

ORDINANCE NO. 176
AN ORDINANCE LICENSING AND REGULATING ANIMALS IN THE
CITY OF BABBITT AND REPEALING ORDINANCE NUMBERS
8, 14, 48, 118, AND 160

The City Council of Babbitt hereby ordains:

Section 1. Repealing of Previous Ordinances

The adoption of this Ordinance No. 176 repeals Ordinance Numbers 8, 14, 48, 118, and 160.

Section 2. Definitions

As used in this Chapter, unless the context otherwise indicates, the following words shall be defined to mean:

Subd. 1 Animal. "Animal" shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom.

Animals shall be classified as follows:

- A. Domestic. "Domestic animals" shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, , fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.
- B. Non-Domestic. "Non-Domestic animals" shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:
 - (1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
 - (2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes,

and jackals, but excluding commonly accepted domesticated dogs.

- (3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
- (4) Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.
- (5) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
- (6) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.

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

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

Subd. 3 Dog. "Dog" shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets.

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

Subd. 5 At Large. "At Large" shall be intended to mean off the premises of the owner and not under the custody and control of the owner or other person.

Subd. 6 Release Permit. "Release Permit" shall mean a permit issued by the Police Department for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee in accordance with that regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee, to be paid to the City, shall be as established from time to time by resolution of the City Council, but not less than \$25 the first time an animal is impounded, \$50 the second time it is impounded, and \$75 for the third and each subsequent time the same animal is impounded.

Section 3. Dogs and Cats - License Required; Vaccinations

Subd. 1 License Required.

A. All dogs and cats over the age of fourteen (14) weeks kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog and cat licenses shall be issued by the City Administrator upon payment of the license fee. The owner shall state, at the time of application is made for the license and upon forms provided for such purpose, his or her name and address and the name, breed, color, and sex of each dog and cat owned or kept by him or her. No license shall be granted for a dog or cat which has not been vaccinated against distemper and rabies, as provided in this Section. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog or cat is vaccinated. A veterinarian who vaccinates a dog or cat to be licensed in the City shall complete a certificate of vaccination. One copy shall be issued to the dog or cat owner, for affixing to the license application.

B. It shall be the duty of each owner of a dog or cat subject to this Section to pay to the City Administrator the license fee as imposed by the City Council by resolution.

C. Upon owner's payment of the license fee and compliance with the other requirements set forth herein, the City Administrator shall issue to the owner a separate license

certificate and separate metallic tag for each dog and cat licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog or cat with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog or cat tag is lost or destroyed, a duplicate shall be issued by the City Administrator. A charge of \$2, or as otherwise set by Council Resolution, shall be made for each duplicate tag. Dog and cat tags shall not be transferable from one dog or cat to another and no refunds shall be made on any dog or cat license fee or tag because of death of a dog or cat or the owner's leaving the City before the expiration of the license period.

D. The licensing provisions of this Subdivision shall not apply to dogs or cats whose owners are non-residents temporarily within the City, nor to dogs or cats temporarily brought into the City for the purpose of participating in any dog or cat show.

E. The funds received by the City Administrator from all dog and cat licenses and metallic tags shall be placed in the City General Fund.

Subd. 2 Vaccinations.

A. All dogs and cats kept, harbored, maintained, or transported within the City shall be vaccinated at least once every three years by a licensed veterinarian for rabies and distemper.

B. A certificate of vaccination must be kept, on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Administrator or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Administrator or police officer. Failure to do so shall be deemed a violation of this Ordinance, in which case the dog or cat shall be subject to impoundment pursuant to Section 7 below and the

owner(s) shall be subject to the penalties set forth in Section 16 below.

Section 4. Non-Domestic Animals It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits. An exception may be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Section 5. Farm Animals Farm animals shall be kept only in agricultural or rural districts or areas of the City, in accordance with the City's zoning ordinance, rules and regulations. It shall be illegal for any person to own, possess, harbor, or offer for sale, any farm animals within the residential areas of the City. An exception may be made to this prohibition for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Section 6. Violations

Subd. 1. Violations. In addition to violations identified in the previous and subsequent sections of this Ordinance, the following shall be considered violations of this Ordinance and are hereby declared and classified as public nuisances:

A. Running at Large Prohibited. It is unlawful for the owner of any animal to permit such animal to run at large as defined in Section 2, Subd 5.

B. It shall be unlawful for any person to own, possess, harbor or keep more than two dogs, and two (2) cats, at any premises, household or dwelling unit, except that a fresh litter of pups or kittens may be kept for a period of three months before such keeping shall be deemed to be a violation of this Ordinance. Further, this prohibition shall not apply to an animal kennel which is properly licensed and operating in accordance with Minnesota Statutes, the city code and any other applicable laws, rules, regulations, and/or ordinances.

C. It shall be unlawful for the owner of any dog to fail or keep or prevent the dog from continuously and repeatedly

barking, crying, whining or howling. Barking, crying, whining or howling that persists for more than five minutes shall be considered "continuous and repeated" for purposes of establishing a violation of this subsection. Further, to be considered a violation of this subsection, such noises must be audible off of the owner's or caretaker's premises.

