

## Chapter 178, ANIMALS

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories. Amendments noted where applicable.]

### GENERAL REFERENCES

Noise -- See Ch. 292.

Parks and recreation -- See Ch. 301.

Zoning -- See Ch. 410.

### ARTICLE I, Livestock and Fowl at Large; Injury by Vehicles [Adopted 10-5-1970 (Ch. 4, Art. I, §§ 4-1 through 4-4, of the 1970 Code)]

#### § 178-1. Livestock prohibited at large.

No cattle, beast of burden, goat, sheep or swine shall be permitted to run at large in any street, public place or unenclosed private grounds.

#### § 178-2. Fowl prohibited at large.

It shall be unlawful for any person to suffer or permit any chicken, duck, goose, turkey or other fowl owned or controlled by him or her to run at large or to go upon the premises of another person without the consent of such person.

#### § 178-3. Animals on public streets to be harnessed.

No person shall drive or permit to be driven or lead or permit to be led any animal or animals over, through or upon any public street without having the same in harness or securely fastened by ropes.

#### § 178-4. Animals injured by motor vehicles.

Every person operating a motor vehicle or motorcycle in the City, who shall strike and injure a dog, cat or other domestic animal, is required to stop and report the matter to the owner or to the Police Department of the City.

### ARTICLE II, Control of Dogs [Adopted 6-2-1980 by Ord. No. 129-80 (Ch. 4, Art. II, §§ 4-15 through 4-34, of the 1970 Code)]

#### § 178-5. Legislative intent; authority.

- A. The purpose of this article is to preserve the public peace and good order in the City of Binghamton and to contribute to the public welfare and good order of its people by enforcing certain regulations and restrictions on the activity of dogs that are consistent with the rights and privileges of the owners of the dogs and the rights and privileges of other citizens of the City of Binghamton.
- B. This article is adopted pursuant to the authority of § 124 of the Agriculture and Markets Law of the State of New York.

#### § 178-6. Enforcement agencies. [Added 10-19-1987 by Ord. No. 120-87]

- A. The controlling of dogs within the City of Binghamton is hereby recognized as a vital public health and safety obligation of the City. This article shall primarily be enforced by the duly appointed Dog Control Officers of the City of Binghamton with the full assistance and cooperation of the members of the Bureau of Police.
- B. During those hours of the day when no Dog Control Officer is on duty the Bureau of Police shall be responsible for the enforcement of this article.

**§ 178-7. Definitions. [Amended 10-19-1987 by Ord. No. 120-87]**

As used and intended in this article and for the purpose hereof, unless the context otherwise indicates, the following terms shall have the meanings indicated:

AT LARGE -- As applied to a dog, shall designate and describe each dog at all times when it is off the premises of the owner or is on the premises of another without his or her consent.

CITY -- Designates the area within the corporate limits of the City of Binghamton.

CONFINED -- As applied to a dog, shall mean that such animal is securely confined, restrained and kept in a humane manner on the owner's premises either within a building, kennel or wire or other suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street, way or place or, if the dog is being transported by the owners, that it is securely confined in a crate or other container, or so constrained in a vehicle, that it cannot escape therefrom.

DANGEROUS -- Designates or applies to any dog which, without just cause, bites, attacks or chases or snaps at or otherwise threatens to attack any person or attacks or wounds a dog or other domestic animal, or which displays any other fierce, vicious or dangerous propensity, or any dog found by a court of competent jurisdiction to be a vicious dog.

DOG -- Any member of the species *Canis familiaris*.

GUARD DOG -- Any dog which has been trained to attack persons independently or upon oral command and is utilized for the purpose of protecting and guarding its owner and/or the property within which such dog is located.

LAW ENFORCEMENT AGENT -- Includes Dog Control Officers, police officers, peace officers acting pursuant to special duties or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the City to assist in the enforcement of this article.

LEASH -- A chain, rope, leather strap or cord or sufficient tether that will humanely bind the dog directly to the owner or keeper and prevent such dog from moving free of the owner's or keeper's immediate control.

OWNER -- Any person who harbors or keeps any dog. If the owner is under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person.

