

## CHAPTER 106A. ANIMALS

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### 106A. ANIMALS

106A.01. Definitions. Subdivision 1. As used in this chapter, the terms defined in this section shall have the following meanings ascribed to them. "Animal" means any living creature, excluding humans and plants.

Subd. 2. "Animal Control Officer" means any employee of the City of Rochester who holds that employment position and job classification within the City of Rochester.

Subd. 3. "Animal Control Unit" means that operational unit or any employees of the City of Rochester assigned to that unit within the Rochester Police Department that is primarily responsible for responding to animal related problems and the enforcement of chapter 106 and related ordinances and statutes.

Subd. 4. "At large" means, for an On-Leash Area, not under the control of the owner or some other person of suitable age and discretion by leash, chain, or cable, none of which may be longer than ten feet in length, or fence, kennel, or other suitable enclosure. "At large" means, for an Off-Leash Area, not under the control of the owner or some other person of suitable age and discretion by command or by leash, chain, cable, fence, kennel, or other suitable enclosure. An animal enclosed within a residence, dwelling, business, or other structure so that it cannot leave on its own volition shall not be considered "at large." (4201, 7/20/15)

Subd. 5. "Breeder" means any person who raises litters of animals from birth through weaning with the intention of doing so as a business for profit.

Subd. 6. "By Command" means the dog must be under the control of the responsible person by command, must remain within sight of the responsible person, and must be adequately trained to return to the responsible person when called. (4201, 7/20/15)

Subd. 7. "Owner" means any person owning, keeping, harboring or maintaining an animal within the City or permitting such animal to be at large within the City. An animal shall be deemed to be harbored if it is fed or sheltered for three days or more.

Subd. 8. "Off-Leash Area" means any of the following areas:

- A. Any park, portion of park land, or public place that is not described in subdivision 9; or

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- B. Any public place posted with a sign that reads “Off-Leash Area.”

(4201, 7/20/15)

Subd. 9. “On-Leash Area” means any of the following areas:

- A. Any portion of a City park, except for a City dog park, located within:
- (1) Twenty-five feet of locations where special events, concerts, or organized sporting event are being held, except for organized events where dogs are the participants;
  - (2) Twenty-five feet of playgrounds, built structures, paved areas, picnic shelters, or sports fields during such time when others are present at any of these facilities; or
  - (3) A 25-foot trail corridor centered on any maintained trail;
- B. Any portion of Quarry Hill Park, except for the unimproved field located south of the baseball diamonds in the southwest corner of the Park;
- C. Any public street or sidewalk; or
- D. Any public place posted with a sign that reads “On-Leash Area.”
- E. Any private property unless with the consent of the property owner.

(4201, 7/20/15; 4361, 1/23/19)

106A.02. Permitted Domesticated Animals. Subdivision 1. Any person may own, keep, harbor or maintain any domesticated animal that is not susceptible to rabies.

Subd. 2. Any person may own any domesticated animal which is susceptible to rabies if it can be vaccinated for rabies and it has been vaccinated with a vaccine licensed for use specifically for that species of animal. Based on current knowledge, the following animals can be legally vaccinated for rabies: dogs, cats, ferrets, cattle, sheep and horses. However, the

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latter three are considered livestock and therefore not permitted in the city due to zoning regulations.

Subd. 3. It shall be unlawful to own, keep, harbor or maintain any domesticated animal which is susceptible to rabies and which has not been vaccinated with an approved vaccine. However, the keeping of pigeons shall be permitted in accordance with Chapter 113 and the keeping of chickens shall be permitted in accordance with Chapter 113A.

106A.03. Ownership Limits. Subdivision 1. No person shall keep nine or more multiple animals over the age of six months within any household in the City of Rochester. The term "multiple animals" means two or more cats, dogs or ferrets. Notwithstanding any provision to the contrary, no person shall keep six or more dogs over the age of six months within any household in the City of Rochester. These limits do not apply if a breeder's permit is applied for and issued pursuant to section 106A.19. For the purposes of this section, the term "household" refers to a single family residence or single unit of a town home, condominium, apartment or comparable structure which is rented, leased or used as a single unit. This Section shall not be construed to limit the ability of apartment managers, landlords, town home associations or other representatives of property owners to impose greater restrictions.

Subd. 2. Any person who owned six, seven or eight dogs prior to the effective date of this ordinance shall be permitted to keep those animals provided that those animals resided in that household and were properly licensed prior to November 15, 2006. No person affected by this subdivision shall be permitted to acquire any additional dogs or to replace any dogs in excess of five except as provided under section 106A.19 (breeder's permit) or as specifically authorized by the City Council.

