

Battle Creek Code of Ordinances
CHAPTER 608
Animals

EDITOR'S NOTE: Chapter 608, previously a codification of Ordinance 5-78, passed April 4, 1978, Ordinance 4-80, passed March 25, 1980, Ordinance 13-80, passed June 17, 1980, Ordinance 1-81, passed January 27, 1981, and new matter adopted as part of the 1981 Codified Ordinances, was repealed and re-enacted in its entirety by Ordinance 45-83, passed October 25, 1983.

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- 608.24 Complaints; destruction or retention of animal; court orders to protect public. (Repealed)
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- 608.26 Ferret owner's responsibilities.
- 608.27 Giving animals as prizes.
- 608.28 Wild animals.
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- 608.30 Insert here - Feral Cats.
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CROSS REFERENCES

Animal pounds - see M.C.L.A. Secs. 123.301 et seq., 750.70
Animal diseases generally - see M.C.L.A. Secs. 287.2 et seq.
Animals generally - see M.C.L.A. Secs. 287.2 et seq., 750.49 et seq., 752.21 et seq.
Nuisances - see GEN. OFF. Ch. 652
Animal and bird noises - see GEN. OFF. 652.07(b)(5)
Animals prohibited in the Central Business District - see B.R. & T. 814.11
Animals in dwellings - see B. & H. 1460.58 et seq.
Rental housing - see -B.R. & T. Ch. 842

608.01 DEFINITIONS.

As used in this chapter:

- (a) "Abandon" means to desert, surrender, relinquish or give up with the intent of never again resuming one's ownership rights or interest in an animal, provided that a lost animal will not be regarded as abandoned when the owner or custodian has made a reasonable effort to locate the animal. Also includes animals remaining on their owner's property where the property has been condemned or ordered to be vacated.
- ~~(a)~~(b) "Adequate Care" means the provision of sufficient food, potable water, shelter, sanitary conditions, and medical attention to maintain an animal in a state of good health.
- (c) "Animal" means a vertebrate, other than a human being. When used in this Ordinance, animal shall not include those animals considered exotic or wild.
- ~~(b)~~(d) "Animal at Large" means the unrestrained wandering or roaming of any animal on a public way or on property not owned or leased by its owner. Also includes animals on their owner's property not under direct control of the owner in populated areas, i.e. where homes are within 200 feet of each other.
- ~~(e)~~(e) "Animal Control Officer" means an individual employed as an Animal Control Officer pursuant to Sections 608.20 and 608.21 and pursuant to Sections 29a, 29b and 29c of the dog law of 1919, Act 339 of the Public Acts of 1919, being M.C.L.A. 287.289b and 287.289c.
- ~~(d)~~ "At large" means off the property of the animal owner and not under control, or, where required, not under restraint.
- (f) "Attack" means the intent to cause injury or otherwise forcefully endanger the safety of people or other animals.
- (g) "At-risk animal" means an animal that:
(1) Is found to menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any person.
(2) Causes physical injury to any domestic animal while at large.
(3) Repeatedly runs at large.
- (h) "Dangerous animal" means:
(1) an animal that:
A. Bites or attacks a person, or another animal;
B. Behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious injury or death to one or more person or another animal;
C. Is used for fighting or other illegal activity; or

D. Escalates behavior that caused it to be adjudicated an at risk-animal.

- ~~(+)~~(2) However, "dangerous animal" does not include any of the following:
- A. An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner, or who bites and attacks another animal that is on the property of the animal's owner without permission;
 - B. An animal that bites or attacks a person who provokes or torments the animal;
 - C. An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault; or
 - D. Livestock.

(i) "Domestic Animals" means those animals that have traditionally, through a long association with humans, lived in a state of dependence upon humans or under the dominion and control of humans and which have been kept as tame pets, raised as livestock, or used for commercial breeding purposes.

~~(e)~~(j) "Exotic animal" means an animal of a non-domesticated species not commonly kept as a household pet or for food or fiber production. Exotic animals may or may not be native to the area and may or may not be governed by existing wildlife regulations.

~~(f)~~(k) "Ferret" means an animal of any age of the species *Mustela furo*.

(l) "Fowl" means a type of animal that includes all wild and domestic birds, including, but not limited to, game birds, songbirds, turkeys, roosters, chickens, ducks, geese or other poultry.

~~(g)~~(m) "Hobby breeder" means a person who owns four or fewer ferrets that are at least six months of age or a litter of ferrets that is less than five months of age on a temporary basis for personal recreational purposes, such as competitions in shows or improving the breed, and who registers his or her ferrets with a national ferret registry organization.

(n) "Kennel" means, unless stated otherwise, any establishment wherein or whereon dogs are kept for breeding, sale or sporting purposes.

~~(h)~~(o) "Leash" means a strap or cord for restraining or guiding an animal. "Leash" does not include shock collars (also called e-collars, Ecollars, remote training collars, Zap collars or electronic collars) that deliver electrical shocks to the neck of an animal.

~~(+)~~(p) "Livestock" means animals used for human food and fiber or animals used for service to human beings. "Livestock" includes, but is not limited to, equine, sheep, rams, cattle, mules, jacks, jennets, burros, goats, kids and swine, bison, poultry, privately owned cervids, ratites, new world camelids, aquaculture and fur-bearing animals being raised in captivity. "Livestock" does not include animals that are human companions, such as dogs and cats.

(q) "Mutilate" means to destroy or disfigure a body part.

~~(+)~~(r) "Muzzle" means a commercially manufactured device which is placed over the mouth of an animal and strapped around its head or neck and is sold for the express purpose of preventing the animal from biting another animal or person.

~~(k)~~(s) "Neglect" means to fail to sufficiently and properly care for an animal to the extent that the animal's health is jeopardized.

~~(+)~~(t) "Owner" means a person having a right of property ownership in an animal, who keeps or harbors the animal or has the animal in his or her care or custody, or who permits the animal to remain on or about premises occupied by the person. An owner does not mean a

person who harbors an animal in the course of conducting a boarding, grooming, or training business, or a veterinary hospital, or a person who harbors an animal in violation of Act 309 of the Public Acts of 1939, being sections 287.301 to 287.308 of the Michigan Compiled Laws. "Owner" does not include a veterinarian who keeps an animal on a temporary basis for medical care or treatment. "Owner" does not mean a person who feeds an animal that is a stray or without an owner as defined above.

~~(m)~~(u) _____ "Permit" means knowledge, consent or willingness, or negligent conduct equivalent thereto.

~~(n)~~(v) _____ "Person" means an individual, partnership, corporation, association, governmental entity or other legal entity.

~~(w)~~ "Pet" means any animal kept for pleasure rather than utility.

~~(o)~~(x) _____ "Poultry" means, but is not limited to, chickens, guinea fowl, turkeys, waterfowl, geese, ducks, pigeons, doves, peafowl, and game birds that are propagated and maintained under the husbandry of humans.

~~(p)~~(y) _____ "Provoke" means to perform a willful act or omission that an ordinary and reasonable person would conclude is likely to precipitate a bite or attack by an ordinary dog or animal.

~~(z)~~ "Quarantine" means a state of enforced isolation. To detain in or exclude by quarantine, to isolate from normal relations or communication. An animal that has bitten shall be kept in the owner's home or a secure structure authorized by a person enforcing this ordinance that would not allow any other person or animal to come in contact with it except for family members. At the owner's expense animals may be quarantined at a veterinarian's office or, at the discretion of an Animal Control Officer, at the Calhoun County Animal Center.

~~(aa)~~ "Rabies Suspect Animal" means any animal other than wildlife, which has been determined by the Michigan Department of Community Health to be a potential rabies carrier and which has bitten or scratched a human, or any animal which has been in contact with or bitten by another animal which is a potential rabies carrier, or any animal which shows symptoms of rabies.