PUBLIC NUISANCE -- As applied to a dog, shall describe, designate or apply to:

- A. Every dog which seriously or habitually disturbs the neighborhood by barking or howling, or making any other disturbing noises; or
- B. Every dog which chases any person or bicycle, automobile or other vehicle upon any public highway or way, or in any public place; or
- C. Every dog which causes damage or destruction to property other than upon the premises of the owner, or the person harboring such dog; or
- D. Every dog which strews or disperses garbage or refuse which is lawfully set out for collection; or
- E. Every dog which is a dangerous dog pursuant to § 121 of the Agriculture and Markets Law but not found vicious as defined above in this section.

RECREATIONAL AREAS -- Any real property owned by the City of Binghamton which is used for recreational purposes by the public, including but not limited to parks, playgrounds or swimming pool facilities.

SCHOOL PREMISES -- Designates and applies to any real property situated within the City of Binghamton which is used for educational purposes or purposes incidental thereto, regardless of whether title to the same is vested in the City of Binghamton, a school district within the City of Binghamton or a religious or private corporation or association.

SIDEWALK -- Any walkway along the margin of a street or highway, designed and prepared for the use of pedestrians, encompassing the area between the front line of any abutting property and the curb or, where there is no curb, the line where the street begins.

#### VICIOUS DOG

A. Shall mean and include:

- (1) Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to or otherwise endanger the safety of human beings or domestic animals. The propensity to be vicious shall be "known" if the owner has any notice that the dog has, on any occasion, inflicted bites or attacked a human being or other animal either on public or private property or, in a vicious or terrorizing manner, approached any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places or lawfully on private property;
- (2) Any dog which attacks a human being or domestic animal without provocation; or
- (3) Any dog owned or harbored primarily or in part for the purposes of dog fighting or any dog trained in dog fighting.

B. No dog shall be deemed vicious if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.

#### § 178-8. Owner's responsibility.

The owner of every dog which is at any time kept, brought or comes into the City shall be held responsible for the strict observance by such dog and with respect to such dog of all the rules and regulations contained in this article at all times when such animal is within the City.

#### § 178-9. Dogs in heat.

The owner of every female dog must effectively confine such at all times during every period which such dog is in heat. For purposes of this section only, "confine" shall mean to place the dog in an enclosure so as to prevent male dogs from having access to such dog in heat.

#### § 178-10. Dogs to be controlled; leash required, and off-leash areas. [Amended 10-19-1987 by Ord. No. 120-87; 6-2-1997 by Ord. No. 81-97; Amended 2-8-2012 by Ord. No. 12-9]

- A. No person who owns a dog shall permit such dog to be at large in the City of Binghamton, Broome County, New York, including parks and recreation areas, unless such dog is humanely restrained by an adequate collar and an adequate leash no longer than eight feet, other than when on the premises of the person owning, keeping or harboring or having custody or control of such dog or upon the premises of another with the knowledge and approval of the owners of said premise. Provided, however, that vicious dogs shall be leashed or confined at all times regardless of the consent of any person.
- B. Dogs may be allowed to run at large in designated off-leash area as may be approved from time to time by the Mayor and City Council. Upon approval of a designated off-leash area, the Director of Parks and Recreation shall have the authority to establish such rules and regulations as reasonably necessary for the operation of such designated off-leash area, including, but not limited to:
  - (1) Dogs in designated off-leash areas must be accompanied by their owner, be under vocal control, and not cause a public nuisance, safety hazard or harass people, other dogs or wildlife.
  - (2) All dogs in an off-leash area must be licensed and must display valid license tags attached to the dog collar. Vicious dogs, as defined in § 178-14.A below, are not permitted to use the

designated off-leash areas. Except as specifically provided herein, all other applicable provisions of this chapter shall be also apply in designated off-leash areas.

- (3) Any persons with a dog or other pet in his or her possession or under his or her control in any designated off-leash area shall be responsible and liable for the conduct of the animal, shall carry equipment for removing feces, and shall places feces deposited by such animal in an appropriate receptacle.
- (4) Any person with a dog or other pet in his or her possession or under his or her control in any designated off-leash area must comply with all rules and regulations.

C. Any violation of these requirements may result in (i) enforcement and fines as provided in §§ 178-16, 178-17, and 178-18 below, and (ii) the Director of Parks and Recreation may ban dogs and other pets, or a specific dog or other pet, from any designated off-leash area.

