

ATTACHMENT "A"

Penalty provisions applicable through Animal Code adopted by reference:

6.02.080 **Mandatory Spay and Neutering.** No person shall own, keep, or harbor an unaltered dog or cat in violation of this Section. An owner or custodian of an unaltered dog must have the dog spayed or neutered, or provide a certificate of sterility, or obtain an unaltered dog license in accordance with this Title. An owner or custodian of an unaltered cat must have the animal spayed or neutered, or provide a certificate of sterility.

Penalties issued for failure to spay or neuter a dog or cat shall be enforced as set forth below:

a. An administrative citation, infraction, or other such authorized penalty may be issued to an owner or custodian of an unaltered dog or cat for a violation of this section only when the owner or custodian is concurrently cited for another violation under state or local law pertaining to the obligations of a person owning or possessing a dog or cat. Examples of such state law or local violations include, but are not limited to, the following: failure to possess a current canine rabies vaccination of the subject dog; dog or cat at large; failure to license a dog; leash law violations; kennel or cattery permit violations; tethering violations; unhealthy or unsanitary conditions; failure to provide adequate care for the subject dog or cat in violation of the Penal Code; rabies quarantine violations for the subject dog; operating a business without a license and/or lack of State Tax ID Number; fighting dog activity in violation of Penal Code section 597.5; animals left unattended in motor vehicles; potentially dangerous, dangerous or vicious animals; and noisy animals.

b. Should the owner or custodian of an unaltered dog or cat be found in violation of a state or local law, as stated above, in subsection (1), the owner or custodian shall be required to spay or neuter the unaltered animal in accordance with this section.

6.02.180 **Abandonment.** It is unlawful for any person to knowingly abandon any animal within the City. Any person violating this Section shall bear full costs and expenses incurred by the City in the care of said abandoned animal and the person shall reimburse to the City all costs therefore as determined by the Animal Services Officer. Abandonment shall include the owner's failure to redeem animals seized or impounded after proper notification of the seizure or impoundment has been issued.

6.02.210 **Recoupment of Enforcement Costs.** The City is hereby authorized to recoup all administrative costs reasonably related to the enforcement of this Title, including costs of staff time.

6.06.130 **Denial or Revocation of License for Unaltered Dogs.** The Department may deny or revoke an unaltered dog license for one or more of the following reasons:

a. The owner, custodian, applicant or licensee is not in compliance with all of the requirements of this section;

b. The Department has received at least three complaints, verified by the Department, that the owner, custodian, applicant, or licensee has allowed a dog to be stray or run at large or has otherwise been found to be neglectful of his or her or other animals;

c. The owner, custodian, applicant, or licensee has been previously cited for violating a state law, other City or municipal provisions relating to the care and control of animals;

d. The unaltered dog has been adjudicated by a court or an agency of appropriate jurisdiction to be potentially dangerous, dangerous or vicious, or to be nuisance within the meaning of the City of Beaumont Titles or under state law;

e. An unaltered dog license held by the applicant has been revoked;

f. The license application is discovered to contain a material misrepresentation or omission of fact.

6.08.070 **Cost of Seizure and Care – Owner Liable.** If any animal is properly seized or impounded under this chapter, the owner or keeper shall be personally liable to the seizing/impounding agency for the cost of the seizure/impoundment and care of the animal(s). Furthermore, if the charges for the seizure or impoundment, and any other charges permitted under this chapter are not paid within fourteen (14) days of the seizure, or, if the owner, within fourteen (14) days of notice of availability of the animal(s) to be returned, fails to pay charges permitted under this chapter and take possession of the animal(s), the animal(s) shall be deemed to have been abandoned and may be disposed of by the impounding Officer. The cost of caring for and treating any animal properly seized under this chapter shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, unless the hearing officer determines that the seizure was unjustified.

6.08.080 **Noncompliance with Order to Provide Veterinary Care.** If the animal requires veterinary care and the seizing agency is not assured, within fourteen (14) days of the seizure of the animal(s), that the owner will provide the necessary care, the animal(s) shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the impounding Officer. A veterinarian or properly trained Animal Services Officer may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably ill or crippled. A veterinarian or properly trained Animal Services Officer may also immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal(s) by a veterinarian at the expense of the owner or agent.