~~(q)~~(bb) _____ "Rodent" unless otherwise stated, means a feral mammal of the order rodentia, including, but not limited to, mice, rats and squirrels.

~~(r)~~(cc) _____ "Sanitary conditions" means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal's health. This definition does not include a condition resulting from a customary and reasonable practice pursuant to farming or animal husbandry.

~~(s)~~(dd) _____ "Serious injury" means permanent, serious disfigurement, serious impairment of health or serious impairment of a bodily function of a person or animal.

~~(ee)~~ "Service Dog" means any dog which is trained or being trained to aid a person who is blind, hearing impaired, or otherwise disabled under MCL 287.291; MSA 12.543 (1970 PA 207). "Service Dog" does not mean a dog that provides comfort just by being with a person.

~~(ff)~~ _____ "Shelter" means: a leak-proof roofed structure of ~~at least three~~ four sides which is suitable for the age, size, species, and physical condition of the animal and which provides adequate protection to an animal from the elements and weather conditions so as to maintain the animal in a state of good health. "Adequate protection" from the elements includes, but is not limited to, dry bedding ~~when the outdoor temperature is or is predicted~~

to drop below freezing from October 1 through May 31. Exemptions will be made for dogs who have veterinarian documentation stating that they cannot tolerate straw. As to livestock, "shelter" also includes those environments that comply with generally accepted agricultural and management principals adopted pursuant to the Right to Farm Act, M.C.L.A. 286.471 et seq., or as otherwise specifically provided for by State law. An animal must be able to stand up, sit down, lie down, and turn around inside the shelter. Interior must be protected from the elements; wind, rain, snow and sun. Interior must be clean and not moldy.

(1) "Inadequate shelter" includes, but is not limited to:

- A. Crawl spaces under buildings or parts of buildings, such as steps, decks, or stoops;
- B. —The space under a vehicle; truck caps;
- C. —The inside of a vehicle, other than a functional climate controlled motor home;
- D. —Shelters made from cardboard or other materials that are easily degraded by the elements;
- E. —Animal carriers or crates that are designed to provide temporary housing;
- F. —Barrels;
- G. —Cages with wire or chain-link floors; or
- H. —Shelters surrounded by waste, debris, obstructions or impediments that could adversely affect an animal's health.

~~(t)~~(gg) "State of good health" means freedom from injury, disease, illness and parasite infestation, and in a condition of proper body weight, hydration, temperature and grooming for the age and species of the animal, unless the animal is undergoing appropriate veterinary treatment.

~~(h)~~ "Sterilized" means an animal which has, by virtue of a surgically performed castration or ovariectomy or other recognized veterinary procedure been rendered incapable of sexual reproduction.

~~(i)~~ "Tethering" means the restraint and confinement of an animal by use of a chain, rope, or similar device. "Tethering" does not include shock collars (also called e-collars, Ecollars, remote training collars, Zap collars or electronic collars) that deliver electrical shocks to the neck of an animal.

~~(u)~~(jj) "Torment" means an act or omission that causes unjustifiable pain, suffering, or and distress to an animal, or that causes mental and emotional anguish in the animal; as evidenced by its altered behavior or condition, for a purpose such as sadistic pleasure, coercion or punishment, that an ordinary and reasonable person would conclude is likely to precipitate a bite or attack.

~~(v)~~(kk) "Torture" means to cause agony or intense pain with the intent to punish, coerce, or to afford sadistic pleasure.

~~(w)~~(ll) "Veterinarian" means a person licensed to practice veterinary medicine under the laws of the State of Michigan or under the law of another state or Federal authority that is applicable to that person.

~~(m)~~ "Vicious dog" means an animal of the Canis familiaris species which, when either unmuzzled or unleashed or when not confined to the premises of the owner, menaces a person in a manner which an ordinary and reasonable person would conclude to be an apparent attitude of attack. No dog shall be deemed vicious if it menaces a trespasser on

the premises of its owner or a person who has provoked or tormented it, or is a trained animal for law enforcement or guard duties.

~~(x)~~(nn) "Wild animal" means any animal normally found in the wild irrespective of geographic origin, or any crossbreeds of these animals with domestic animals, or any descendant of such crossbreeds which is 25% or more wild animal, and which because of its size or vicious propensity or other characteristic would constitute a danger to human life or domesticated animals. Any canine with a genetic make-up of 25% or higher wolf, coyote, or fox shall be considered a wild animal.

608.02 KEEPING OF ANIMALS LIMITED.

Except as otherwise provided in this chapter and in the applicable zoning district regulations, no person shall keep, maintain or house any animal.

608.03 EXCEPTIONS.

The provisions of Section 608.02 shall not apply to:

- (a) Any animal properly contained and being displayed or offered for sale to the public in a properly licensed store;
- (b) Any animal properly kept and maintained at a zoological garden, a licensed circus, an educational institution or any City park.

608.04 RELEASING OR SEIZING OTHER PERSONS' ANIMALS.

(a) Except as otherwise permitted by this chapter, no person shall let out, untie, unloose, take or seize any animal lawfully and rightfully kept by another in any stable, pasture, yard or other enclosure so as to allow such animal to run at large.

(b) A person may seize and take into custody or possession any animal found running at large or trespassing upon the premises owned or occupied by such person. A person who takes an animal into custody or possession pursuant to this subsection shall notify the Police Department within 24 hours of his or her action. The Police Department shall promptly take custody or possession of the animal.

608.05 SANITARY CONDITIONS REQUIRED. (REPEALED)

(EDITOR'S NOTE: Section 608.05 was repealed by Ordinance 02-03, passed May 20, 2003.)

608.06 DUTY OF MOTORIST WHO STRIKES AN ANIMAL.

Any operator of a motor vehicle who knows or has reason to believe that he or she has struck an animal shall, at once, report the accident to the appropriate law enforcement agency.

608.07 POISONING ANIMALS. (REPEALED)

(EDITOR'S NOTE: Section 608.07 was repealed by Ordinance 02-03, passed May 20, 2003.)

608.08 CRUELTY TO FOWL. (REPEALED)

(EDITOR'S NOTE: Section 608.08 was repealed by Ordinance 02-03, passed May 20, 2003.)

608.09 CRUELTY TO ANIMALS.

- (a) No person shall cruelly treat or abuse an animal in any of the following ways:

(1) Kill without just cause, Willfully and maliciously kill, maim, disfigure, beat, torment, torture, overload, overwork, abandon or otherwise abuse an animal; ~~or~~ cause, instigate or permit any fight or combat with or between animals; or cruelly drive or work an animal or cause an animal to be cruelly driven or worked;

(2) Abandon or willfully neglect an animal which he or she knows or has reason to believe is suffering due to age, disease, malnutrition, parasite infestation or injury, or fail to report such condition to the appropriate law enforcement agency for appropriate action;

(3) Fail to provide his or her animal with sufficient food, potable water, exercise, grooming, sanitary conditions, shelter, protection from the weather, ~~and veterinary care in order to maintain an animal in a state of good health;~~

(4) Fail to provide veterinary or other medical care when an animal is in pain or distress, including but not limited to the following when an animal is:

A. In a state of emaciation.

B. Unable to rise or walk.

C. Crying out in pain.

D. Unable to eat or drink.

E. Suffering from unattended broken bones, wounds, burns, or contusions.

F. Painful or difficult breathing.

G. Passing blood in urine, feces, and/or vomit.

H. Infested with parasites or maggots.

I. Infected with a skin disease.

(45) Knowingly give or administer to an animal any poisonous substance, alcoholic beverage or controlled substance, unless prescribed by a veterinarian or as otherwise lawfully provided for in this chapter or by State law;

(56) Knowingly place, expose, or leave any poisonous substances at any public or private place, whether mixed with food or not, so that the same is liable to be eaten by an animal. However, it shall not be unlawful for a person to do the following:

A. Place, on his or her own property, commonly recognized and lawfully obtained poisons, mixed only with vegetable substances, for the purpose of rodent extermination;

B. Place poisons, on his or her own property, for the purpose of controlling the depredations of designated animals pursuant to and in accordance with the rules governing a valid permit issued by the Michigan Department of Natural Resources, or other agency or authority as provided for by State law.