**§ 178-11. Dogs on school premises. [Amended 2-8-2012 by Ord. No. 12-9]**

It shall be unlawful for any dog to be at large on any school premises or the sidewalks adjacent thereto unless said dog is on a leash.

**§ 178-12. Guard dogs; posting of warning sign. [Amended 10-19-1987 by Ord. No. 120-87]**

Any person keeping a guard dog as defined in this article shall conspicuously post a sign with an appropriate symbol which the public and children that the premises are patrolled by a guard dog or dogs.

**§ 178-13. Abandoned dogs. [Amended 10-19-1987 by Ord. No. 120-87; 9-20-1999 by Ord. No. 99-136]**

A. Definitions. As used and intended in this section and for purposes hereof, unless the context otherwise indicates, the following terms shall have the meanings indicated:

**ABANDONED**

- (1) Any dog left unattended for a period of three or more days will be deemed to be abandoned by its owners/caretakers; or
- (2) Any unattended dog found, at any time, under circumstances which evidence an intent by the dog's owner/caretaker to not return.

**DOG(S)** -- Any member of the species *Canis familiaris*.

**LAW ENFORCEMENT AGENT** -- Includes Dog Control Officers (wardens), police officers, peace officers acting pursuant to special duties or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the City to assist in the enforcement of this article.

**PROPERTY OWNER** -- Any person who, alone or jointly or with others, or any entity which:

- (1) Shall have legal title (including through a land contract) to any dwelling unit, with or without accompanying possession thereof; or
- (2) Shall have charge, care or control of any dwelling or dwelling unit as either owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any person thus representing the actual owner according to the definition provided shall be bound to comply with the provisions of this section to the same extent were he or she the owner.

**TENANT** -- Any person/organization or corporation who or which makes payment, in cash or in kind, to occupy another's property and, for purposes of this section, is the owner of a dog(s).

- B. Any dog at large which does not display any current license or other means of identification or which fails to exhibit any evidence of having had administered to it a current rabies vaccination shall be considered an abandoned dog and may be summarily impounded by a law enforcement agent.
- C. It shall be unlawful and a violation of this section for any tenant/landlord of any property located within the City of Binghamton to abandon any dog on any property located within Binghamton City limits.
- D. Owners of property(ies) from which City of Binghamton law enforcement agents (dog wardens) are tasked with removing abandoned dogs pursuant to this section shall be issued a court appearance ticket and, if found guilty of this offense, shall be fined the mandatory sum of \$250 per dog. Nothing herein shall be construed to limit or impair, in any way, the property owner's right to collect any monetary sum imposed, from the dog's(s') respective owner(s).
- E. Any actions taken by the appropriate law enforcement agents reasonably necessary to effectuate their duties in the removal and placement of abandoned dogs shall not give rise to any civil action against them, other than for wanton, outrageous, intentional, tortuous acts.

**§ 178-14. Vicious dogs. [Amended 10-19-1987 by Ord. No. 120-87; 2-18-1997 by Ord. No. 8-97]**

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

COMMISSIONER -- The Mayor or any agent designated by him or her for purposes of enforcing this section.

DOMESTIC ANIMAL -- Include dogs and all other household animals, including but not limited to those defined in Chapter 410, Zoning.

LAW ENFORCEMENT AGENT -- Includes a police officer or Dog Control Officer acting pursuant to his or her special duties.

LICENSING AUTHORITY -- The City Clerk for the City of Binghamton.

MENACING -- The display by a dog of a disposition, determination, or intent to attack or inflict injury or harm to a human being or other domestic animal.

OWNER -- Any person, partnership, firm, corporation or employee thereof, or other legal entity, having a possessory or property right in a dog or who harbors, cares for, exercises control over, or knowingly permits any dog to remain on premises owned or occupied by him or her or it. If the owner or keeper of the vicious dog is a minor, the parent or guardian of that minor shall be responsible for compliance with the provisions of this section.

UNPROVOKED -- That the dog was not hit, kicked or struck by a person with any object or part of a person's body nor was any part of the dog's body pulled, pinched or squeezed by a person.

