

CHAPTER IX

PUBLIC SAFETY

Section 900 – Animals

900.01 **Definitions.** As used in this Section, unless the context otherwise indicates, the following words shall be defined to mean:

Subd. 1. **Animal.** “Animal” shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as part of the animal kingdom. Animals shall be classified as follows:

A) **Domestic.** “Domestic animals” shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, ferrets (if vaccinated against rabies), domesticated rabbits, domesticated rats, fish and non-venomous reptiles or amphibians and other similar animals.

(Amended Ord. 1386 – 2011)

B) **Wild or Exotic Non-Domesticated.** “Wild or Exotic Non-Domesticated animals” shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

- 1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
- 2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
- 3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
- 4) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret (unless vaccinated against rabies), but excluding those members otherwise defined as domesticated pets.

- 5) Any venomous, or inherently dangerous member of the reptile or amphibian families as well as crocodiles and alligators.

(Amended Ord. 1386 – 2011)

- 6) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this Section, including but not limited to bears, deer, monkeys and game fish.

C) Farm. “Farm animals” shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, roosters, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

Subd. 2. Cat. “Cat” shall be intended to mean both the male and female of the felidae species commonly accepted as domesticated household pets.

Subd. 3. Dog. “Dog” shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

Subd. 4. Owner. “Owner” shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

Subd. 5. At Large. “At Large” shall be intended to mean off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, or chain.

Subd. 6. Enforcement Officer. “Enforcement Officer” or “Officer” shall mean the Animal Control Officer and/or members of the Brainerd Police Department for the City of Brainerd who shall enforce the provisions of this Section. The duties of the Enforcement Officer are as follows:

- A) Capture, seize and deliver to any designated pound any animal running at large within the City.
- B) Investigate all reported incidents wherein a dog has bitten a person and confirm that said animal is quarantined as required herein.
- C) Provide a written monthly report to the City as to the activities of the Animal Control Officer.

- D) Such other matters as may be prescribed by the City Administrator, Police Chief or designee.

900.03 Dogs and Cats. Subdivision 1. Running at Large Prohibited. It shall be unlawful for any person, or the parents or the guardians of any such person under 18 years of age, who owns, harbors, or keeps a dog or cat, to allow the dog or cat to run at large. Dogs or cats on a leash and accompanied by a responsible person shall be permitted on streets, sidewalks, trails or on other public land unless the City has posted an area with signs reading “Dogs or Cats Prohibited”. A leash used to control an animal under this Section shall not exceed six (6) feet in length.

Subd. 2. License Required.

- A) All dogs over the age of four (4) months kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog licenses shall be issued by the City upon payment of the annual license fee on or before the first day of January of each year, or within thirty (30) days of acquiring ownership or possession of any unlicensed dog. The annual license fee shall be set by Chapter X of the Brainerd City Code. The owner shall state, at the time application is made for the license and upon forms provided for such purpose, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog which has not been vaccinated against rabies, as provided in this Section. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the State in which the dog is vaccinated. A veterinarian who vaccinates a dog to be licensed in the City shall complete a certificate of vaccination. One copy shall be issued to the dog owner for affixing to the license application. An applicant for a license for a neutered dog shall sign an affidavit indicating that the dog has been neutered and shall give the date of the operation.
- B) It shall be the duty of each owner of a dog subject to this Section to pay to the City of Brainerd the license fee as imposed by City Code.
- C) Upon payment of the license fee, the City shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City upon the presentation of a receipt showing the payment of the license fee for the then current license year and after payment by the applicant of the fee fixed by Chapter X of the Brainerd City Code for issuance of the duplicate license. Dog tags shall not be

transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the City before the expiration of the license period. It is unlawful to counterfeit or attempt to counterfeit tags provided for herein, or to take from any dog a tag legally placed upon it by its owner with the intention of placing it upon another dog.