(67) When transporting an animal:

A. The animal shall be safely enclosed within the vehicle; or if in an unenclosed or partially enclosed vehicle, including but not limited to, convertibles, pick-up trucks, or flatbed trucks, confine the animal in a container case or other device that is of proper and adequate size that will prevent the animal from falling from or jumping from the motor vehicle;

B. Carry or cause to be carried in or upon a vehicle or otherwise any live animal having the feet or legs tied together, other than an animal being transported for medical care, or a horse whose feet are hobbled to protect the horse during transport or in any other cruel and inhumane manner;

BC. Carry or cause to be carried a live animal in or upon a motor vehicle or otherwise without providing a secure space, rack, car, crate, or cage, in which livestock may stand, and in which all other animals may stand, turn around, and lie down during transportation, or while awaiting slaughter. As used in this subsection, for purposes of transportation of sled dogs,

"stand" means sufficient vertical distance to allow the animal to stand without its shoulders touching the top of the crate or transportation vehicle.

(78) Confine an animal on a tether unless the tether allows the animal access to suitable shelter and:

A. For dogs, the tether is at least ten feet in length; the tether and collar, harness or other type of collaring device when taken together ~~weighs not more than one-eighth of the dog's body weight and~~ does not, due to weight, inhibit the free movement of the dog; the manner of tethering prevents injury, strangulation, or entanglement on fences, trees or other man-made or natural obstacles or objects; the collar, harness or any other type of collaring device being used is designed for that purpose and made from material that prevents injury to the dog; the period of tethering does not exceed one continuous hour, except that tethering of the same dog may resume after an hiatus of three continuous hours; and the dog is tethered no more than a total of three hours per day.

B. For all other animals, the tether is at least three times the length of the animal as measured from the tip of its nose to the base of its tail, or the tether permits movement over at least 120 square feet, whichever is greater;

C. The manner of tethering does not allow an animal to become tangled, injured or to suffer undue stress;

D. The weight of the tether does not allow the animal to comfortably raise its head or move.

(9) Confine an animal:

A. Without sufficient potable water made continuously available unless otherwise directed by a licensed veterinarian, or lack of food, or proper care;

B. Within or on a motor vehicle at any location under such conditions as may endanger the health or welfare of the animal, including, but not limited to ambient temperature above 80 degrees Fahrenheit or below 25 degrees Fahrenheit;

C. In such a fashion that the animal does not have a dry area to rest;

D. If a dog, in an outdoor kennel that is of a size that does not allow the dog to stand or adequately move around and in no instance shall the kennel be less than less than 32 square feet; or in a cage that does not allow an animal to stand or turn around;

E. With another animal that is a natural enemy, temperamentally unsuited, or otherwise incompatible to be so near to each other as to cause injury, fear, or torment.

(10) Unless performed by a licensed veterinarian, to crop an animal's ears, dock a tail, neuter, castrate, or to perform any other surgical procedure upon an animal;

(811) Color, dye, stain or otherwise change the actual color of a fowl or rabbits;:

(12) Intentionally run down or otherwise abuse, harass, or worry any animal with any vehicle including but not limited to a bicycle or motor vehicle, including an off-road vehicle, motorcycle, motorbike, or snow-mobile;

(b) This section does not prohibit the lawful killing or other use of an animal, including, but not limited to, the following:

(1) Fishing, hunting, trapping or wildlife control pursuant to State or Federal regulation;

(2) Horse racing;

(3) The operation of a zoological park or aquarium;

(4) Pest or rodent control;

(5) Farming or generally accepted animal husbandry or farming practices involving livestock; or

- (6) Scientific research pursuant to State or Federal law.

608.10 RESPONSIBILITY OF OWNERS FOR VIOLATIONS.

An owner of an animal shall be found by a court as having prima facie responsibility for any violations of this chapter. This section does not preclude a person other than an owner, who has care, custody or responsibility for an animal from being found in violation of this chapter.

608.11 NUISANCE ANIMALS.

No person owning, possessing or having charge or control of an animal shall:

- (a) Permit such animal, whether licensed or unlicensed, to go beyond the premises of the owner unless the animal is held securely on a tether that is not longer than eight feet in length, or upon the premises of another, unless given permission by the owner or occupant thereof.
- (b) Permit such animal if it is vicious to be unconfined, unless securely muzzled and led by a leash not exceeding three feet in length.
- (c) Permit such animal, if it is a female animal, to go beyond the premises of such owner when such dog or cat is in season.
- (d) Own, harbor or keep any animal which, by frequent or loud habitual barking, yelping or howling, causes annoyance to other persons residing in the neighborhood.
- (e) Own, harbor or keep such animal if it has been bitten by an animal known to have been or reasonably suspected of having been afflicted with rabies at the time such animal was bitten, unless such bitten animal has been surrendered to the Police Department or an Animal Control Officer, held for observation and released by the Animal Control Officer.
- (f) Own or harbor any animal, either licensed or unlicensed, that, by the destruction of property or trespassing on the property of others, becomes a nuisance.
- (g) Permit such animal to be in a playground, school yard, beach, cemetery or other posted area, without the express permission of the authority in charge. This subsection shall not apply to police-owned dogs, certified or hearing dogs or guard dogs, when accompanied by their owner or his or her authorized agent, while actively engaged in an activity for which such dogs are certified and trained.
- (h) Fail to remove and dispose of, in a sanitary manner, any excreta deposited by such animal upon public or private property.
- (i) Except ~~in areas zoned AG Agricultural District or R-1R Single-Family Rural Residential District where agricultural uses are allowed by zoning~~, allow an animal to be unrestrained when outdoors on private property, unless a person capable of controlling the animal -is in attendance with the animal or unless adequate measures have been taken to prevent the animal from leaving the property. As used in this subsection, "adequate measures" include, but are not limited to, confining the animal to a fenced area which may include all or a portion of the property; confinement on a chain, rope or tether which is sufficiently strong and secure considering the size of the animal confined; or use of an electronically activated collar which prevents the animal's escape from the property.

608.12 RABID ANIMALS; SUSPECT ANIMALS; RESPONSIBILITIES OF OWNERS, ETC.

(a) Any person who owns or has in his or her possession or charge an animal which has contracted rabies, which has been subjected to the same, which is suspected of having rabies, or which has bitten any person shall, upon demand of a police officer or an Animal Control Officer,

produce proof of license, evidence of rabies vaccination and information as to the animal's whereabouts and shall surrender such animal for seizure and impoundment as provided in Section 608.13.

(b) Any person who owns or has possession or charge of an animal which has been attacked or bitten by another animal showing the symptoms of rabies shall immediately notify an Animal Control Officer or the Police Department of his or her possession of such animal. If directed by a police officer or Animal Control Officer, such person shall surrender the animal for seizure and impoundment pursuant to Section 608.13.

(c) Any person who owns or has possession or charge of an animal which has bitten or scratched a human being, or another animal, shall immediately place and keep such animal on a tether, or otherwise similarly restrained, even though the animal remains on the owner's property, and shall immediately notify the Police Department or an Animal Control Officer of all the facts known to the person concerning the incident. The person shall keep the animal continually under such supervision and control as may be required by the Police Department or an Animal Control Officer, or upon the direction of a police officer or Animal Control Officer, shall turn the animal over to the Police Department or Animal Control Officer -for seizure and impoundment pursuant to Section 608.13.