Subd. 3. Any person who moves into the City of Rochester may bring into the City any number of cats, dogs or ferrets that do not exceed the limits identified in this Section. The animals must be micro-chipped or provided with an ID tag meeting the requirements of this chapter within 30 days of establishing residence in the City.

Subd. 4. Any person who currently owns cats, dogs or ferrets who becomes a resident of the City by annexation shall be permitted to keep those animals provided that those animals micro-chipped or provided with an ID tag meeting the requirements of this chapter within 30 days following approval of the annexation. No person affected by this subdivision who owns more than five dogs, or a total of eight cats, dogs or ferrets, shall be permitted to acquire any additional cats, dogs or ferrets or to replace any cats, dogs or ferrets in excess of the limits established in this Section except as provided under section 106A.19 (breeder's permit) or as specifically authorized by the City Council.

Subd. 5. Persons who are not defined as breeders as set forth by section 106A.01 may breed any cat, dog or ferret and raise litters. The total number of cats, dogs or ferrets

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kept within the household must be reduced to the limits established in this Section within six months of birth. (3793, 11/6/06; 4191, 4/20/15)

106A.04. Prohibited Wild Animal. Subdivision 1. It shall be unlawful to keep any wild animal within the City limits, except as permitted pursuant to the provisions of this section.

Subd. 2. As used in this section, "wild animal" shall have the following meaning: Any animal, mammal, amphibian or reptile which is of a species which is wild by nature or of a species which due to size, vicious nature or other characteristics is inherently dangerous to human beings. Examples of wild animals, without limitation, are:

- (a) Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except domestic house cats;
- (b) Any member of the family Canidae, such as wolves, hybrid wolves, coyotes, dingoes and jackals, except domesticated dogs;
- (c) Any crossbreed such as crossbreeds between dogs and coyotes, dogs and wolves, but does not include crossbred domesticated animals;
- (d) Any poisonous snake including but not limited to rattlesnakes, coral snakes, water moccasins, puff adders or cobras.
- (e) Any skunk, raccoon, fox or animal protected under State of Minnesota or Federal wildlife regulations.
- (f) Any bear, ape, monkey in excess of five (5) pounds, or badger.
- (g) Any porcine including but not limited to pot-bellied pigs.
- (h) Any other animal, bird or reptile which is commonly considered wild and not domesticated.

Subd. 3. Exceptions to Definition of Wild Animal are:

- (a) Nonpoisonous snakes, domesticated birds, hamsters, mice, rabbits, lizards, spiders and other similar small animals capable of being kept in cages including rats, if purchased from a bona fide pet store;
- (b) Medically prescribed companion animals;
- (c) Wildlife rehabilitators may only possess animals with a Minnesota Department of Natural Resources permit. Such animals will be kept in a manner as to not

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create unsanitary conditions or unreasonable noise;

- (d) Birds and birds of prey if kept pursuant to a valid US Fish and Wildlife Services permit;

106A.05. Identification Requirements. It is unlawful for any person to keep, harbor or maintain a dog, cat or ferret over the age of four months unless it has an ID tag, to be worn at all times, that has on it the owner's name and contact information, including a valid telephone number, or unless it is micro-chipped with the micro-chip data contact information kept up to date. However, if the animal is harbored or kept on the premises of a recognized Humane Society shelter or pet store it need not have an ID tag or be micro-chipped. (4191, 4/20/15)

106A.06. Vaccination Certificates, Fees and Enforcement. Rabies vaccination required. It is unlawful for any person to keep, harbor, or maintain any animal over the age of four months which is susceptible to rabies unless that animal has a current rabies vaccination unless otherwise specified by a licensed veterinarian. (4191, 4/20/15)

106A.07. Tags. This section repealed by Ordinance #4191 on April 20, 2015.

106A.08. Running at Large. Subdivision 1. No owner of any animal, except a cat, whether kept, harbored, or maintained within or without the city, shall permit or suffer such animal to run or move at large at any time within the city. For the purpose of this section, every such animal at large shall be deemed at large with the permission and at the sufferance of its owner, and in the event of a violation of the provisions of this section, it shall be no defense that the offending animal escaped or is otherwise at large without the permission or sufferance of its owner.

