limited to, the frequency of violations of the provisions of this Chapter by the owner or custodian of such animal, the severity of any attack or bite or terrorizing behavior by such animal, or the inability or unwillingness of the owner or custodian to properly confine such animal.
- H. It shall be unlawful for any person or custodian to keep or harbor any wild and dangerous animal within the Town.
 - 1. Wild and dangerous animals shall include, but not be limited to:
 - a. All poisonous snakes and reptiles; non-poisonous snakes with a length greater than six (6) feet; all Crocodilians;
 - b. All carnivorous, non-domestic animals. Non-domestic animals for purposes of this Subsection, includes those animals not ordinarily domesticated so as to live and breed in a tame condition.
 - c. All wolves and wolf/hybrids;
 - d. The provisions of this Subsection (H) shall not be applicable to licensed circuses and carnivals, wildlife sanctuaries, nature center, zoological parks, veterinary and rehabilitation clinics.

2-2-5: Rabies Control

- A. It shall be unlawful to own or have custody of any dog 6 months of age or older unless such dog has been vaccinated against rabies with an approved vaccine by a licensed veterinarian and such vaccination is not over 2 years old. No rabies vaccination is required for a dog brought temporarily within the Town for a period of less than 30 days, if said dog is currently licensed by another governmental licensing authority.
- B. The rabies vaccination required by this Section must be obtained within 5 days of acquiring or bringing into Town any dog over 6 months of age.

- C. It shall be unlawful for any person who owns or had custody of any dog to fail to produce or refuse to produce its Certificate of Vaccination upon request by the Town.
- D. It shall be unlawful for any person to make use of or have in his possession or control a stolen, counterfeit, or forged rabies vaccination certificate or to present a certificate with respect to licensing a dog other than the dog for which the certificate was issued.

2-2-6: Licenses Required

- A. It shall be unlawful to own or have custody of any dog within the Town 6 months of age or over unless a current dog license has been obtained from the Town. A License shall be obtained within 30 days of acquiring any dog, or within 30 days after bringing the dog into Town. This section shall not apply to a person visiting in Town for a period not exceeding 30 days. (Ord. 2009-13)
- B. Licenses fees are as follows:
 - Neutered male and spayed females: \$ 5.00/year
 - Un-neutered male and unsprayed females: \$10.00/year
- C. All licenses shall expire on the last day of February of each year.
- D. No licenses shall be issued without proof of rabies vaccination and submission of an application on forms provided by the Town.
- E. The licenses tag issued shall be attached to a collar or harness upon the dog. Duplicate tags may be issued for \$.50 upon proof of loss of the original.
- F. It shall be unlawful to make use of or have any stolen or counterfeit tag or to use any tag on any dog except the dog for which the tag was issued.

2-2-7: Dog Attacks and Rabies

- A. Anyone having knowledge of any case of an attack or bites by any dog within the Town of Olathe shall notify the Town within 12 hours after discovery of the attack or bite.
- B. Any dog which is known to have bitten or injured any person causing an abrasion or cut of the skin shall be quarantined for a period of not less than 10 days from the date of the incident. It is unlawful for any person to refuse to produce such a dog for quarantine.

- C. A dog shall be quarantined on either the owner or custodian's premises or at a veterinary clinic or hospital whichever the Town determines is necessary for proper observation. Such confinement shall be at the expense of the owner or custodian. A stray dog whose owner cannot be located may be confined at any veterinary clinic or hospital.
- D. The owner or custodian of the dog shall be liable for the costs of confinement and the dog shall not be returned until such costs are paid. The dog may be sold or destroyed if such costs are not paid by the owner or custodian.
- E. An animal suspected of being infected with rabies or other dangerous contagious disease may be confined on the order of the Town for observation at the expense of the owner or custodian for a period and at a location as necessary in the Town's discretion to protect the public health. Any dog determined to be infected with rabies shall be destroyed.