D. It shall be unlawful for any person's dog or other animal to damage the lawn, garden, or other property of another person or entity.

Section 7. Impoundment Any animals in violation of this Ordinance or owned, possessed, harbored or kept in violation of this Ordinance are subject to impoundment as provided herein.

Subd. 1. Impoundment. Any police officer or animal control officer may impound any dog or other animal found unlicensed; any dog or other animal found running at large; and/or any dog or other animal which is in violation of this Ordinance or which is being owned, possessed, harbored or kept in violation of this Ordinance. The police officer or animal control officer shall give written notice of the impounding to the owner of such dog or other animal, if known. The written notice shall be mailed or hand delivered to the owner, if the name, address and/or location of the owner are known, and the notice shall state: (a) a description of the animal seized; (b) the reasons and/or circumstances as to why the animal has been impounded; (c) the location, address, telephone number and name of the contact person of where the impounded animal is located; (d) statement that all actual costs of the care, keeping, maintenance and disposal of the animal during impoundment are the responsibility of the owner of the animal; and (e) a statement that if the animal is not claimed by the owner within ten (10) regular business days from the date of the written notice, as set forth in Section 7, Subd. 3 of this Ordinance, then the animal shall be sold, destroyed and/or otherwise disposed of in accordance with Section 7, Subd. 3 of this Ordinance.

In the event the owner or the address and/or location of the owner are unknown, the officer shall post the required written notice on the public bulletin board at City Hall for ten (10) regular business days before the animal is sold, destroyed and/or otherwise disposed of in accordance with Section 7, Subd. 3 of this Ordinance.

As used in this subdivision and in Section 7, Subd. 3 below, the term "regular business day" shall be defined to mean any day during

which the establishment having custody of the animal is open to the public for not less than four consecutive hours between 8:00 o'clock A.M. and 5:00 o'clock P.M.

Except as otherwise provided in this Ordinance, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats, running at large.

Subd. 2. Biting Animals. Any animal that has not been inoculated by a rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in an authorized Pound for a period of not less than ten regular business days, during which time the animal shall be examined by a qualified veterinarian for symptoms of rabies. If the animal is afflicted with rabies or is found to be diseased in such a manner so as to be a danger to the health and/or safety of the public, then the animal shall be humanely killed and the City shall properly and safely dispose of the remains. If it is determined, upon examination, that the animal is healthy and free from symptoms of rabies, then the animal may be reclaimed by and released to the owner in accordance with the procedures and requirements set forth in Section 7, Subd. 3 below. The owner of the animal shall be responsible for reimbursing the City for all costs associated with the confinement, impoundment and examination of the animal.

Subd. 3. Reclaiming. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least ten (10) regular business days, unless sooner reclaimed by their owners as provided by this Section. In order for the owner to reclaim the animal from the pound, the owner shall comply with the following requirements, unless otherwise provided for in this Ordinance:

- A. Payment of a release fee and receipt of a release permit from the police, pursuant to Section 2, Subd. 6 of this Ordinance.
- B. Payment or reimbursement of all costs associated with the confinement and/or impoundment of the animal and all costs associated with the care and maintenance of the animal during the period of confinement and/or impoundment; and

- C. If a dog or cat is unlicensed, payment of a regular license fee and compliance with all licensing requirements, including proof of vaccination, as set forth in Section 3 above.

Subd. 4. Unclaimed Animals. At the expiration of the times established in Subdivisions 2 and 3 of Section 7, if the animal has not been reclaimed in accordance with the provisions of this Section, the officer appointed to enforce this Ordinance may let any person claim the animal by complying with all provisions in this Ordinance, or the officer may cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof.

Subd.5 Summary Destruction. If, under the circumstances, it is reasonably believed that an animal is diseased, vicious, dangerous, rabid or exposed to rabies and such animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the person or persons attempting to impound the animal, then the animal may be immediately and summarily destroyed.

Section 8. Animals Presenting an Immediate Danger to Health and Safety

If in the reasonable belief of any police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the police office may destroy the animal. Otherwise the officer may apprehend the animal and deliver it to the pound for confinement under Section 7. If the animal is destroyed, a charge of \$75, or as otherwise set by the Council, to dispose of the animal is payable to the City by the owner of the animal. If the animal is found not to be a danger to the health and safety of the public, it may be released to the owner or keeper in accordance with Section 7, Subd. 3.

Section 9. Diseased Animals

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

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

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

Section 10. Regulation of Dangerous Dogs

Subd. 1. The regulation of dangerous dogs shall be in accordance with Minnesota Statutes Sections 347.50 through 347.56, as amended.

Section 11. Basic Care

All animals shall receive from their owners kind and humane treatment, which shall include proper and adequate housing and/or shelter in the winter, and sufficient food and water for their comfort. Any person not treating their pet and/or animal in a humane manner will be subject to the penalties provided in this Ordinance.

Section 12. Breeding Moratorium

Every female dog or female cat in heat shall be confined in a building or other enclosure in such a manner that it cannot come in contact with another dog or cat except for planned breeding.