608.13 SEIZURE AND IMPOUNDMENT OF ANIMALS; CIRCUMSTANCES AUTHORIZING.

A police officer or Animal Control Officer is authorized to seize animals under the following circumstances and impound such seized animals as provided in Section 608.14, as applicable:

(a) Any animal found in the City which is doing any of the acts enumerated in Section 608.11 (a) through (c) and (e) through (i);

(b) All animals in the custody of persons in violation of Section 608.09 at the time of their arrest, whether physical arrest or by appearance ticket;

(c) Any animal which has attacked a person or another animal, causing serious injury or death, or any animal which, when found, is not on the premises of the owner and has attacked a person or another animal and caused an injury that is not a serious injury;

(d) An animal which:

- (1) Has contracted rabies;
- (2) Has been subjected to rabies;
- (3) Is suspected of having rabies;
- (4) Has bitten or scratched a human being or another animal; or
- (5) Has been attacked or bitten by another animal showing the symptoms of rabies.

(e) Any animal that appears from all of the circumstances to be abandoned, whether or not the animal appears to be in a state of good health, provided that if the animal is on private property, the seizure is under the authority of a search warrant;

(f) All animals in the custody of persons in violation of Section 608.18;

(g) An animal that is the subject of a hearing under Section 608.23.

608.14 IMPOUNDMENTS; PROCEDURES; TIME PERIODS; NOTIFICATION; DISPOSITION OF ANIMAL; COSTS.

(a) Search Warrants. Whenever an animal is found on private property, a search warrant shall be obtained before a police officer, Animal Control Officer, or other City agent may go onto the private property and remove the animal. Provided, however, that under the following

circumstances, an animal may be removed from private property without first obtaining a search warrant:

- (1) When a reasonable person would believe that the animal's life is in imminent danger;
- (2) When a reasonable person would believe that an animal is suffering in excruciating pain;
- (3) When a reasonable person would believe that the animal poses an imminent danger to persons or other animals;
- (4) When seizure has been ordered by court order.

(b) Length of Time Animal Held in Impound.

(1) Except as otherwise provided in ~~division-subsection~~ (2), animals impounded under this chapter shall be held for the following applicable periods:

A. Any animal impounded under the provisions of Section 608.13(a) or (e), shall be held for not less than four days, except that if the animal has evidence of ownership, or ownership is otherwise ascertained, notification to the owner shall be made in writing and the animal shall be kept for not less than seven days from the date of the notification as provided for in subsection (c) of this section.

B. Any animal impounded pursuant to Section 608.13(b), shall be held until disposed of pursuant to court order at the conclusion of court proceedings, or until the owner or other responsible person releases ownership of the animal.

C. Any animal impounded pursuant to Section 608.13 (c) shall be held for not less than seven days, unless a complaint has been made before a court having jurisdiction of such cases, whereby an order that such animal be destroyed or confined is sought pursuant to Section 608.23, in which case such animal shall be held until the case is finally disposed of in accordance with any order entered by the court in the matter.

D. Any animal impounded pursuant to Section 608.13(d) shall be held until an Animal Control Officer or the County Health Department determines that it is safe to release the animal; or, if an animal impounded pursuant to Section 608.13(d) is also the subject of a complaint made before a court having jurisdiction of such cases, whereby an order that such animal be killed or confined is sought pursuant to Section 608.23, then the animal shall be held until the case is finally disposed of, or until otherwise ordered by the court.

(2) Any animal which, in the opinion of the licensed veterinarian, is in a condition of health that is not likely to benefit from any reasonable treatment, and which has no evidence of ownership or whose owner, after reasonable efforts, has been unreachable, may be humanely destroyed before the time established in this section.

(c) Notification of Impoundment. Written notification of impoundment shall be given to every owner of an animal impounded pursuant to Section 608.13 if the animal has evidence of ownership or ownership is actually otherwise ascertained. Such written notification shall either be personally served upon the owner or shall be posted on the premises of the animal's owner and sent by first class mail to the owner's last known address and shall contain all of the following:

- (1) A description of the animal;
- (2) The date the animal was first impounded;
- (3) The reason for impoundment;
- (4) The name, address, and telephone number of the place of impoundment;
- (5) The maximum time that the animal will be held before release or being disposed of;
- (6) The requirement that the owner provide proof of current license and vaccinations, where required by ordinance or other law;

(7) The name of the impounding police officer or Animal Control Officer;

(8) Date that the notice was personally served or posted and mailed, and a notation of which type of service was used.

(d) Requirements to Redeem Animal From Impound. In addition to any other requirement set forth in this chapter or by court order, in order to redeem an animal from impound, all of the following requirements must be met:

(1) Microchip. Unless an animal already has one, a microchip shall be implanted prior to the animal being redeemed, unless a licensed veterinarian signs an affidavit stating that such implantation would jeopardize the health of the animal;

(2) Unaltered animals.

A. Sterilization. Upon a third or subsequent time an animal is impounded, any animal six months of age or older shall be sterilized prior to the animal being redeemed from impound, unless a licensed veterinarian signs an affidavit stating that such sterilization would jeopardize the health of the animal;

B. Unaltered Fee. When an animal is impounded for the second or subsequent time, the owner or other person responsible for that animal must pay an unaltered animal fee as prescribed in Section 802.24 , in order to redeem the animal. The unaltered fee is in addition to all other fees, fines, and costs provided for otherwise under these ordinances.

C. Voucher. The person paying the unaltered animal fee will receive a voucher, on a form prepared by the City in the amount of the unaltered fee paid, which will be redeemable as follows:

1. Second Impound of Animal. The voucher may be applied up to the full amount toward spaying or neutering the animal redeemed if the spay or neuter is done within 30 days of redemption. If the spay or neuter is done before redemption any difference between the cost of the spay or neuter and the voucher amount will be refunded to the voucher owner upon request. There is no refund of any unused voucher amount if the spay or neuter is not done before redemption.

2. Third or Subsequent Impound. The voucher may be applied up to the full amount of the spaying or neutering of the animal. The spay or neuter must be done before redemption. There is no refund of any unused portion of the voucher.

D. Unaltered Fee Not Redeemed. The portion of an unaltered fee not redeemed as set forth above, is to be placed in the Police Department Animal Control budget for use for any animal control purpose.

E. City Not Responsible for Cost of Altering. Nothing herein makes the City responsible for any costs of spaying or neutering an animal. This provision only allows the unaltered fee to be redeemed for the cost of spay or neuter, up to the amount of the unaltered fee paid, in accordance with these provisions.

F. Circumstances for Warning on First Impound. If an animal is being redeemed from impound for the first time, the owner or other responsible party will receive a warning, instead of the Class C ticket for a violation of Section 608.11 (a), Allowing an Animal to Stray, if the animal is voluntarily spayed or neutered prior to redemption. The person may still be cited for any other violation provided for under these ordinances.

(3) Payment of Costs. Payment in full of all costs while impounded, including but not limited to, ~~the~~ microchip implantation, sterilization and for the entire cost of care for the animal while the animal was impounded;

(4) Proof of Ownership. Proof of ownership ~~which~~ may be accomplished by a current valid license, veterinary records, or proof of purchase or adoption, which reasonably identifies the animal; and

(5) Proof of License; Immunization. There must be provided proof of current valid license and immunizations, if required by local or State law.

(e) If an owner does not complete all of the above requirements listed in subsection (d) hereof within seven days, the animal will be deemed abandoned and forfeited.