6.10.040 **Pre-Hearing Seizure and Impoundment of Dog.** If upon investigation it is determined by the Animal Services Officer that probable cause exists to believe the dog in question poses an immediate threat to public safety, then the Animal Services Officer may seize and impound the dog pending the hearings to be held pursuant to this Chapter. The owner or keeper of the dog shall be liable to the City of Beaumont where the dog is impounded for the costs and expenses of keeping the dog, if the dog is later adjudicated potentially dangerous.

6.12.060 **Dangerous Animals-Disposition.**

A. The owner of an animal which has bitten any person or a domestic animal, or has otherwise been determined, after a hearing, to be dangerous, may be required as a condition of the release of the animal from confinement or impoundment, in addition to paying all costs of any impoundment, to comply with the written disposition of the hearing officer which contains any or all of the following conditions requiring the owner:

1. Registration. To immediately register the animal that is found to be dangerous with the animal services officer, to comply with the animal services officers requirements for dangerous animals (including, but not limited to, requiring the animal to wear a visible, dangerous animal tag), and to keep such animal properly vaccinated at all times. The owner shall pay a fee to keep or maintain one dangerous animal for a twelve-month term and an additional fee for each additional dangerous animal. The fee shall be paid for each twelve-month term. Should the animal die in any four (4) month term, the owner shall notify the animal services officer of the death within two (2) working days of the death. The owner shall provide proof of the death to the satisfaction of the animal services officer. The amount of the fees shall be established from time-to-time by resolution of the City Council.

2. Confinement. To keep the animal securely confined on its premises in a locked enclosure approved by the hearing officer or the animal services officer from which the animal cannot escape and into which children cannot trespass. Such a kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine the animal must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the side of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house an animal must comply with all zoning and building regulations of the City. All such structures must be adequately lighted, ventilated, and kept in a cleaned sanitary condition.

3. Confinement While on Leash. To keep the animal securely muzzled, restrained by a substantial leash of appropriate length and under the control of a responsible person eighteen (18) years of age or older who is physically capable of restraining the animal when the animal is not contained in a locked, secure enclosure.

4. Spay or Neuter the Animal. To have the animal spayed or neutered by a licensed veterinarian and to present proof to the animal services officer.

5. Insurance. To provide and maintain financial responsibility for injuries to the public by obtaining and showing proof of liability insurance in the form and amount deemed to be acceptable by the hearing officer in light of all the circumstances. Such insurance policy shall provide that no cancellation of the policy will be made unless thirty days written notice is first given to the Animal Services Officer and the City Clerk's office.

6. Notification. To immediately inform any City, county, postmaster and utility company meter reader and anyone-else that lawfully comes onto the property, of the animal's dangerousness and to inform the animal services officer and/or the hearing officer if the animal is moved to another location inside or outside the City limits as provided in Section 6.06.150 of this Chapter.

7. Signs. To display in a prominent place on the premises a sign easily readable by the public using the words "Beware of Dog" or "Beware of Animal" in letters at least three (3) inches high.

8. Identification. To have a registration number assigned to such animal tattooed by a licensed veterinarian on the animal's inner thigh or inserted by a licensed veterinarian under the animal's skin by means of an electronic identification device. The manner and method of identification to be used hereunder shall be determined by the hearing officer. For the purposes of this Section, "tattoo" shall be defined as any permanent numbering of an animal by means of indelible or permanent ink.

9. Inspection. To consent and agree to the entry upon the premises to any Animal Services Officer for the purpose of inspecting the animal and/or premises.

10. Payment of Costs. To make reasonable payment of one-half of the costs incurred by the City and the Animal Services Officer in the hearing process, not to exceed one thousand dollars (\$1,000.00).

11. Other. To take any other steps deemed reasonably necessary to prevent injuries to the public.

The owner of the animal shall comply with the conditions imposed by the hearing officer within the time limit specified in Section 6.12.070 of this Chapter.

B. No dangerous animal shall be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or screen doors are the only obstacle preventing the animal from exiting the structure.