- D) The licensing provisions of this Subdivision shall not apply to dogs whose owners are non-residents temporarily within the City (not more than (30) days), nor to dogs brought into the City for the purpose of participating in any dog show. Further, this provision shall not apply to "seeing eye" dogs properly trained for the purpose of providing service to persons with disabilities to aid them in going from place to place provided that a Certification of Assistance Training from a recognized school or program is submitted with the license application.
- E) The funds received by the City from all dog licenses and metallic tags shall first be used to defray any costs incidental to the enforcement of this Section; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs.
- F) Any dogs brought into the City of Brainerd must be properly licensed within thirty (30) days of having been moved into the City.

(Amended Ord. 1453 – 2016)

Subd. 3. Cats. Cats shall be included as controlled by this Section insofar as running-at-large, pickup, impounding, boarding and proof of vaccine is concerned. All other provisions of this Section, except licensing, shall also apply to cats unless otherwise provided.

Subd. 4. Vaccination.

- A) All dogs and cats kept harbored, maintained, or transported within the City shall be properly immunized by a licensed veterinarian for:
 - 1) Rabies - A properly administered vaccine by a licensed veterinarian with a documented expiration date.
- B) A certificate of vaccination must be kept, on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the Enforcement Officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City. Failure to do so shall be deemed a violation of this Section.

- C) Any animal covered by this Subdivision found off the owner's premises and not wearing a valid rabies vaccination tag shall be impounded. Any unvaccinated animal that is so impounded may be reclaimed by its owner by payment of the prescribed pound fees and compliance with the rabies vaccination requirement of this Section, proof of which shall be furnished to the City within seventy-two (72) hours of its release from the pound.

900.05 Wild or Exotic Non-Domesticated Animals. It shall be illegal for any person to own, possess, harbor, or offer for sale, any wild or exotic non-domesticated animal within the City limits. Any owner of such an animal at the time of adoption of this Section shall have thirty days in which to remove the animal from the City after which time the City may impound the animal as provided for in this Section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, education or training event, or a licensed show or exhibition. (See also: Section 902 of the Brainerd City Code.)

(Amended Ord. 1386 – 2011)

900.06 Bees. Subdivision 1. Definitions. The following words and terms shall have the meanings ascribed in this section unless the context of their usage indicates another usage:

- A) "Apiary" means the assembly of one or more colonies of bees at any one location.
- B) "Beekeeper" means a person who owns or has charge of one or more colonies of bees.
- C) "Beekeeping equipment" means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards, and extractors.
- D) "Colony" means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.
- E) "Hive" means the receptacle inhabited by a colony that is manufactured for that purpose.
- F) "Honey bee" means all life stages of the common domestic honey bee, *apis melifera* (African subspecies and Africanized hybrids are not allowed).
- G) "Lot" means a contiguous parcel of land under common ownership.

Subd. 2. Purpose. The purpose of this section is to establish certain requirements for beekeeping within the city.

Subd. 3. Standards of Practice.

A) Honey bee colonies shall be kept in hives with removable frames, which must be kept in sound and usable conditions.

B) Beekeepers

1) Must ensure that a convenient source of water is available within 10 feet of each colony at all times that the colonies remain active outside the hive.

2) Must ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other vermin-proof container.

3) Shall maintain beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking and securing unused equipment from weather, potential theft, vandalism, and occupancy by swarms.

C) Bee colonies may be kept the following residential zoning districts:

1) R-R (Rural Residential) District

2) R-E (Single Family Estate) Residential District

3) R-1A (Single Family) Residential

4) R-1 (Single Family) Residential

5) R-2 (Medium Density) Residential

Honeybee colonies may be kept on a two-family property if it is zoned R-2 and a resident owner of the property is the beekeeper.

Subd. 4. Hives.

A) Are not permitted in a front yard or in a street side yard.

B) Shall be located at least 10 feet from all interior property lines and 10 feet from an alley right of way.