Section 13. Enforcing Officer

The City Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this Ordinance. The City Council may appoint the City's police officers as animal control officers and/or the City Council may direct the City's police officers to enforce the provisions of this Ordinance.

Section 14. Interference with Officers

It shall be unlawful for any person to, in any manner, molest, hinder, or interfere with any person or officer authorized by the City Council to enforce the provisions of this Ordinance.

Section 15. Penalties

Subd. 1. Separate Offenses. Each day a violation of this Ordinance is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this Section.

Subd. 2. Misdemeanor. Any violations of Ordinance shall constitute a misdemeanor punishable by a fine of up to \$700 or imprisonment for up to 90 days.

Subd. 3. Repeated Violations - Loss of License and Privileges. Any person who is convicted of three (3) or more separate violations of Section 6 of this Ordinance in a two (2) year period shall be considered a "repeat offender".

Upon the repeat offender's third conviction within a two year period, the City Administrator shall mail or hand deliver written notice to said repeat offender stating that (a) the repeat offender's animal license has been revoked for the nuisance animal(s) in question; (b) that the City will not grant the repeat offender any new animal licenses for a period of two years from the date of the written notification; and (c) that, during the two year revocation period, the repeat offender is prohibited from owning, possessing, harboring or keeping any dogs, cats or other animals of the same type as the nuisance animal within the municipal boundaries of the City of Babbitt. The written notice shall also direct that, within thirty (30) days, the repeat offender shall terminate and discontinue his/her ownership, possession, harboring or keeping of said nuisance animal(s) within the City of Babbitt, and that, if the repeat offender does not voluntarily do so, then, at the expiration of the thirty (30) day period, the police department or the animal control officer will seize and impound any such animals owned, possessed, harbored or kept by the repeat offender. In addition, the notice shall state the repeat offender may appeal the revocation to a hearing before the City Council by providing the City Administrator with written notice of the appeal within fifteen (15) days from the date of the written notice of revocation.

Upon the repeat offender's third conviction within a two year period, and within thirty (30) days from the date of the written notice of revocation from the City Administrator, the repeat offender shall terminate and discontinue his/her ownership, possession, harboring or keeping of the nuisance animal(s) within the City of Babbitt. If the repeat offender does not voluntarily do so within the thirty (30) day period, then, at the expiration of the thirty (30) day period, the nuisance animals owned, possessed, harbored or kept by the repeat offender anywhere in the City of Babbitt shall be seized and impounded by the police department or the animal control officer. As to the disposition of said impounded animals, the City may allow another person to claim and take possession of said animals from the pound, assuming that there is compliance with all of the provisions and requirements of this Ordinance; and assuming that the person is not a repeat offender under this Ordinance and is not residing with a repeat offender or living in the same household or dwelling unit with a repeat offender. If the impounded animal is not claimed by another person, the City may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof.

A plea of guilty to a charge under this Ordinance shall be deemed as and considered to be a conviction.

The repeat offender shall have the right to appeal the revocation of his privileges hereunder to a hearing before the City Council or before a hearing officer appointed by the City Council. To perfect his/her appeal, the repeat offender must provide the City Administrator with written notice of the appeal within fifteen (15) days from the date of the written notice of revocation, in which case the hearing before the City Council or before a hearing officer appointed by the City Council shall take place within thirty (30) days from the date of the repeat offender's written notice of appeal. At the appeal hearing, the City Council or hearing officer shall hear and consider all evidence and information from the repeat offender as to why the revocation should not occur. If the hearing is before a hearing officer appointed by the City Council, then the hearing officer, within five (5) days from the conclusion of the hearing, shall present to the City Council a written report of his factual findings based upon the evidence presented at the hearing. Within sixty (60) days from the date of the repeat offender's written notice of appeal, the City Council shall take final action on the appeal and either affirm or reverse the revocation. If the revocation is reversed, the City Council has complete authority and discretion to set any conditions and

parameters that the City Council deems proper as to the repeat offender's ongoing ownership, possession, harboring or keeping of any dogs, cats, or other animals within the City of Babbitt.

During the period that the repeat offender's appeal to the City Council is pending, the revocation of the repeat offender's licenses and privileges hereunder shall be stayed.

Section 17. Effective Date

This Ordinance becomes effective on the date adopted by the City Council of the City of Babbitt.

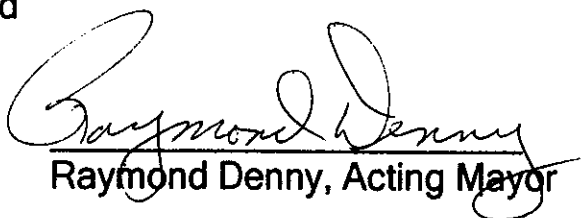
The foregoing ordinance, offered, upon motion, by Councilor Marinaro, and supported by Councilor Pierron was adopted this 3rd day of August, 2005, by the following roll call vote:

Ayes: Councilors Marinaro, Denny, Lassi, and Pierron

Nays: None

Absent: Mayor Norregaard

Abstain: None


Raymond Denny, Acting Mayor

Attest:


Pete Pastika, City Administrator

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