VICIOUS DOG

- (1) Includes:

- (a) Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to or otherwise endanger the safety of human beings or domestic animals. The propensity to be vicious shall be "known" if the owner has any notice that the dog has on any occasion inflicted bites or attacked a human being or other animal either on public or private property or, in a vicious or terrorizing manner, approached any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places, or of persons lawfully on private property.
- (b) Any dog which attacks a human being or domestic animal without provocation.
- (c) Any dog owned or harbored primarily or in part for the purposes of dog fighting or any dog trained in dog fighting.
- (d) Any dog that would be a "vicious dog" pursuant to § 121 of the Agriculture and Markets Law of the State of New York.

- (2) Exclusions.
  - (a) No dog shall be deemed vicious if it bites, attacks, or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it.
  - (b) Dogs owned or used by the Police Department, performing police functions, shall be excluded from this definition.

B. Regulations pertaining to vicious dogs.

- (1) No person owning or harboring or having the care of a vicious dog shall suffer or permit such dog to go unconfined on the premises of such person. A vicious dog is "unconfined" as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or dog run area upon the premises of said person. Such pen or dog run area must, as a minimum, have either sides six feet high or a secured top. If the pen, fence or structure has no bottom secured to the sides, the sides must be imbedded into the ground no less than one foot. The structure must be constructed of chain-linked fencing or other material of such strength and construction that the dog cannot chew through or break out of the enclosure. Any gates or entrances to the structure must be of similar construction and the entire structure must be so designed so that the dog cannot get out. The area of enclosure shall be no less than 225 square feet per dog, with no less than 15 feet per side.
- (2) No person owning or harboring or having the care of the vicious dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length.
- (3) The owner(s) shall, at his or her own expense, have the licensing number assigned to such dog, or such other number as the licensing authority shall determine, tattooed upon such vicious dog by a licensed veterinarian or person trained as a tattooist and authorized as such by the City. The Dog Control Officers may, in their discretion, designate the particular location of said tattoo. The Commissioner may require that an identification chip be placed upon the dog in place of a tattoo. The Commissioner shall designate the location of said chip.
- (4) Warning signs.
  - (a) The owner shall display a sign of uniform size, design and color, approved by the Commissioner, on the premises warning that there is a vicious dog on the property. This sign shall be visible and capable of being read from the public highway or street and conspicuously display a symbol warning children of the presence of a vicious dog. These signs shall be of such material and construction so as not to fade or become illegible due to exposure to the elements.
  - (b) This provision requiring warning signs shall be enforced independently of all other provisions of the City Code of Binghamton pertaining to the posting of signs for the purpose of this chapter only.
  - (c) No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait, or use any dog for the purpose of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals.
- (5) No person shall possess with intent to sell, offer for sale, breed, or buy or attempt to buy within the City any vicious dog.
- (6) Any person owning, possessing, or harboring a vicious dog, shall, at all times, exercise due care in safeguarding the public from attack by such animal.
- (7) If any vicious dog shall cause injury to a person or domestic animal or damage to property, while out of or within the control of the owner of such vicious dog, or while off the property of the owner whether or not such vicious dog was on a leash and securely muzzled, or whether the vicious dog escaped without the fault of the owner, the owner shall be liable to the person it grieved thereby for all damages sustained, to be recovered in a civil action. It

shall be presumed as a matter of law that the owning, keeping or harboring of such vicious dog in violation of this section is a nuisance.