(f) Action For Forfeiture. If an animal is impounded under this chapter and is being held pending the outcome of a criminal action charging a violation of Section 608.09, before final disposition of the criminal charge:

(1) The City Attorney may file a civil action in the court that has jurisdiction of the criminal action, requesting that the court issue an order forfeiting the animal to the City or its designee before final disposition of the criminal charge.

(2) The City Attorney shall serve a true copy of the summons and complaint upon the defendant and upon a person with a known ownership interest or known security interest in the animal or a person who has filed a lien with the Secretary of State in an animal involved in the pending action. The forfeiture of an animal under this section encumbered by a securing interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of the crime.

(3) Upon the filing of the civil action, the court shall set a hearing on the complaint. The hearing shall be conducted within fourteen (14) days of the filing of the civil action, or as soon as practicable. The hearing shall be before a judge without a jury. At the hearing, the City Attorney has the burden of establishing by a preponderance of the evidence that a violation of Section 608.09 has occurred.

(4) If the court finds that the City Attorney has met this burden, the court shall order immediate forfeiture of the animal to the City or its designee unless the defendant, within seventy-two hours of the hearing, submits to the Court Clerk cash or other form of security in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the City or its designee in caring for the animal from the date of initial impoundment to the date of trial. If cash or other security has been submitted, and the trial in the action is continued at a later date, any order of continuance shall require the defendant to submit additional reasonable costs anticipated to be incurred by the City or its designee in caring for the animal until the new date of trial.

(5) If the defendant submits cash or other security to the court under this subsection the court may enter an order authorizing the use of that money or other security before final disposition of the criminal charges to pay the reasonable costs incurred by the City or its designee in caring for the animal from the date of initial impoundment to the date of final disposition of the criminal charges.

(6) The testimony of a person at a hearing held under this subsection is not admissible against him or her in any criminal proceeding except in a criminal prosecution for perjury. The testimony of a person at a hearing held under this subsection does not waive the person's constitutional right against self-incrimination.

(7) An animal seized under this chapter is not subject to any other civil action pending the final judgment of the forfeiture action under this subsection.

608.15 ~~OTHER IMPOUNDMENTS. (REPEALED) KEEPING STRAY ANIMALS; FAILURE TO SURRENDER STRAY ANIMAL.~~

~~It shall be unlawful for any person in the City to knowingly and intentionally harbor or keep in possession by confinement or otherwise any animal that does not belong to such person without permission of the owner. Any person within twenty-four (24) hours from the time such animal came into his or her possession must surrender the animal to the Calhoun County Animal Center or to an Animal Control Officer. Upon receiving said animal, an Animal Control Officer shall take such animal and place it in the Calhoun County Animal Center for a required legal stray hold period of five (5) days. If such animal is not reclaimed after five (5) days, the person who possessed and surrendered the animal may apply through normal process and fees to become the adoptive owner of the animal. The expense of sheltering fees, license fee and rabies inoculation must be assumed by the owner if the animal is reclaimed prior to the end of the five (5) days. No person harboring such an animal shall refuse to relinquish such animal to its legal owner prior to the expiration of said five (5) days.~~

~~—(EDITOR'S NOTE: Section 608.15 was repealed by Ordinance 02-03, passed May 20, 2003.)~~

608.16 LICENSING; INTERPRETATION.

It being necessary to promote the effective enforcement of licensing and control of dogs and cats within the City, so that the public health, safety and welfare may be protected, it is the intent of the City Commission that the following sections relating to pet licensing be liberally construed, provided that the provisions are not in conflict with any other law of the City or other appropriate governmental unit.

608.17 LICENSE REQUIREMENT; FEES; TERM.

(a) No person shall own, harbor or keep a dog or cat over the age of six months within the City without first obtaining a license from the City Treasurer or the authorized agent of the City Treasurer. The application for such license shall state the breed, sex, age, color and markings of such dog or cat to be licensed, and the name and address of the owner. The application for a license under this section shall be accompanied by a valid certificate of vaccination for rabies, stating the name of the veterinarian who administered the inoculation to the dog or cat, the date it was given, and the length of time during which such inoculation is effective.

(1) Exception. No dog or cat shall be exempt from the rabies vaccination requirement set forth in this chapter, unless:

- a. There is a valid medical reason supplied in writing by a licensed veterinarian, or,
- a-b. A titre test is performed on the dog or cat that proves the animal's titre is sufficient to adequately protect against the rabies virus. The veterinarian performing the titre test must put into writing the results of the test, which will be accompanied by a copy of the titre test results. The titre test must be done each year on the exempt dog or cat before a current license will be issued. If the exempt dog or cat's titre is not sufficient to protect the dog or cat from the rabies virus the dog or cat will be required to have a rabies vaccination or be euthanized. All cost incurred under this section will be paid by the owner of the dog or cat.

(b) The license fee shall be as prescribed in the schedule provided for in Section 802.24 of the Business Regulation and Taxation Code and in conformance with this section. An application for a cat or dog license accompanied by written proof that the animal has been neutered or spayed shall result in a reduced license fee as prescribed in the above-mentioned schedule of fees. However, any waiver or reduction of the license fee as permitted by the schedule of fees or by this chapter shall not remove or abrogate the obligation of an owner to obtain a license for a cat or dog in conformity with this chapter. If a dog or cat becomes six months of age after March 1st of any year, the owner shall apply for a license forthwith and be charged the same fee as specified in this subsection unless the dog or cat becomes six months of age after July 1st in any year, in which case the owner shall be charged a license fee of one-half of the fee specified in this subsection. If a licensed dog is transferred to another owner within the City the last registered owner shall notify the City Treasurer so that the license transfer may be documented. A dog with a license from another jurisdiction within the State of Michigan shall not be required to be licensed until the next license year as provided in subsection (b) provided the dog remains with the owner to whom the license was issued.

(c) The license year for dogs and cats shall commence on January 1st and end on the following December 31st, or on the expiration of the rabies certificate of vaccination, whichever occurs first. Licenses issued under this chapter are not transferable and license fees are not prorated or refundable except as provided in subsection (b) hereof. Applications for licenses shall be made in the December prior to the next licensing year or within thirty days of acquiring a licensable dog or cat. If a dog or cat, pursuant to this chapter, should have been registered by March 1st of any given year, but is registered after March 1st, the license fee shall be that as set forth in subsection (b) hereof, plus a penalty as established by the City Commission.

(d) There shall be no license fee for a dog used as a guide or leader dog for a blind person, -a certified guide dog or a certified hearing dog for a deaf or audibly impaired person, or a service dog for a physically limited person. There shall be no license fee for a dog being trained under contract as a leader dog for a blind person upon presentation to the City Treasurer of such contract with a qualified organization recognized by the Michigan Department of Labor and presentation of the record of the dog's health and vaccination history, together with the application described in subsection (a) hereof.

(e) None of the provisions of this Section shall be construed as requiring the licensing of any dog imported into the City from outside the State of Michigan for a period not to exceed 30 days for show, trial, breeding or hunting purposes.

(ef) A person who owns, harbors or keeps a dog or cat shall produce a valid dog or cat license upon the request of any person who is authorized to enforce this chapter.

(g) If a person has received a citation for a violation of this section, the court shall waive fines, costs, and assessments upon receipt of certification by a City of Battle Creek Animal Control Officer or Police Officer that a license was obtained before the appearance date on the citation.