Subd. 2. Running at large, cat. Notwithstanding the provisions of subdivision 1 of this section, the owner of a cat shall not permit such animal to be at large on public property or on the private property of another unless the owner of such property actually consents thereto. (4191, 4/20/15)

106A.09. Condition of Premises: Excrement. Subdivision 1. Dog and Cat Excrement. It is unlawful for any person who owns or has custody of a dog or cat to cause or permit such animal to defecate on any private property without the consent of the property owner or on any public property, unless such person immediately removes the excrement and places it in a proper receptacle. The provisions of this subdivisions shall not apply to seeing-eye dogs under the control of a blind person or dogs while being used in city police activity.

Subd. 2. Penalty. Violation of this section shall be a petty misdemeanor.

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106A.10. Barking Dogs. Subdivision 1. It shall constitute a nuisance and be unlawful if any dog barks, whines, howls, bays, cries or makes other noise excessively so as to cause annoyance, disturbance or discomfort to any individual provided that such noise lasts for a period of more than five minutes continuously or intermittent barking that continues for more than one hour and is plainly audible outside the property limits of where the dog is kept. It shall not be a violation of this section if the dog was barking, crying or making other noise due to harassment or injury to the dog or a trespass upon the premises where the dog is located.

Subd. 2. Penalty. A first time violation of this section shall be deemed a petty misdemeanor.

Subd. 3. Seizure of Barking Dogs - Noise Abatement. Any police officer or animal control officer may enter onto private property and seize any barking dog, provided that the following conditions exist:

- (a) There is an identified complainant other than the police or animal control officer making a contemporaneous complaint about the barking;
- (b) The officer reasonably believes that the barking meets the criteria set forth in subd. 1.;
- (c) The officer can demonstrate that there has been at least one previous complaint of a dog barking at this address on a prior date;
- (d) The officer has made reasonable attempts to contact the owner of the dog(s) or the owner of the property and those attempts have either failed or have been ignored;
- (e) The seizure will not involve forced entry into a private residence. Use of a passkey obtained from a property manager, landlord, innkeeper, or other person authorized to have such a key shall not be considered as a forced entry;
- (f) No other less intrusive means to stop the barking is available, and;
- (g) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

Subd. 4. Disposition of Seized Animals. Any dog seized under the provisions of subdivision 3 shall be taken to the animal control shelter and kept there to be reclaimed by the owner. No impound fee shall be charged unless the circumstances indicate that the owner failed to cooperate with or obstructed an animal control or police officer's attempts to abate the noise through other less intrusive means. The owner shall pay all other fees required under 106A.14. Any dog seized under subdivision 3 which is unclaimed may be disposed of

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according to the provisions of 106A.15.

106A.11. Abuse/Neglect of Animals. Subdivision 1. Food. Animals must be provided with food of sufficient quantity and quality to allow for normal growth and maintenance of body weight.

Subd. 2. Water. Animals must be provided with clean, fresh water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water supply.

Subd. 3. Transportation. Animals must be contained within the passenger section of any vehicle or placed in crates or carriers of sufficient size to accommodate the animal. Animals carried in open vehicles, including trucks, boats, motorcycles, dirt bikes, trailers, etc., must be restrained in a crate or carrier or restrained by a chain or cable to prevent the animal from leaving the vehicle or being tossed out.

Subd. 4. Shelter. Animals must be provided with shelter at all times during inclement weather. The shelter must be large enough to comfortably accommodate the animal, be windproof and waterproof and contain enough bedding to provide the animal with insulation against the elements. Shade must be provided at all times during the months of May through October.

Subd. 5. Sanitation. It shall be unlawful for any person to allow food or water receptacles, kennels, yards or the premises where the animal is kept to be or to remain in an unhealthy, unsanitary, or obnoxious condition or to permit the premises to be in such condition that obnoxious odors can be plainly detected on adjacent public or private property.

Subd. 6. Enforcement. An animal control officer or a police officer may issue a citation to the owner of any animal and/or remove any such animal from any premises if the welfare of that animal is threatened due to a violation of this section.

Subd. 7. Reclaiming Neglected Animals. Any animal removed from any premises pursuant to subdivision 6, may be reclaimed by the owner within five working days from the time the animal was taken, provided that all conditions for which the animal was removed have been corrected. The owner shall also be liable for payment of all boarding fees to the City. Any animal not reclaimed within the time allowed may be disposed of pursuant to Section 106A.15.

Subd. 8. Abandonment. Any animal left at the Animal Shelter by the owner, keeper, or caretaker beyond five working days after being notified as required by Section 106A.14, shall be deemed abandoned and may be disposed of according to Section 106A.15. The owner shall be liable for payment of all fees and expenses incurred by the city for the care and/or disposal of the animal.