- C. Licensing of vicious animals. Any dog or other animal that is a vicious animal as defined herein must obtain a special license from the City of Binghamton. The requirements of this license are following:
- (1) An application fee as set from time to time by the City Council, in addition to the regular required license fee.
  - (2) Proof of insurance for the compensation of people and property injured or damaged as a result of the actions of this vicious animal in an amount not less than \$100,000 in a form satisfactory to the Corporation Counsel.
  - (3) An owner, whose dog or other animal has been found to be vicious, shall have 14 days from said determination to obtain a special license and requisite insurance.
  - (4) Failure to comply with this section shall result in the immediate seizure of said animal by the Dog Control Officer or police officer and destruction of said vicious animal at an appropriate facility.
- D. Enforcement.
- (1) In the event that a law enforcement agent or Corporation Counsel has probable cause to believe that a vicious dog is being harbored or cared for in violation of Subsection B, the law enforcement agent or Corporation Counsel may petition the Commissioner to order the seizure and impoundment of the vicious dog pending a hearing. In the event that a law enforcement agent or Dog Control Officer has probable cause to believe that a vicious dog is being harbored or housed in violation of Subsection B and presents a clear and present danger to persons or domestic animals, the law enforcement agent may seize and impound the vicious dog immediately and shall, within 72 hours, seek an order of impoundment from the Commissioner.
  - (2) The Commissioner shall have the authority to make a determination that a dog is vicious as defined in Subsection A upon the written complaint of any law enforcement agent or the Corporation Counsel in a form approved by the Commissioner. The Commissioner shall make such determination after a hearing, written notice of which shall be given to the complainant and to the owner of the dog, where the owner's address can be reasonably ascertained by the Commissioner. The hearing shall be held no less than 10 days nor more than 20 days after such notice is mailed or served upon the owner of the dog. At such hearing, all interested persons shall have the opportunity to present evidence on the issue of the dog's viciousness. If, after the hearing, the Commissioner determines that the dog is vicious, he or she may order one or more of the following:
    - (a) The Commissioner may order that the vicious dog be humanely euthanized.
    - (b) The Commissioner can order the dog returned to the owner with the requirement that the owner apply for a special use permit pursuant to Subsection B(3) of this chapter. Each dog registered pursuant to Subsection B(3) shall also be required to adhere to the regulations set forth in Subsection B.
    - (c) In the event that the owner of a vicious dog violates any order of the Commissioner's prescribed at the hearing, such owner's dog may be confiscated and impounded by the proper authorities upon the order of the Commissioner.
- E. Excused behavior. No dog shall be declared vicious pursuant to this chapter if the owner shall prove that the threat, injury, or damage caused by such dog was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog, its owner and/or household members, or has in the past been observed or reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime; nor shall a dog be declared vicious if the dog was responding solely to pain or injury, or was protecting itself, while on its owner's property.

F. Penalties.

- (1) Whoever violates this section shall be guilty of a misdemeanor and subject to a fine of up to \$1,000 or imprisonment for up to 120 days, or both.
- (2) Any vicious dog may be ordered destroyed when, in the Commissioner's judgment, such vicious dog represents a continuing threat of serious harm to human beings or other domestic animals. In making said determination, the Commissioner should consider the owner's conduct in complying with the provisions of this section.
- (3) Any person found guilty of violating this section shall pay all expenses, including but not limited to medical expenses and lost wages of victims of said vicious dogs and any shelter, food and veterinary expenses necessitated by the seizure of any dog pursuant to this section and such other expenses as may be required for the destruction of such dog.

G. Provisions supplemental to Agriculture and Markets Law.

- (1) The provisions of this section shall not supersede but rather shall be supplementary to the provisions of law contained in Article VII of the New York State Agriculture and Markets Law, and any other applicable ordinance, rule, or regulation.
- (2) Remedies. Any person aggrieved by a decision of the hearing officer may appeal said decision through Article 78.

**§ 178-15. Barking dogs.**

No person shall keep or harbor a dog which by loud, frequent or habitual barking, yelping or howling shall disturb or annoy any person other than the owner thereof.

**§ 178-16. Enforcement. [Amended 10-19-1987 by Ord. No. 120-87; Amended 2-8-12 by Ord. No. 12-9]**

- A. The provisions of this article shall be enforced by any appropriate law enforcement agent.
- B. Any enforcement agency may serve any process related to any proceeding, whether criminal or civil in nature, and including an appearance ticket undertaken in accordance with Article 7 of the New York State Agriculture and Markets Law and this article.
- C. Enforcement agents may seize, in accordance with law, any dog found to be in violation of any provision of §178-9, 178010, 178-11, or 178-12, subject to the owner's right of redemption as set forth below.

**§ 178-17. Redemption of seized dogs. [Amended 10-19-1987 by Ord. No. 120-87; 11-6-2000 by Ord. No. 00-133]**

- A. Every dog seized shall be properly fed and cared for until disposition thereof as herein provided and in accordance with the applicable provisions of the Agriculture and Markets Law of the State of New York.
- B. Every dog seized shall receive a DHLP-Parvo and rabies vaccine upon its confinement in the animal shelter.
- C. Every dog seized shall be treated in a humane manner.
- D. If the dog seized bears a license tag, or is otherwise identifiable, the Dog Warden shall ascertain the owner of the dog and shall, within 24 hours, notify the owner or an adult member of his or her family, either by personal service or by certified mail, return receipt requested, that the dog has been seized and will be sold or destroyed pursuant to § 118 of the Agriculture and Markets Law unless redeemed as herein provided.