- C) Shall be at least 25 feet from a principal building on an abutting lot.
- D) In each instance where a colony is kept less than 25 feet from a property line of the lot upon which the apiary is located, the beekeeper shall establish and maintain a flyway barrier 6 feet in height as follows:
 - 1) The flyway barrier must extend 10 feet in either direction from the hive along the property line.
 - 2) Barriers may be made of a wall, fence, or dense vegetation. A combination of these things is permissible.
- E) A fence permit is required. Information on fencing permits can be obtained through the Planning Department.
- F) Sale of honey and hive products from the beekeeper's residence is permitted in accord with Zoning Ordinance Section 26 Home Businesses and the following:
 - 1) The beekeeper must live on the apiary lot.
 - 2) The honey and hive products are from hives owned by the property owner.
 - 3) In any instance in which a colony exhibits unusually aggressive behavior, it shall be the duty of the permit holder to promptly take appropriate action to address the behavior.

Subd. 5. Colony Density. The following numbers of colonies are permitted:

- A) Lots less than 21,780 sq. ft. (½ acre): two colonies
- B) Larger than ½ acre: four colonies

Subd. 6. Beekeeper Training. Prior to obtaining an initial permit a beekeeper must provide:

- A) A beekeeping course completion certificate or letter from an educational institution that offers a beekeeping course.
- B) Verification of equivalent experience for the honeybee keeping course.

Subd. 7. Permit Required. Beekeeping may occur on any property in the city upon issuance of an annual permit to the beekeeper on that specific property which shall expire on December 31 of each year.

- A) A beekeeping permit will be issued if:
- 1) The requirements of this section have been met.
 - 2) Notices have been mailed to all property owners within 150 feet of the applicant's property lines.
 - 3) If there are objections received within 10 days of mailing the notices, the City Council shall consider the application.
- B) If there are no objections received within 10 days of mailing the notices, then the permit application will be processed by city staff. It will not be referred to the City Council for consideration.
- C) Permits are non-transferable and do not run with the land.
- D) By signing the permit, the beekeeper acknowledges that he or she shall defend and indemnify the city against any and all claims arising out of keeping the bees on the premises.
- E) The City Council shall as establish the permit fee. For each subsequent permit, there shall be no fee for the permit, unless there are substantial changes to the apiary or there is a new beekeeper.
- F) If the standards of practice are not maintained subsequent to issuance of a beekeeping permit, the permit may be revoked by the city.
- G) Sales of honey or hive products from the home must be stated on the permit.

Subd. 8. Penalty for Violation of Section. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor.

(Added Ord. 1464 – 2017)

900.07 Farm Animals. Farm animals shall only be kept in zoning districts if permitted under the City Zoning Ordinance. An exception shall be made to this Section for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition. An additional exception shall be made to this Section by allowing the keeping of chickens on premises in the City subject to the provisions set forth in Section 900.08.

(Amended Ord. 1327 – 2008)

900.08 Chickens. Subdivision 1. Chickens Limited. It is unlawful for any person to own, control, keep, maintain or harbor hen chickens in any residential district and/or residential use in non-residential districts in the City unless issued a permit to do so as provided herein. In the case of rental residential property, including multi-family residential property, written permission must be given by the property owner for a tenant to keep or harbor chickens on said residential premises. No permit shall be issued for the keeping or harboring of more than four (4) hen chickens on any premises unless the property is located in an agricultural or rural zoning district. The keeping of roosters is prohibited. It shall be unlawful to keep or harbor hen chickens in addition to the limitations set forth in Section 900.13, Subd. 1. (For example, the limitation is further clarified as follows: 4 dogs, or 4 cats, or 4 chickens, or 3 dogs and 1 cat, or 3 chickens and 1 dog, or 2 cats and 2 chickens, etc.)