608.18 LICENSE TAGS.

Upon receipt of the rabies certificate and payment of any fee or penalty specified in Section 608.17, the City Treasurer or an authorized agent of the City Treasurer shall issue a tag made of metal or other suitable material bearing the name of the City, the year of issuance and the license number that shall be attached to the collar of the licensed dog or cat. Dogs and cats shall wear collars affixed with their City license tags at all times when off the premises of their owners,

except as otherwise permitted by this chapter or unless the dog is engaged in lawful sport hunting and is accompanied by its owner. No person other than the owner, ~~or an Animal Control Officer,~~ or a Police Officer, in the line of duty shall remove a license tag from a dog or cat. If a license tag is lost, it shall be replaced by the City Treasurer upon application by the owner of the dog or cat and upon production of a license and a sworn statement of facts regarding the loss of the tag. The cost of replacement of a tag shall be determined from time to time by the City Commission.

608.19 LIMITATION UPON NUMBER OF DOGS AND CATS; KENNEL LICENSES.

(a) No person shall suffer, allow or permit to remain on the same or adjacent premises controlled by him or her, within the City, more than three dogs or five cats, unless he or she obtains a kennel license as allowed by zoning.

(b) The limitation set forth in subsection (a) hereof shall not apply to the owner of a female dog which has given birth to puppies, which owner may keep such female and such puppies for a period not to exceed three months from the date of birth of the litter. Neither shall such limitation apply to a properly licensed store engaged in the display and sale of dogs.

(c) The limitation set forth in subsection (a) hereof shall not apply to the owner of a female cat which has given birth to kittens, which owner may keep such female and such kittens for a period not to exceed three months from the date of birth of the litter. Neither shall such limitation apply to a properly licensed store engaged in the display and sale of cats.

~~(e)~~(d) A kennel shall be construed as an establishment wherein or whereon four or more dogs or six or more cats are confined. Any person who keeps or operates a kennel shall, in lieu of individual licenses required under this chapter, apply to the City Treasurer for a kennel license entitling him or her to keep or operate a kennel. Proof of vaccination of the dogs against rabies is not required with the application. The license shall be issued by the City Treasurer on a form prepared and supplied by the Director of the State Department of Agriculture and shall entitle the licensee to keep any number of dogs aged six months old or older, but not at any time exceeding a certain number to be specified in the license. The fee to be paid for a kennel license shall be as prescribed in the schedule provided for in Section 802.24 of the Business Regulation and Taxation Code. A fee of double the original license fee shall be charged for each previously licensed kennel whose kennel license is applied for after June 1 and all animals upon the premises of the kennel will be considered unlicensed. With each kennel license, the City Treasurer shall issue a number of metal tags equal to the number of dogs authorized to be kept in the kennel. All the tags shall bear the name of the City and the number of the kennel license and shall be readily distinguishable from the individual license tags for the same year.

~~(d)~~(e) The City Treasurer shall not issue a kennel license for a new kennel under the provisions of this chapter, unless the applicant furnishes an inspection certificate signed by the Director of the State Department of Agriculture, or his or her authorized representative, dated within thirty days of the filing of the application for a kennel license, stating that the kennel to be covered by the license complies with the reasonable sanitary requirements of the Department of Agriculture and that the dogs are properly fed and protected from exposure commensurate with the breed of the dog.

~~(e)~~(f) Any animal kept in a kennel that is 4 months or older must possess a valid rabies vaccination before a new or renewal license shall be issued.

(g) The licensee of a kennel shall, at all times, keep one tag attached to a collar on each dog four months old or older kept by him or her under a kennel license. No dog bearing a kennel tag shall be permitted to stray or be taken anywhere outside the limits of the kennel; ~~;~~ This section

does not prohibit the taking of dogs having a kennel license outside the limits of the kennel temporarily and in leash, nor does it prohibit the taking of such dogs out of the kennel temporarily for the purpose of hunting, breeding, trial or show.

(h) All licensed kennels shall be required to have double fencing and secured flooring. The fence on the outer perimeter shall be constructed in such a manner as to prevent stray animals and people from making direct contact with kennel animals. The flooring shall be constructed in such a manner as to prevent animals digging out of the enclosure. Double fencing is not required if the fence is a solid fence or where animals are kept inside the kennel building.

(i) Any kennel which under State law is to be covered by a license shall be of such construction as will adequately and comfortably house any animals kept therein during any season of the year. The buildings, including walls and floor, shall be of such construction as to be readily cleaned and kennels and yards connected therewith used to confine kennel animals shall be kept clean and free from accumulation of filth and debris.

(j) All animals kept or maintained in connection with such kennels shall be furnished with a clean, fresh water supply and adequate and proper food to maintain such animals in a state of good health.

(k) Animal Control Officers shall have the right to inspect any kennel in the City in order to determine whether said kennel is in compliance with this Ordinance and the State statute. If the kennel has been issued a license, it shall be the duty of the Animal Control Officer to suspend said license if, in the Officer's opinion, conditions exist which are unhealthy or inhumane to the animals kept therein pending correction of such conditions, and further shall have the duty to revoke said license if such conditions are not corrected within a designated reasonable time.

~~—(l)~~ Nothing in this section shall authorize the existence of a kennel in violation of zoning or health requirements of State law or of other provisions of these Codified Ordinances.

608.20 MAINTENANCE AND SUPERVISION OF ANIMAL CONTROL OFFICERS.

(a) The City shall maintain at least one full-time Animal Control Officer who shall be under the control of the Chief of Police or his or her delegate.

(b) It shall be a violation of this ordinance to:

(1) Interfere with, hinder, oppose, obstruct, or molest an Animal Control Officer in the performance of his or her duties.

(2) Remove a collar or tag from any animal without the permission of the owner.

(3) Decoy or entice an animal out of an enclosure or off the property of the owner.

(4) Seize, molest, or tease any animal while held or led by any person or while on the property of its owner.

(5) Refuse to identify or provide ones name to an Animal Control Officer, or to give a false name in connection with the issuance of a citation under this ordinance or State statute.

608.21 MINIMUM STANDARDS FOR ANIMAL CONTROL OFFICERS.

The minimum standards for ~~the~~ Animal Control Officers shall be:

(a) The same as for a police officer as to the requirements for physical, educational, mental and moral fitness; and

(b) A minimum course of study of not less than 100 instructional hours, as described by the Department of Agriculture, unless the Animal Control Officer is a police officer or has at least three years experience as an Animal Control Officer.

608.22 APPEARANCE TICKETS. (REPEALED)

(EDITOR'S NOTE: Section 608.22 was repealed by Ordinance 22-95, passed July 18, 1995. See Sections 220.05(e) and 220.065(d) of the Administration Code.)

608.23 ORDER TO SHOW CAUSE; KILLING OR CONFINING ANIMALS; COURT ORDERS TO PROTECT PUBLIC.

(a) A District Court judge or magistrate shall issue a summons to the owner of an animal to show cause why an animal should not be destroyed, upon a sworn complaint that any of the following exists:

(1) A dog is engaged in lawful hunting but is not under the reasonable control of its owner and does not have a license tag attached to its collar.

(2) An animal, licensed or unlicensed, has destroyed property or habitually causes damage by trespassing on the property of a person who is not the owner of such animal.

(3) An animal is a dangerous animal.

(4) An animal has shown vicious habits or has, without provocation, molested a person when such person was lawfully on a public highway.

(5) An animal, whether duly licensed and wearing a license tag or not, has run at large contrary to this chapter.

(b) Upon the filing of a sworn complaint as provided in this section the judge or magistrate shall order the owner of the animal in question to immediately turn the animal over to a registered animal control shelter, a registered animal protection shelter, a licensed veterinarian, or a boarding kennel properly licensed in the City of Battle Creek, at the owner's option. The animal shall be retained by such authority until a hearing is held and a decision is made for the disposition of the animal, including any appeal period. The owner shall notify the person(s) who retain the animal under this section of the complaint and order. The expense of the boarding and retention of the animal is to be borne by the owner. The animal shall not be returned to the owner in any case until it has a current rabies vaccination and a license as required by law.

