

## **Chapter 20.20 Dangerous Animals**

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20.20.010 Permitting animals to bite prohibited. a. It is unlawful for any person to permit any animal to bite any person, unless the person bitten is engaged in the commission of a criminal act. It is an affirmative defense that the victim of the bite provoked the animal into biting; or that the victim of the bite provoked the animal into biting; or that the person bitten was trespassing on the premises totally enclosed by chainlink fencing, or similar density fencing, and the bite occurred on these premises by an animal housed therein. Penalty: Class C infraction.

b. The City shall serve notice on the owner if any animal which unprovoked, has bitten a person. Such notice shall advise the owner that the animal is now a vicious animal and is subject to destruction if at large. (Ord. 88-1 (part), 1988).

20.20.020 Destruction prohibited pending quarantine. No person shall kill or maim any animal which is known to have bitten any person or animal unless consent to do so has been granted by the Chief of Police. Nothing in the provisions of this chapter shall be construed to prohibit the killing of a dog or other animal where such destruction is necessary for the protection of life and limb, or for the purpose of preventing a further attack. One of the purposes of the enactment of this chapter is to enable the Chief of Police to observe any dogs and other animals which have bitten any person or animal in order to determine whether the same are infected by rabies. Penalty: Class E infraction. (Ord. 88-1 (part), 1988).

20.20.030 Vicious animal. It is unlawful for any person to permit any vicious animal to:

- a. Be at large within the limit of the City;
- b. Knowingly or negligently permit any vicious animal to bite any person unless the person bitten is in the act of committing a criminal offense;
- c. Be housed or transported in or on any motor vehicle within the City limits unless said animal is muzzled to prevent the animal from biting any person. (Exception: Vicious animals locked in the passenger compartment of a motor vehicle need not be muzzled if the windows are adequately closed to prevent the animal from exiting the vehicle);
- d. Leave premises owned or controlled by the animal's owner or his agent (except as authorized in subsection c. of this section) unless the animal is securely muzzled.

Any animal in violation of subsections a. or b. of this section shall, upon conviction of the owner or the agent, for that offense, be immediately seized by the City and held for destruction. Penalty: Class D infraction. (Ord. 88-1 (part), 1988).

20.20.040 Administrative hearing procedures. All animals seized pursuant to Section 20.20.030 of this chapter shall be held in impound pending an administrative hearing concerning their potential destruction. The administrative hearing shall be conducted as follows:

- a. An Administrative Hearing Board shall be convened consisting of the City Manager (who shall chair the proceedings), the Chief of Police, and one member of the City Council (selected by the City Manager).
- b. A notice of administrative hearing shall be served upon the animal's owner or his designee under the procedures set for service of summons in a civil action. The notice shall specify the date, time, and location of the hearing. The hearing may not be less than seventy-two hours following the service of the hearing notice on the animal owner or his designee.
- c. The hearing shall consider all information pertinent to the specific violation of Section 20.20.030 which initiated the impoundment and hearing process; and may additionally consider any information concerning prior violations or incidents with this same animal, as well as any information concerning the animal owner or his designee's prior

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violations of the Homer animal ordinances with any other animal.

d. The hearing shall address and enter its formal findings as to whether:

1. The animal is a vicious animal under Section 20.04.020 of this title;  
2. The owner or designee thereof failed to use all reasonable precautions to control his animal and protect the public;

3. The circumstances of this incident under consideration constitute a danger to the public.

e. If a majority of board members find in the affirmative as to all three of the provisions of subsection d. of this section, the Hearing Board shall order the animal destroyed. The owner or designee, if present at the hearing, shall be verbally notified of the findings and order at the conclusion of the hearing. Written findings shall also be prepared and served upon the owner or designee. If the owner or designee is not present at the hearing, written finds and destruction order shall be served on that person as soon as possible following the hearing.

f. Absent an affirmative finding by the Hearing Board as to one or more of the provisions of subsection d. of this section, the animal shall be immediately released to its owner or designee. The Hearing Board shall in the event of release under this provision, prepare a written notice which shall be delivered or mailed to the animal's owner, outlining the Hearing Board's recommendations as to actions that owner should take to prevent future incidents and to protect the public.

g. Any appeal of the Hearing Board's finding and destruction order shall be taken through the Alaska Court System within ten days of the receipt of said findings and order by the owner. The filing of an appeal will automatically stay the order of destruction pending resolution of the appeal. The animal shall remain in impound at the owner's expense pending resolution of the appeal. (Ord. 88-1 (part), 1988).

20.20.050 Destruction of vicious animal. Vicious animals to be destroyed upon Administrative Hearing Board order shall be destroyed as follows:

a. The animal shall remain in impound for ten days following the date the owner (or his designee) is verbally notified of the Hearing Board's decision, or the date that a written finding and destruction order is served on the owner (or his designee) to allow that person to appeal the destruction order through the courts.

b. If the City is not served with a notice of appeal of the destruction order within the ten-day holding period outlined in section a. of this section, the City shall immediately proceed to humanely destroy the animal. (Ord. 88-1 (part), 1988).

20.20.060 Conditional release of vicious animal. The City may, at its option, in lieu of destruction of the animal, agree to return the vicious animal to its owner (or his lawful agent) if that person signs a contractual agreement with the City wherein the owner agrees:

a. To immediately remove the animal from the City;

b. Agrees to the immediate seizure and destruction of the animal if it enters the City limits;

c. Agrees to indemnify the City for any and all damages resulting from any act of this animal from the date of the agreement;

d. Any other reasonable provision deemed necessary by the City Attorney. (Ord. 88-1 (part), 1988).

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