(Amended Ord. 1445 – 2015)

Subd. 2. Definitions. The term “At Large” shall be intended to mean a chicken out of its chicken run, off the premises or not under the custody and control of the owner. The term “Chicken” means a female chicken or hen. The term “Chicken Coop” means a structure providing housing for chickens made of wood or other similar materials that provides shelter from the elements. The term “Chicken Run” means a fenced outside yard for the keeping and exercising of chickens. The term “Owner” shall mean the resident, property owner, custodian or keeper of any chicken. The term “Premises” means any platted lot or group of contiguous lots, parcels or tracts of land.

Subd. 3. Permit. No chicken coop and/or chicken run shall be maintained unless granted a permit by the City. The permit shall be subject to all terms and conditions of this Section and any additional conditions deemed necessary by the City to protect the public health, safety and welfare. The necessary permit may be obtained from the City Administrator’s office. Included with the information required prior to issuance of the permit must be a scaled diagram that indicates the location of any chicken coop and run, and the approximate size and distance from adjoining structures and property lines. The owner must also obtain written approval of the keeping of chickens from all abutting property owners. Written approval is not required if there is no abutting property. A permit for the keeping of chickens may be revoked or suspended by the Council for any violation of this Section following written notice and a public hearing.

(Amended Ord 1445 – 2015, Ord. 1464 - 2017)

Subd. 4. Confinement. Every person who owns, controls, keeps, maintains or harbors hen chickens must keep them confined on the premises at all times in a chicken coop or chicken run while in the City. Any coop and run shall be screened with a solid fence or landscaped buffer with a minimum height of four (4) feet. Any coop and run shall be at least 25 feet from any residential structure or any other premises on any adjacent lots.

Subd. 5. Chicken Coops and Chicken Runs.

- A) All chicken coops and runs must be located within the rear yard subject to the required setbacks for the principal building and at least 25 feet from any

dwelling or any other premises on any adjacent lots. All chicken coops must be a minimum of 4 square feet per chicken in size, must not exceed 10 square feet per chicken in size and must not exceed 6 feet in total height. Attached fenced-in chicken runs must not exceed 20 square feet per chicken and fencing must not exceed six feet in total height. Chicken runs may be enclosed with wood and/or woven wire materials, and may allow chickens to contact the ground. Chicken feed must be kept in metal, predator proof containers. Chicken manure shall not be placed in yard compost piles.

B) Chicken coops must either be:

- 1) Elevated with a clear open space of at least 24 inches between the ground surface and framing/floor of the coop; or,
- 2) The coop floor, foundation and footings must be constructed using rodent resistant construction.

C) Chicken coops are not allowed to be located in any part of a home and/or garage or non-residential buildings.
(Amended Ord. 1445 – 2015)

D) Chickens must be secured in a chicken coop from sunset to sunrise each day.

Subd. 6. Conditions and Inspection. No person who owns, controls, keeps, maintains or harbors hen chickens shall permit the premises where the hen chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop and chicken run authorized by permit under this Section may be inspected at any reasonable time by the City Animal Control Officer or other agent of the City. Slaughter and breeding of chickens on any premises within the City is prohibited.

Subd. 7. Violations. Any person who owns, controls, keeps, maintains or harbors hen chickens in the City limits of Brainerd without obtaining or maintaining a current permit or after a permit has been suspended or revoked by Council action shall be guilty of a petty misdemeanor.

(Amended Ord. 1327 – 2008)

900.09 Impounding. Subdivision 1. Running at Large. Any animal running at large is hereby declared a public nuisance. The Enforcement Officer may impound any dog or other animal found running at large and shall give notice of the impounding within twenty-four (24) hours to the owner of such dog or other animal, if known. Except as otherwise provided in this Section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large, with the exception of animals being hunted during a lawful hunting season.

Subd. 2. Biting Animals.