2-2-8: Nuisance

- A. Any dog which produces or creates any unreasonable disturbance by excessive or continual barking or other noise or which habitually threatens or molests persons, chases vehicles, attacks other animals, damages property, or is at – large without control, is hereby declared to be a nuisance.
- B. It is unlawful for the owner or custodian of any animal to allow it to become a nuisance or to create a nuisance or to have custody of any animal, which is a nuisance.
- C. The Town may abate any such nuisance by an action in a court of proper jurisdiction or otherwise in accordance with the law.

2-2-9: Interference with Enforcement

- A. It shall be unlawful for any person to interfere with molest, hinder or obstruct any officer or employee of the Town in the discharge of their official duties in the administration and enforcement of this Chapter.
- B. It shall be unlawful for any person to release any dog without the Town's authorization from any place of quarantine observation or impoundment.
- C. It shall be unlawful for any person to release a dog from the owner's or custodian's confinement or control without the authorization of the owner, custodian or Town.

2-2-10: Penalty:

- A. Any person convicted of a violation of any provision of this Chapter shall be punished by a fine not to exceed \$300.00 or by imprisonment of not more than 90 days or by both such fine and imprisonment provided however that no person under the age of 18 years may be sentenced to any term of imprisonment.
- B. The penalties imposed shall be as follows:
 - 1. First citation issued One hundred dollars fine
 (\$100.00)
 - 2. Second citation issued Two hundred dollars fine
 (\$200.00)
 - 3. Third and all subsequent Three hundred dollars fine
 citations: (\$300.00) and the dog shall be
 declared a nuisance

No portion of any of the fines shall be suspended. (Ord 2008-05)

- C. Upon conviction of a violation of any provision of this Chapter for an offense which was committed within 1 year of the date of a previous conviction for a violation of a provision of the Chapter or of the previously effective dog control ordinance the minimum penalty shall be a fine of \$50.00 no portion of which may be suspended.

2-2-11: Limit on Dogs

- A. It shall be unlawful to keep, maintain, harbor or possess on the premises of any one dwelling unit more than three dogs unless pursuant to a kennel license issued hereunder. Provided, however, it shall be an affirmative defense to prosecution under this section that a person with more than 3 dogs had possession of them at that premises on June 10, 1991 and all of the dogs on said premises have current Town dog licenses first obtained no later than July 10, 1991 and kept current thereafter.
- B. Kennel License:
 - 1. Applications for a kennel license shall be submitted to the Town on forms provided by the Town which may require such information as is necessary or convenient for the administration of this section and shall be accompanied by a license fee in the amount of \$200.00.
 - 2. The license shall not be issued and approved by the Town Board unless the following requirements will be met:

- a. The applicant must obtain and maintain in effect any kennel license required by state statutes or regulations.
 - b. The applicant must obtain a sales tax license and collect and remit Town, County and State sales and use taxes.
 - c. The premises must be designed, constructed and maintained so that no nuisance or health or safety hazard is created and so that odors and noise are contained upon the premises.
 - d. The kennel may be used only for commercial breeding and boarding of dogs.
- C. The Town Board may impose conditions on the permit as necessary to protect the public health and welfare.
- D. The Town Board following reasonable notice and hearing may revoke any license granted hereunder for a violation of the requirements of this Subsection.
- E. Licenses shall be granted only for premises located within a zoning district allowing licensed kennels. All licenses shall expire on December 31, and must be renewed annually.
- F. The Town shall have the right to enter upon the premises for purposes of inspection at all reasonable times.

2-2-12: Cruelty to Animals

It shall be unlawful for any person knowingly or with criminal negligence to:

- A. Fail to provide food, water, protection from the elements, or other care generally considered to be normal, usual or accepted for an animal's health and well being consistent with the species, breed and type of animal.
- B. Overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate, needlessly kill, carry or confine in or upon any vehicle in a cruel or reckless manner, or having the charge or custody of any animal fail to provide it with proper food, drink or protection from the weather.
- C. Cause or unreasonably permit by any act or omission the continuation of unnecessary or unjustifiable pain or suffering of an animal or
- D. Abandon an animal.