- E. The owner of an unlicensed dog so seized may redeem the dog within three days. The owner of a dog bearing a license tag may redeem the dog within seven days. To redeem a dog, the owner must furnish proof that the dog has been licensed pursuant to the Agriculture and Markets Law and must pay impoundment fees as set from time to time by the City Council, as well as any veterinary expenses necessitated by the seizure or incurred in the course of humanely caring for the dog in accordance with law.
- F. All monies shall be paid directly to the dog shelter housing the seized dog.

**§ 178-18. Appearance tickets; fines for violation. [Amended 9-20-1982 by Ord. No. 15-82; 10-19-1987 by Ord. No. 120-87; 5-21-2001 by Ord. No. 01-58]**

- A. Issuance. Pursuant to the provisions of § 124(2)(c) of the Agriculture and Markets Law, an appearance ticket may be issued for any violation of this article, by a proper law enforcement agent.
- B. Plea of guilty. A person charged with a violation of any provision of this article may appear in Binghamton City Court to enter a plea to said charge. Alternatively, he or she may submit to City court, in person or by duly authorized agent or by registered mail, a statement:
  - (1) That he or she waives arraignment in open court and the aid of counsel; and
  - (2) That he or she pleads guilty to the offense charged; and
  - (3) That he or she elects and requests that the charge be disposed of and the fine or penalty be fixed by the City Court; and
  - (4) Of any explanation that he or she desires to make concerning the offense charged; and
  - (5) That all statements are made under penalty of perjury.
- C. Disposition of guilty pleas. Persons pleading guilty by mail shall not send payment for any fine or penalty until the judge ascertains the amount of such fine. Thereupon, the judge may proceed as though the defendant had been convicted upon plea of guilty in open court. If upon receipt of the aforesaid statement the judge shall deny the same, he or she shall thereupon notify the defendant of this fact, and that he or she is required to appear before the judge at a stated time and place to answer the charge, which shall thereafter be disposed of pursuant to the applicable provisions of law.
- D. Plea of not guilty. If a person charged with a violation denies any part of all of the violation as charged in the appearance ticket, he or she may so indicate on the ticket and return it to the City court, together with security in the amount set by City Court.
- E. Fines.
  - (1) Except for violations of § 178-10, entitled "Dogs to be controlled; leash required," and § 178-14, entitled "Vicious dogs," any violation of this article shall be punishable as determined by the court in accordance with the below schedule:
    - (a) For a first offense: see fee schedule.
    - (b) For the second offense within the preceding five years: see fee schedule.
    - (c) For a third offense within the preceding five years: see fee schedule or imprisonment for not more than 15 days, or both.
  - (2) Violations of § 178-10, regarding the leash requirement, shall be punishable as determined by the court in accordance with the below schedule:
    - (a) For the first offense: see fee schedule.
    - (b) For the second offense within the prior five years: see fee schedule and 20 hours of community service dedicated to humane animal treatment.
    - (c) For the third offense within the prior five years: see fee schedule and 40 hours of community service dedicated to humane animal treatment.

**§ 178-19. Proceedings to determine nuisance or dangerous dogs. [Amended 10-19-1987 by Ord. No. 120-87]**

- A. Any person may make a written complaint under oath or affirmation to a Judge of the Binghamton City Court alleging that a specified dog is a public nuisance or dangerous.
- B. Upon receiving such a complaint, the Judge shall immediately determine if there is probable cause to believe the dog is a dangerous dog and, if so, shall issue an order to any enforcement officer directing said officer to seize such dog and hold the same pending a hearing on the complaint.
- C. Whether or not the Judge finds there is probable cause for such seizure, he or she shall, within five days and upon written notice of not less than two days to the owner of the dog, hold a hearing on the complaint.
- D. If the City Court Judge finds that the complaint is duly established, he or she shall determine and declare such dog to be:
  - (1) A public nuisance;
  - (2) Dangerous; or
  - (3) Dangerous and vicious.
- E. Dogs found to be either dangerous or a public nuisance shall either be humanely destroyed pursuant to law or ordered confined upon such conditions as are established by the court.
- F. Dogs which are found to be vicious shall be governed by the provisions of § 178-14 of this article.