(c) After a hearing, the court shall order one of the following dispositions:

(1) If the animal has been found to have violated Section 608.23 (a) (1), (2), (4), or (5), the court shall either order the dog destroyed, at the expense of the owner, or confined to the premises as provided for in Section 608.23(d).

(2) If the animal is found to be a dangerous animal under Section 608.23(a)(3) that has caused serious injury or death to a person or another animal, the magistrate or judge shall order the destruction of the animal, at the expense of the owner.

(3) If the court finds that the animal is a dangerous animal under Section 608.23(a)(3) but that did not cause serious injury or death to a person or another animal, but is likely in the future to cause serious injury or death to a person or another animal, or in the past has been adjudicated a dangerous animal, the court may order the destruction of the animal, at the expense of the owner. If destruction is not ordered, the court shall order the animal confined to the premises as provided for in Section 608.23(d) and shall notify the animal control authority for the county in which the complaint was filed of the finding of the court, the name of the owner of the dangerous animal, and the address at which the animal was kept at the time of the finding of the court. The court may also order the owner to comply with one or more of the provisions of Section 608.23(e).

(d) "Confinement to premises" means that the owner must install an escape-proof fence or enclosure, including a top or roof, to ensure that the animal cannot escape or that nonauthorized individuals cannot enter the premises.

(e) In addition to the dispositions ordered by the court in Section 608.23(c) the court may order one or more of the following:

(1) Order the owner to have an identification number tattooed upon the animal or an identification chip inserted in the animal, at the owner's expense, by or under the supervision of a licensed veterinarian. The identification number shall be assigned to the animal by the Michigan Department of Agriculture, or other agency designated by the State, and shall be noted in its records. If a tattoo is used, the identification number shall be tattooed on the upper inner left rear thigh of the animal by means of indelible or permanent ink.

(2) Order the owner to have the animal sterilized.

(3) Order the owner to obtain and maintain liability insurance coverage sufficient to protect the public from any damage or harm caused by the animal.

(4) Order the owner to obtain and maintain current rabies vaccination and a license, as required by law.

(5) Order the owner to pay all costs of boarding and retention of the animal, including medical expenses, that were incurred from the date of the impoundment until the animal is released pursuant to court order, including any time that the animal is retained for the purposes of an appeal period running.

(6) Order~~ing~~ the owner to pay the actual costs of the City in prosecuting this matter.

(7) Any other action appropriate to protect the public.

608.24 COMPLAINTS; DESTRUCTION OR RETENTION OF ANIMAL; COURT ORDERS TO PROTECT PUBLIC. (REPEALED)

(EDITOR'S NOTE: Section 608.24 was repealed by Ordinance 02-03, passed May 20, 2003.)

608.25 LICENSE REQUIREMENTS FOR FERRETS; FEE; TERM; RABIES CERTIFICATE.

(a) No person shall own, harbor, or keep a ferret over ~~the age of~~ twelve weeks of age within the City without first obtaining a license therefor from the City Treasurer. Licenses for ferrets shall be issued in compliance with ~~Act 339 of the Public Acts of 1919, being M.C.L.A. 287.261 to 287.290, and~~ Act 358 of the Public Acts of 1994, being M.C.L.A. 2879.891 to 2879.901. The application for such license shall state the breed, sex, age, color and markings of such ferret and the name and address of the last previous owner, if any. Such application for a license shall be accompanied by a valid certificate of vaccination for rabies, stating the name of the veterinarian who administered the inoculation, the date it was given and the length of time during which such inoculation is effective.

(b) The license fee shall be as prescribed in the Fee, Bond and Insurance sSchedule, ~~provided for in~~ Section 802.24, of the Business Regulation and Taxation Code. If a ferret becomes twelve weeks of age after March 1 of any year, the owner shall apply for a license forthwith and shall be charged the same fee as specified in this subsection, unless a ferret becomes twelve weeks of age after July 10 in any year, in which case the owner shall apply for a license forthwith and shall be charged a license fee of one-half of the fee provided for in Section 802.24.

(c) The license year shall commence on January 1 and end on the following December 31. Licenses are not transferable and license fees shall not be prorated or refundable. Application for

ferret licenses shall be made in the December prior to the next licensing year or within thirty days of acquiring a licensable ferret. If a ferret, pursuant to this section, should have been registered by March 1 in any given year, but is registered after March 1, the fee shall be the standard fee set forth in subsection (b) hereof for a ferret, plus a penalty as established by the City Commission.

(d) A person who owns or harbors a ferret shall produce proof of a valid rabies certificate signed by a veterinarian and a valid ferret license upon the request of any person who is authorized to enforce this chapter.

(e) A person is exempt from the licensing provisions of this section when he or she is in full compliance with the requirements for a hobby breeder established by Act 358 of the Public Acts of 1994, being M.C.L.A. 287.891 to 287.901.

608.26 FERRET OWNER'S RESPONSIBILITIES.

(a) A person who owns or harbors a ferret that has bitten, scratched, caused abrasions or contaminated with saliva or other infectious material an open wound or mucous membrane of a human being shall report the incident within forty-eight hours to the County Public Health Department.

(b) A person who owns or harbors a ferret that has potentially exposed a person or other animal to rabies by biting, scratching, causing abrasions or contaminating open wounds or mucous membranes with saliva or other infectious material, shall handle the ferret in accordance with current published guidelines of the centers of disease control and prevention.

(c) No person owning, possessing or having charge of any ferret shall permit a ferret to leave the owner's property unless the ferret is confined or leashed and under the direct control of the owner or a responsible person designated by the owner.

(d) No person shall release a ferret into the wild or abandon a ferret.

608.27 GIVING ANIMALS AS PRIZES.

(a) No person shall give away any live vertebrae animal as a prize for, or as an inducement to enter any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer any vertebrae animal as an incentive to enter into any business agreement in which the offer was for the purpose of attracting trade.

(b) As used in this section, "vertebrae animal" means any fish, amphibian, reptile, bird or mammal.

(c) Whoever violates this section is responsible for a Class D Municipal civil infraction and shall be subject to the civil fine set forth in Section 202.98 and shall be subject to the equitable powers of the District Court to enjoin further violations of Section 608.27.

608.28 WILD ANIMALS.

Any person who keeps, harbors, or allows to remain on his property a wild animal, shall:

(a) Allow Animal Control Officers to inspect the animals and the area they are being kept for the health and safety of the animals and the community. Inspections can be done at any time and as often as the officer deems necessary.

(b) Maintain an adequate area depending on biological and social need of the species to prevent escape and to keep the animal safe and in sanitary conditions.

(c) Provide veterinary care to keep the animal in good health.

(d) Be presumed liable for damage or injury caused by the animal.

(e) If the animal escapes, it is the duty of the owner to report the escape immediately to the Police Department and to recapture the animal. However, if the animal poses a danger to the public safety, then Animal Control will assist at the owner's expense with whatever means are available to recapture the escaped animal, including the destruction of the animal.

(f) Maintain all State and Federal permits required to keep this animal.

(g) Comply with applicable zoning laws.

608.29 CLASSIFICATION OF ANIMALS.

(a) Purpose: The purpose of this section is to establish a procedure whereby animals that pose a significant threat of causing serious injury to humans, other animals or property are identified and subjected to precautionary restrictions before any such serious injury occurs.

(b) Classification of Levels of Dangerousness: An animal shall be classified as potentially dangerous or dangerous based upon specific behaviors exhibited by the animal. An animal will be considered a potentially dangerous animal if it exhibits behavior described in subsection's (1) and (2) of this section. An animal will be considered a dangerous animal if it exhibits behavior described in subsections (3), (4), and (5).