A) Person Bitten by Animal. Any animal that has not been inoculated by a current rabies vaccine administered by a licensed veterinarian and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in an appropriate location for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of such time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for such confinement by the Officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the County in which this City is located, and provide immediate proof of such confinement in such manner as may be required, the owner may do so. If, however, the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

B) Animal Bitten by Rabid Animal

- 1) Unvaccinated Animals. In the case of animals which have not been vaccinated in accordance with this Section which have been bitten by a known rabid animal, said animal shall be euthanized upon the written consent of the owner. If the owner is unwilling to have the bitten animal euthanized, strict isolation of the animal in a kennel under veterinarian supervision shall be required. The owner of the animal shall bear the expense of same.
- 2) Vaccinated Animals. If the bitten animal is vaccinated in accordance with the provisions of this Section, the animal shall be held as follows:
 - i) The animal shall immediately be revaccinated and confined at the owner's home for a period of thirty (30) days following revaccination, or
 - ii) If the animal is not immediately revaccinated, the animal shall be confined in strict isolation in a kennel for six (6) months under the supervision of a veterinarian.
- 3) Euthanasia. In either situation noted in this Subdivision, if the veterinarian determines that the bitten animal is rabid, said animal shall be euthanized.

Subd. 3. Reclaiming. All animals conveyed to the impoundment location shall be kept with the humane treatment and sufficient food and water for their comfort for the minimum period of time required by state law. In the event the owners or keepers desire to reclaim the animal from impoundment, the following is required:

- A) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in said pound; and
- B) Payment of impound fees pursuant to City Code; and
- C) If a dog is unlicensed, payment of a regular license fee and valid certification of vaccination for rabies is required.

Subd. 4. Unclaimed Animals. At the expiration of the times established in Subdivision 3, if the animal has not been reclaimed in accordance with the provisions of this Section, the Officer appointed to enforce this Section may let any person claim the animal by complying with all provisions in this Section, or cause the animal to be destroyed in accordance with the provisions of this Section. Any money collected under this Section shall be payable to the City of Brainerd.

900.11 Kennels. Subdivision 1. Definition of Commercial Kennel. The keeping of five (5) or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “commercial kennel”; except that a fresh litter of pups may be kept for a period of four months before such keeping shall be deemed to be a “commercial kennel.”

Subd. 2. Commercial Kennel as a Nuisance. Because the keeping of five (5) or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of five or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a commercial kennel within the City.

(Amended Ord. 1047 – 1998, Ord. 1325 – 2008, Ord. 1472 - 2017)

900.13 Ownership Limits. Subdivision 1. Household Limitation. No person shall keep, maintain, or otherwise house more than a total of four cats or dogs over the age of four months within any household in the City of Brainerd unless authorized elsewhere in this Section. (For example, the limitation is further clarified as follows: 4 dogs, or 4 cats, or 3 dogs and 1 cat, or 2 dogs and 2 cats, etc.)

- A) 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 that is rented, leased or used as a single unit.

B) 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.

C) The maximum limitation shall be further defined as domestic animals.

Subd. 2. Limitation Prior to Effective Date. Any person owning more than a total of four cats or dogs prior to the effective date of this Section shall be permitted to keep those animals, provided that the dogs in that household as of the effective date of this Section were properly licensed. No person affected by this Section shall be permitted to acquire any additional cats or dogs to replace any cats or dogs in excess of the maximum limits set in this Section unless specifically authorized by the City Council.

Subd. 3. Limitation Upon Annexation. Any person who owns cats or dogs and who becomes a resident of the City by annexation shall be permitted to keep those animals, provided that the dogs are properly licensed within thirty (30) days following approval of the annexation. No person affected by this Subdivision who owns more than a total of four cats or dogs shall be permitted to acquire any additional cats or dogs to replace any cats or dogs in excess of three, except as specifically authorized by the City Council.

900.15 Nuisances. Subdivision 1. Habitual Barking/Noise. It shall be unlawful for any person to keep or harbor a dog that habitually barks, yelps, howls, cries or whimpers so as to unreasonably disturb the peace and quiet of any person in the vicinity. The phrase “unreasonably disturb the peace and quiet” shall include but is not limited to the creation of any noise by a dog that can be heard by any person, including the Enforcement Officer for repeated intervals of at least three minutes with less than one minute of interruption. Such noise must also be audible off of the owner’s or caretaker’s premises.