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106A.12. Apprehension of Animals. Subdivision 1. Seizure of Animals at Large. An animal control officer may apprehend and take possession of any animal at large. Any animal apprehended by an animal control officer may be conveyed to the city animal shelter to be there confined until released or disposed of as hereinafter provided.

Subd. 2. Seizure of Unlicensed or Unvaccinated Animals. Any animal control officer or police officer may seize any animal which is not licensed or not vaccinated or the possession of which is prohibited within the City of Rochester provided that the officer can demonstrate that the owner or other person in control of such animal has been warned or cited for at least three previous violations of 106A.05 or 106A.06. Any animal seized under this section shall be taken to the shelter and held according to the provisions of 106A.14. Any other prohibited animal shall be confined by the Animal Control Unit in an appropriately secure place and disposed of according to Minnesota law.

106A.13. Notice of Apprehension. Subdivision 1. Within 48 hours after apprehending any properly identified dog of cat pursuant to section 106A.12, the Animal Control Unit shall make reasonable efforts to contact the owner at the address/telephone number listed on the ID tag or available from the micro-chip. (4191, 4/20/15)

Subd. 2. This section repealed by Ordinance #3739 on November 7, 2005.

106A.14. Reclaiming Animals from the Animal Shelter Subdivision 1. Within the time limit set forth in Section 106A.15, the owner of any animal seized pursuant to this chapter may retrieve the animal from the city animal shelter, provided the owner first purchases the appropriate license, pays all impound fees to cover the cost of apprehending the animal, boarding fees to cover the cost of sheltering the animal, pays any veterinary costs incurred by the City, and pays any other costs incurred by the City. Additionally, if vaccination is required, the owner must make arrangements to have the animal appropriately vaccinated by a veterinarian in the presence of an animal control officer prior to being released from the shelter. Any owner who fails to comply with these requirements within five working days shall be deemed to have forfeited any property right to the animal and the City may dispose of it pursuant to 106A.15.

Subd. 2. The council may from time to time amend the fees and penalties set forth in subdivision 1 by resolution. A copy of the resolution setting forth the currently effective fees shall be kept on file at the animal shelter.

106A.15. Disposing of Unclaimed Animals. If any animal apprehended by the Animal Control Unit is not claimed by its owner within five days after the date of apprehension, excluding holidays or other days the animal shelter is closed, the Animal Control Unit shall cause the animal to be destroyed in a humane way or may allow the animal to be adopted by



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any other interested person over the age of 18 after payment of such fees as may be determined by the Council.

106A.16. Offenses. Subdivision 1. No person shall break open the animal shelter or attempt to do so, or take or attempt to take from an animal control officer or any police officer or any other authorized representative of the city, any animal taken up or apprehended in compliance with this chapter or in any manner intentionally interfere with or hinder such persons in the discharge of their duties under this chapter.

Subd. 2. Citations for Certain Violations. The Animal Control Unit is authorized to issue a citation to any person, firm, or entity for any alleged violations of this chapter and any other ordinance or statute which provides the basis for prosecution of violations of this chapter. Nothing within this chapter shall be construed to limit the authority of police officers to enforce any provisions of this chapter or related statutes or ordinances.

106A.17. Animal Bites. Whenever any animal shall have bitten a person or there is good reason to believe that such animal has bitten a person, such fact shall be reported with 24 hours to the county health department and thereafter the owner of such animal shall comply with the instructions of said department concerning such animal.

106A.18. Dangerous Dogs. Subdivision 1. The provisions of Minn. Stat. Sections 347.50 to 347.565 relating to the regulation of dangerous dogs are hereby incorporated by reference and adopted as part of this Section. The city clerk shall establish and maintain a list of qualified impartial hearing officers who may be assigned to conduct hearings required by these sections.

Subd. 2. Potentially dangerous dogs shall be regulated under Minn. Stat. Sections 347.50 to 347.565 the same as if they were dangerous dogs. Notwithstanding the provisions of Minn. Stat. Sections 347.50 to 347.565, the following provisions shall apply:

- a. The definition of "proper enclosure" shall be expanded to include a fenced-in yard that prevents the dog from leaving the property and to which the public cannot gain access;
- b. The dog owner shall not be required to have the dog sterilized; and
- c. A surety bond or policy of liability insurance in the amount of \$25,000 shall be required if the hearing officer determines that the dog is potentially dangerous as a result of biting a human.