**§ 178-20. Humane treatment of dogs. [Amended 10-19-1987 by Ord. No. 120-87]**

It shall be unlawful for any person in the City to torture or torment, deprive of necessary sustenance, unnecessarily or cruelly beat or otherwise abuse or needlessly mutilate or kill a dog. This provision may be enforced by any person filing a written complaint with the appropriate law enforcement agent. The owner thereof shall be notified in writing via appearance ticket, by personal service or by certified mail, return receipt requested, of the alleged violation; and the matter shall be referred to City Court for a hearing and determination.

**§ 178-21. Compensation for dogs destroyed.**

The owner, harbinger or possessor of any dog destroyed under any provision of this article shall not be entitled to any compensation, and no action shall be maintainable thereafter to recover the value of the dog.

**§ 178-22. Seeing-Eye dogs. [Amended 10-19-1987 by Ord. No. 120-87]**

This article shall not apply to any Seeing-Eye dog during such times that such dog is performing the functions for which it is trained. Said dog may be determined, however, to be dangerous or vicious if the behavior of said dog is within the standards set forth above in § 178-7.

**§ 178-23. Veterinary fees. [Added 10-19-1987 by Ord. No. 120-87]**

In addition to the payment of the impoundment fee specified above at § 178-17E, any person redeeming an impounded dog shall be liable for the payment of all veterinary expenses necessitated by the seizure and subsequent impoundment of such dog. Proof of payment of such expenses shall be required by the City Clerk prior to the release of such dog.

**§ 178-24. Records to be maintained. [Added 10-19-1987 by Ord. No. 120-87]**

In accordance with the regulations of the Department of Agriculture and Markets, the Dog Control Officers shall maintain records of all seizures, impoundments, euthanizations and violations of this article in the office of the City Clerk.

**ARTICLE III, Disposal of Canine Waste [Adopted 10-5-1987 by L.L. No. 7-1987 (Sub-Part LXVII of the 1970 Code), effective 12-1-1987]**

**§ 178-25. Restrictions.**

It shall be unlawful for any dog owner or person having possession, custody or control of any dog to allow such dog to defecate on public or private property over the objection of the owner of such property.

**§ 178-26. Duty to remove.**

It shall be the duty of each dog owner or person having possession, custody or control of a dog to remove any feces left by his or her dog on any sidewalk, gutter, street, grassy area between the street and sidewalk, park, school yard or other public property and to dispose of the same in a safe and sanitary manner.

**§ 178-27. Penalties for offenses; enforcement.**

Any violation of this article shall constitute a violation punishable by a fine or a civil penalty in accordance with Chapter 1, General Provisions, § 1-4, General penalty. For the purposes of enforcing the provisions of this section, appearance tickets may be issued by police officers, dog control officers, code inspectors and by any persons authorized to issue tickets for parking violations.

**§ 178-28. Exemptions.**

The provisions of this article shall not apply to a guide dog, hearing dog or service dog accompanying any person with a disability, as defined in Subdivision 21 of § 292 of the Executive Law.

**ARTICLE IV, Licensing of Dogs [Adopted 7-5-1994 by L.L. No. 3-1994 (Sub-Part LXXXIII of the 1970 Code)]**

**§ 178-29. License required. [Amended 12-4-2006 by L.L. No. 2-2006]**

The owner of any dog located within the City of Binghamton shall be required to make application to the Binghamton City Clerk for a dog license in accordance with the requirements of Agriculture and Markets Law § 109.

**§ 178-30. Fees. [Amended 6-17-02 by L.L. No. 02-2; Amended 12-4-06 by L.L. No. 06-2; Amended 10-6-10 by Ord. No. 10-46; Amended 10-6-10 by Ord. No. 10-47]**

- A. Required fees shall be paid to the Binghamton City Clerk in the month that the dog is required to be licensed or, in the case of an older dog, the month in which the dog is obtained by the owner. Fees for dog licenses obtained by residents moving to the City of Binghamton from another municipality within Broome County, having a current dog license in that former municipality, shall receive a dog license from the City of Binghamton at no charge until the expiration of the previously issued license.
- B. The fee for licensing said dogs shall be as follows: a fee of \$15.00 per license for altered dogs shall be assessed, and a fee of \$25.00 per license for unaltered dogs shall be assessed.