(1) Level 1 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior, or otherwise threaten or endanger the safety of any domestic animal.

(2) Level 2 behavior is established if an animal at large is found to menace, chase, display threatening or aggressive behavior, or otherwise threaten or endanger the safety of any person.

(3) Level 3 behavior is established if an animal, while confined in accordance with subsection (a) of this section, aggressively bites or causes physical injury less than serious injury to any person.

(4) Level 4 behavior is established if an animal, while at large, aggressively bites or causes physical injury less than serious injury to any person or domestic animal.

(5) Level 5 behavior is established if:

(a) an animal, whether or not confined, causes the serious injury or death of any person; or

(b) an animal, while at large, kills or causes serious injury to any domestic animal; or

(c) an animal engages in or is found to have been trained to engage in exhibitions of fighting; or

(d) an animal that has been classified as a Level 3 or 4 dangerous animal repeats the behavior described in subsection (3) and (4) of this section after the owner receives notice of the classification level.

(6) Notwithstanding subsection (1) through (5) of this section, the Officer shall have discretionary authority to refrain from classifying an animal as potentially dangerous or dangerous even if the animal has engaged in the behaviors specific in subsections (1) through (5) of this section, if the Officer determines that the behavior was the result of:

(a) a person trespassing on the property of the animal's owner;

(b) a person provoking or tormenting the animal;

(c) the animal responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault; or

(d) an injury to the animal.

(c) Identification of Potentially Dangerous, Animals; Appeals; Restrictions Pending Appeal.

(1) The Animal Control Officer or a Police Officer shall have authority to determine the classification of any animal. This determination shall be based upon an investigation that includes a person's observation of and testimony regarding the animal's behavior, including the animal's upbringing and control of the animal. These observations and testimony can be provided by Animal Control Officers or by other witnesses who personally observed the behavior. They shall sign a written statement attesting to the observed behavior and agree to provide testimony, if necessary, regarding the animal's behavior.

(2) The Animal Control Officer shall notify the owner or agent in control by certified mail or personal service of the animal's behavior and classification as a potentially dangerous or dangerous animal and of the additional restrictions applicable to that animal by reason of its classification. If the owner denies that the behavior in question occurred, proceedings may begin pursuant to Act 426 of the Public Acts of 1988, as amended, being Sections 287.321 - 287.323 of the Michigan Compiled Laws (MSA 12.545 (1) - 12.545(3)).

(3) Once the owner has received notice of the animal's classification as a Level 1, 2, 3 or 4 animal pursuant to Section 608.28(b), the owner shall comply with the restrictions specified in the notice.

(4) If the Animal Control Officer finds that an animal has engaged in Level 5 behavior, he shall order the owner to immediately turn the animal over to the Calhoun County Animal Center, an incorporated humane society, or a licensed veterinarian, at the owner's option, to be retained until a hearing regarding the disposition of the animal. The owner shall notify the person who retains the animal of the pending hearing and shall notify the Animal Control Officer as to where the animal is to be held. The expense of the boarding, veterinary care and retention of the animal is the obligation of the animal's owner.

(5) The imposition of regulations pursuant to this section shall not prevent an Animal Control Officer from also filing a complaint with the District Court.

(d) Regulation of Potentially Dangerous Animals: In addition to the other requirements of this Ordinance, the owner of a potentially dangerous animal shall comply with the following regulations:

(1) If the animal has engaged in Level 1 behavior, the animal shall be restrained by a physical device or structure that prevents the animal from reaching any public sidewalk or adjoining property whenever that animal is outside the owner's home and not on a leash. The Chief of Police may adopt administrative rules establishing specifications for the required device or structure.

(2) If the animal has engaged in Level 2 behavior, the owner shall confine the animal within a secure enclosure whenever the animal is not held on a leash or inside the home of the owner. The secure enclosure must be located so as not to interfere with the public's legal access to the owner's property.

(3) If the animal has engaged in Level 3 behavior, the owner shall meet the requirements of subsection (2) of this section, and shall also post warning signs on the property in conformance with administrative rules to be adopted by the Chief of Police.

(4) If the animal has engaged in Level 4 behavior, the owner shall meet the requirements of subsection (2) and (3) of this section and shall not permit the animal to be off the owner's property unless the animal is muzzled and restrained by an adequate leash and under the control of the owner or agent in control, or is within a securely fastened enclosed structure.

(5) Any animal that has been found to have engaged in Level 5 behavior as described in Section 608.28(b), may be euthanized upon a court order sought by Animal Control. After a show cause hearing the court shall order the destruction of the animal, at the expense of the owner if the animal is found to be a dangerous animal that caused serious injury or death to a person or an animal. The court may order the destruction of the animal, at the expense of the owner, if the court finds that the animal is a dangerous animal that did not cause serious injury or death to a person but is likely in the future to cause serious injury or death to a person or in the past has been adjudicated a dangerous animal.

(6) To insure correct identification, all animals that have been classified as dangerous shall have an identification number tattooed upon the animal or a microchip placed in the animal, at the owner's expense, by or under the supervision of a licensed veterinarian. The identification Tattoo Number shall be assigned to the animal by the Michigan Department of Agriculture and shall be noted in its records pursuant to Act No 309 of the Public Acts of 1939, being Sections 287.301 to 297.308 of Michigan Compiled Laws. The identification number shall be tattooed on the upper inner left rear thigh of the animal by means of indelible or permanent ink. The microchip shall be placed in the area recommended by the veterinarian in conjunction with the type of animal being micro chipped.

(e) Reporting of Potentially Dangerous or Dangerous Animal: Any person who observes or has evidence of animal behavior as dangerous shall forthwith notify the Animal Control Division.

608.30 Insert - FERAL CATS

608.31 Insert - URBAN LIVESTOCK

608.99 PENALTY; EQUITABLE REMEDIES.

(a) Except as otherwise provided, a person who violates or fails to comply with any of the provisions of this chapter is responsible for a Class C Municipal civil infraction and shall be subject to the civil fine set forth in Section 202.98. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) A person who violates or fails to comply with Section 608.09, 608.11(b), 608.12, 608.23(b), or 608.26 is guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than ninety days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(c) In addition to the penalties provided in this section, the court may prohibit or restrict a person convicted of a violation for cruelty from owning, possessing or harboring an animal or fowl for a period of up to two years.

(d) Except for a licensed veterinarian with a valid medical purpose, anyone who removes or attempts to remove an implanted microchip from an animal is guilty of a misdemeanor and shall be fined not more than five hundred (\$500.00) dollars or imprisoned for not more than ninety days, or both, for each offense.

(e) If an animal, previously adjudicated to be a dangerous animal, pursuant to Section 608.23(c)(2) or (3), or Act 426 of the Public Acts of 1988, attacks or bites a person and causes an

injury that is not a serious injury, the owner of the animal is guilty of a misdemeanor, punishable by imprisonment for not more than ninety days, a fine of not less than five hundred dollars (\$500.00), or community service work for not less than 240 hours, or any combination of these penalties, plus the costs of the prosecution.

(f) If the owner of an animal that has been previously adjudicated to be a dangerous animal, pursuant to Section 608.23(c)(2) or (3) or Act 426 of the Public Acts of 1988, allows the animal to run at large, such owner is guilty of a misdemeanor, punishable by imprisonment for not less than ninety days, a fine of not less than five hundred dollars (\$500.00), or community service work for not less than 240 hours, or any combination of these penalties, plus the costs of prosecution.

(g) In addition to the penalties provided for in this section, this chapter may be enforced by suit for injunction, action for damages or any equitable relief appropriate to the enforcement of this chapter, and including any relief provided for a Municipal Civil Infraction violation under Act 12 of the Public Acts of 1994, being M.C.L.A. 600.101 et seq.