Subd. 2. Damage to Property. It shall be unlawful for any person’s dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage. Any animal covered by this Subdivision may be impounded as provided in this Section or a complaint may be issued by anyone aggrieved by an animal under this Subdivision, against the owner of the animal for prosecution under this Section.

Subd. 3. Cleaning Up Litter/Feces. The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property. The clean-up of feces on the animal owner’s property shall not exceed 72 hours from May 1 through October 31 and once per week from November 1 through April 30. The clean-up of feces on the property of others or public property shall be immediate. Any person violating this Section shall be punished with a fine of \$75.00.

Subd. 4. Other. Any animals kept contrary to this Section are subject to impoundment as provided in this Section.

900.17 Trespasses. It is unlawful for any person to herd, drive, or ride any farm animal or domesticated animal over and upon any grass, turf, boulevard, city park, cemetery, garden, or lot without specific permission from the owner. It is unlawful for any person to permit any farm animal or domesticated animal to go upon any grass, turf, boulevard, City park, cemetery, garden, or lot without the specific permission to do so from the owner of the property.

900.19 Seizure of Animals. Any Enforcement Officer may enter upon private property and seize any animal provided that the following exists:

- A) There is an identified complainant other than the Enforcement Officer making a contemporaneous complaint about the animal;
- B) The Officer reasonably believes that the animal meets the criteria for cruelty set out in Section 900.29; or the criteria for an at large animal set out in Section 900.03, Subd. 1;
- C) The Officer can demonstrate that there has been inhumane treatment of the animal; or that the animal was at large at this address on a prior date;
- D) The Officer has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;
- E) The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have such key shall not be considered unauthorized entry; and
- F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

900.21 Animals Presenting a Danger to Health and Safety of City. If, in the reasonable belief of any person or Enforcement Officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the Officer may destroy the animal in a proper and humane manner. Otherwise the person or Officer may apprehend the animal and deliver it to the pound for confinement under Section 900.09. If the animal is destroyed, a charge of \$175.00 to dispose of the animal is payable by the owner of the animal. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with Section 900.09, Subd. 3.

900.23 Diseased Animals. Subdivision 1. Running at Large. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the City, any animal which is diseased so as to be a danger to the health and safety of the City, even though the animal be properly licensed under this Section.

Subd. 2. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person or Enforcement Officer. The Officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the Officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this Section shall be liable for all costs of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

Subd. 3. Release. If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free of charge.

900.25 Regulation of Dangerous Dogs. Subdivision 1. Definition of Dangerous Dog. The definition of a dangerous dog shall be taken from Minnesota Statutes Sections 347.50-347.56, as those statutes may be amended from time to time, which are hereby adopted and incorporated by reference into the Brainerd City Code. The Enforcement Officer, or designee, shall have the authority to order the euthanasia of a dangerous dog meeting the criteria established in State Statute, subject to the procedure set forth herein.

Subd. 2. Proper Enclosure. Proper enclosure means securely confined indoors or in a securely locked outdoor pen or structure suitable to prevent the dog from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet all of the following minimum specifications:

- A) Have a minimum overall floor size of thirty-two (32) square feet.
- B) Sidewalls shall have a minimum height of five (5) feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two (2) inches, support posts shall be one-and-one-quarter-inch or larger steel pipe buried in the ground eighteen (18) inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen (18) inches in the ground.
- C) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two (2) inches.
- D) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two (2) inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

- E) The pen or kennel must be located in the animal owner's backyard and be at least five (5) feet from any property line.

Subd. 3. Unprovoked. Unprovoked shall mean the condition in which the animal is not purposely excited, stimulated, agitated, or disturbed.