**§ 178-31. Proof of vaccination and sterilization.**

Proof of neutering or spaying, if dog has been neutered or spayed, plus mandatory rabies vaccination certificates for each dog must be presented at the time of licensing or renewal.

**§ 178-32. Violations; penalties for offenses. [Amended 10-6-10 by Ord. No. 10-48]**

Failure to comply with the provisions of this article is a violation and punishable by a fine of \$25, except that where the person was found to have violated this article within the preceding five years, the fine will be \$50 and where the person was found to have committed two or more such violations within the preceding five

years, it shall be punishable by a fine of \$100 or imprisonment for not more than 15 days, or both. A late fee of \$5 will be assessed per license for dog licenses renewed after their expiration date.

**ARTICLE V, Seizure of Unlicensed Dogs [Adopted 9-6-1994 by L.L. No. 4-1994 (Sub-Part LXXXIV of the 1970 Code)]**

**§ 178-33. Authority; notification of seizure required.**

- A. The City of Binghamton Dog Control Officers are hereby authorized, pursuant to New York State Agriculture and Markets Law § 118, to seize:
  - (1) Any dog which is not identified and which is not on the owner's premises; and
  - (2) Any dog which is not licensed and/or identified whether on or off the owner's premises, except that the Dog Control Officer may not enter the owner's dwelling.
- B. The Dog Control Officer must attempt to notify the owner that the dog is being seized. If personal notification cannot be accomplished the Dog Control Officer will leave a written notice of the seizure at the owner's dwelling.

**§ 178-34. Identified and unidentified dog defined.**

"Identified dog" shall mean any dog carrying an identification tag as provided in Article IV, Licensing of Dogs, of this chapter. Any licensed dog not wearing an identification tag as provided in Article IV of this chapter shall be deemed an unidentified dog.

**§ 178-35. Redemption.**

Each dog which is not identified, whether or not licensed, may be redeemed by its owner, provided that such owner produces the following proof:

- A. That the dog has been licensed;
- B. Proof of rabies vaccination; and
- C. A spay/neuter certificate where applicable.

**§ 178-36. Fees.**

The owner of each dog will be required to pay fees as set from time to time by the City Council before redeeming the dog.

**ARTICLE VI, Quarantine of Dogs [Adopted 10-3-1994 by L.L. No. 5-1994 (Sub-Part LXXXV of the 1970 Code)]**

**§ 178-37. Confinement.**

If any dog has bitten any person or is suspected of having bitten any person, the Animal Control Officer and/or police officer shall cause such dog to be confined or isolated for a period of time not to exceed 10 days.

**§ 178-38. Rabid dogs.**

If a dog, for any reason, is suspected of being infected with rabies, the Animal Control Officer and/or police officer shall cause such dog to be confined or isolated for a period of time not to exceed 10 days.

**§ 178-39. Determination of ownership.**

"Owner" shall be defined as any person who harbors or keeps any dog. If the owner is under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person.

**§ 178-40. Quarantine areas and conditions.**

Confinement of the animal may be accomplished at an animal shelter, a private veterinary hospital, or at the owner's dwelling. The place of confinement and the conditions of such confinement shall be determined by the Animal Control Officer and/or police officer. The owner of the dog shall be liable for any charges incurred in relation to the confinement.

**§ 178-41. Inspection of place of confinement.**

The City of Binghamton, or the owner of the dog, may request a review of the conditions and place of the confinement. The City Clerk, or department head currently in charge of dog control and licensing, will review the confinement and render a decision. This decision will be final.

**§ 178-42. Penalties for offenses.**

If an owner of a dog does not confine the dog pursuant to the instructions of the Dog Control Officer and/or police officer, the owner shall be guilty of a Class B misdemeanor and subject to a fine not to exceed \$2,000 and/or six months in jail, and the dog shall be immediately seized by the Dog Control Officer and/or police officer.