C. If, following the hearing, the subject animal is found to be dangerous and such a threat to public safety that even if reasonable conditions were imposed to release the animal to the owner it would create a significant threat to the public health, safety, or welfare, such animal may be destroyed. Such remedy shall be in addition to all other remedies at law or in equity and shall not limit or restrict such other remedies, including, but not limited to, Section 6.12.080(A), which authorizes the hearing officer to order an animal destroyed for violation of this Chapter or failure to meet a condition imposed by the hearing officer.

D. Any decisions made by the hearing officer shall be final.

E. If, after notice, the owner of an impounded animal fails to appear or be represented at the required hearing, then the animal may be considered abandoned. If the subject animal does not appear to be validly licensed and no owner can be found, and if the animal has been determined to be dangerous, then the animal may be considered abandoned and may be handled in the same manner as any other unclaimed stray animal.

F. If such an unlicensed animal has not been determined to be dangerous, it shall be returned to the owner, subject to the issuance of a citation for failure to obtain a license. A non-dangerous stray animal will be handled as any other stray animal.

G. In such cases where an impounded licensed animal is found to be dangerous, the animal may be released subject to the conditions set forth in Subsection A of this Section.

6.12.080 **Enforcement and Penalties.**

A. Failure to Comply. It is unlawful for the owner of an animal deemed dangerous under this Chapter to fail to comply with the requirements and conditions set forth in this Chapter. Any animal found to be the subject of a violation of this Chapter or of any condition imposed by the hearing officer pursuant to Section 6.12.060 of this Chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the destruction of the animal. No such animal however, may be destroyed until the owner of the animal has received written notice from the hearing officer that the animal will be destroyed unless, within fourteen (14) days from the date of the notice:

1. The owner has demonstrated to the satisfaction of the hearing officer that the owner has fully complied with the requirements and conditions set forth in this Chapter, including, but not limited to, the conditions imposed by the hearing officer pursuant to Section 6.12.060 of this Chapter; or

2. The owner has filed in a court of competent jurisdiction a petition that seeks to stay destruction of the animal and has served a copy of such petition upon the hearing officer.

The notice from the hearing officer shall be served upon the owner either personally or by prepaid first-class mail. If, after (14) fourteen days from the date of such notice, the owner has not complied with the provisions of Subdivisions 1 or 2 of this Subsection, the hearing officer may, without further notice or process, have the animal destroyed.

B. Violation-Penalties. In the discretion of the Enforcement Officer (as that term is defined in Section 1.20.020 of the Banning Municipal Code), any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Banning Municipal Code Chapter 1.20, or shall be guilty of criminal penalties as provided under Banning Municipal Code Chapter 1.28. Each such violation shall be deemed a separate offense.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve any person from the responsibility for correcting the violation

C. Ownership of Dangerous Animals. The owner of an animal determined to be dangerous under this Chapter shall be prohibited from owning, possessing, controlling or having custody of any other animal of the type, species, group or family to which the violation applies for a period of three years from the date of violation when it is found after the hearing conducted pursuant to Section 6.12.070 of this Chapter that ownership or possession of such animal by that person would create a significant threat to public health, safety or welfare.

D. Enforcement. Any provision of this Chapter may be enforced by the Police Department, Fire Department, the animal services officer or any authorized designee of the City Manager. Complaints of any violations of this Chapter which are subject to penalties under this Section may be presented to the District Attorney's office or to the City Attorney for prosecution.

E. Nuisance Abatement Lien. The costs of abating a public nuisance pursuant to the provisions of this Chapter may be recovered from the owner of the animal causing the public nuisance. If the owner fails to pay such costs within thirty days from the date of invoice or within an extended period of time agreed to in writing by the hearing officer, the costs may be collected by a nuisance abatement lien, as provided by Section 38773.1 of the California Government Code. Notice of the lien shall be given to the owner of record of the parcel of land on which the nuisance is maintained prior to recordation of the lien and in the manner specified in said Section 38773.1.

F. Penalties and Remedies Cumulative. The penalties and remedies specified herein shall not be exclusive but shall be cumulative with all other remedies at law or in equity. The City may, in its discretion, elect to pursue anyone or more of the penalties or remedies provided for herein or at law or in equity.