Subd. 4. Procedure/Hearing. The procedure to seize an animal that appears to be dangerous shall be as follows

- A) Notify the owner, by registered mail that the animal appears to be dangerous. The notice shall specify the dates, times, places and parties or animals bitten. Said notice shall also apprise the owner of the animal that he or she may request a hearing before the City Council by notifying the City Administrator within ten (10) days after the receipt of the notice.
- B) If the owner does not request a hearing within ten (10) days of said notice, the Enforcement Officer shall immediately take possession of the animal and euthanize same.
- C) If the owner of the animal requests a hearing as to the dangerous nature of the animal, the City Administrator shall place the matter before the City Council at its next regular meeting. The owner may present evidence in opposition to the designation of the animal as dangerous. The Animal Control Officer shall present evidence to the City Council that supports the determination that the animal is dangerous. Following the hearing, the Council shall make a determination of the facts and issue an order as to whether or not said animal is properly characterized as dangerous. If the Council determines that the animal is dangerous, it will then order the owner to deliver said animal to the Animal Control Officer for the purpose of euthanizing said animal, unless the owner provides an alternative proposal, acceptable to the City Council which may include the permanent removal of the animal from the Brainerd City limits.

(Amended Ord. 1043 – 1998, Ord. 1325 – 2008)

900.27 Dangerous Animal Requirements. Subdivision 1. Requirements. If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

- A) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in Section 900.25, Subd. 2;
- B) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statutes Sections 347.50-347.56;

- C) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000.00;
- D) If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person sixteen years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration; and,
- E) Any or all additional requirements permitted under Minnesota Statutes Sections 347.50-347.56.

Subd. 2. Seizure. The Enforcement Officer shall immediately seize any dangerous animal if the owner does not meet any of the above requirements imposed by the City Council within fourteen days after the date notice is sent to the owner that the animal is dangerous.

Subd. 3. Reclaiming Dangerous Animals. A dangerous animal seized under Subsection 900.27, Subd. 2, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to animal control that each of the requirements under Subsection 900.27, Subd. 1 is fulfilled. An animal not reclaimed under this Section within fourteen (14) days may be disposed of as provided under Section 900.21 and the owner is liable to the City of Brainerd for all costs incurred in confining the animal and having the animal destroyed including, but not limited to, reimbursement of all of the City's legal fees and court costs.

Subd. 4. Subsequent Offenses. If an owner of an animal has subsequently violated the provisions under Section 900.25 with the same animal, the animal must be seized by the Enforcement Officer. The owner may request a hearing as provided for in Section 900.25. If the owner is found to have violated the provisions for which the animal was seized, the Enforcement Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of Subsection 900.27, Subd. 3. If the animal is not yet reclaimed by the owner within fourteen days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under Subsection 900.09 and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

900.29 Basic Care. All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided in this Section.

900.31 Pound. The Council shall designate an official pound either within or without the City limits of Brainerd to which animals found in violation of this Section shall be taken for safe treatment, and if necessary, for destruction.

900.33 Interference with Officers. No person shall in any manner molest, hinder, or interfere with any person authorized by the Council to capture dogs, cats or other animals and convey them to the pound while engaged in such operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this Section, or in any other manner to interfere with or hinder such officer in the discharge of his or her duties under this Section.

900.35 Unlawful Acts. It is unlawful for the owner of any domestic animal to violate the provisions of this Section or (1) to own or keep a domestic animal which is dangerous (any animal which has caused injury to persons or property shall be deemed “dangerous”); or (2) to interfere with the Animal Enforcement Officer, any Police Officer, or other City employee, in the performance of their duty to enforce this Section; or (3) to allow their domestic animal to frequent school grounds, parks, or public beaches or to chase vehicles, or to molest or annoy any person away from the property of its owner or custodian, or to damage, defile or destroy public or private property.

900.37 Penalties. Unless otherwise provided herein, violation of this Section shall constitute a misdemeanor. Violations of Sections 900.03, 900.15 and 900.29 are petty misdemeanors punishable by a fine of up to \$200.00.

(Amended Ord. 928 – 1992, Ord. 1325 – 2008)