Subd. 3. No person shall take a dog that has been declared dangerous or potentially dangerous into the City's dog parks or trails unless the dog is muzzled and restrained by a

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substantial chain or leash, and is under the physical restraint of a responsible person.  
(3890, 10/6/08; 4037, 11/7/11; 4201, 7/20/15)

106A.19. Animal Breeders. Subdivision 1. Permit Required. No person, business, corporation or other entity may breed, whelp or raise dogs or cats for profit or sale within the City of Rochester unless the person, business, corporation or other entity has obtained a breeder's permit from the City.

Subd. 2. Application for Breeder's Permit. Anyone making application for a breeder's permit must provide the following information to the office of the City Clerk: Applicant's name, applicant's address, address of the location of where the breeding, whelping or raising will occur, the types and breeds of animals concerned and the numbers of adult animals to be kept for breeding purposes. The applicant must also demonstrate that the location where the breeding, whelping or raising will occur is suitably zoned for such activity or must obtain a variance from the City Council.

Subd. 3. Approval of Permit. After application for a breeder's permit has been made, a copy of the application shall be forwarded to the Animal Control Unit. The animal control unit will inspect the facility to assure that it is suitable for its intended purpose. The breeder's permit will be issued by the City Clerk's Office after the facility described in the application has been inspected and approved by the Animal Control Unit and after the applicant has paid the permit fee. The fee for a breeder's permit shall be set by resolution of the City Council.

Subd. 4. Permit Duration. A Breeder's Permit once issued, will expire on January 31 of the second January after the issue date. The fee will be prorated at the rate of one twelfth of the annual fee for each of the remaining months of the year when the Breeder's permit is purchased.

Subd. 5. Inspection of Premises after Issuance of Permit. Any animal control officer, police officer, building inspector or other agent of the City of Rochester may inspect any premises licensed under this section at any reasonable time, with or without prior notice to determine whether or not conditions of the premises are maintained in a proper manner.

106A.20. Penalties. Unless otherwise specified, violations of this chapter are declared to be misdemeanor offenses and are punishable by a fine of up to \$1,000 and/or 90 days in jail.

106A.21. Quarantine of Unvaccinated Animal. The owner of an animal that inflicts a bite on a human shall provide to animal control evidence that the animal is current on its rabies vaccination. Animal Control may seize and hold such animal at the City's animal pound for a period of not less than 10 days if evidence of a current rabies vaccination is not presented or otherwise of record. The animal may be reclaimed by the owner upon

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payment of impounding and boarding fees. An animal not reclaimed under this subdivision within seven days may be disposed of and the owner is liable to the animal control authority for costs incurred in confining and disposing of the animal.

106A.22. Restrictions. Subdivision 1. Dog ownership prohibited. Except as provided in subdivision 3, no person may own a dog if the person:

- A. Has been convicted of a third or subsequent violation of chapter 106A, or of Minnesota Statutes sections 347.51, 347.515 or 347.52;
- B. Has been convicted of a violation of Minnesota Statutes section 609.205 (4).
- C. Has been convicted of a gross misdemeanor violation of Minnesota Statutes section 609.226, subdivision 1;
- D. Has been convicted of a violation of Minnesota Statutes section 226. , subdivision 2; or
- E. Has had a dog destroyed pursuant to Minnesota Statutes section 347.56 or chapter 106A and:
  - (1) has been convicted of one or more violations of Minnesota Statutes sections 347.51, 346.515, 347.52; or
  - (2) 609.226, subdivision 2, or has been convicted of one or more violations of this section.

Subd. 2. Household members. If any member of a household is prohibited from owning a dog as provided in subdivision 1, unless specifically approved in writing with or without restrictions by the Animal Control Unit, no person in the household is permitted to own the dog.

Subd. 3. Dog ownership prohibition review. Beginning three years after a conviction under subdivision 1 that prohibits a person from owning a dog, and annually thereafter, the person may request that the Animal Control Unit review the prohibition. The Animal Control Unit may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the Animal Control Unit deems appropriate. The Animal Control Unit may rescind the prohibition entirely or rescind it with limitations. The Animal Control Unit also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully competing dog training or dog handling courses. If the Animal Control Unit rescinds a person's prohibition

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and the person subsequently fails to comply with any limitations imposed by the Animal Control Unit or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the Animal Control Unit may permanently prohibit the person from owning a dog in the State. (#3890, 10/6/08)

(3093, 5/24/97; 3172, 5/4/98; 3430, 12/4/01; 3431,12/4/01; 3448, 2/20/02; 3739, 11/7/05; 3793, 11/6/06; 3801, 1/3/07; 3890, 10/6/08; 3985, 10/18/10; 4037,11/7/11; 4062, 4/16/12; 4191, 4/20/15; 4201, 7/20/15; 4361, 1/23/19)