

City of Excelsior
Hennepin County, Minnesota

Ordinance No. 503

An Ordinance to Amend Chapter 6
of the Excelsior City Code of Ordinances, Animals

THE CITY COUNCIL OF EXCELSIOR, MINNESOTA, HEREBY ORDAINS:

SECTION ONE: Amendment. That Part II, Chapter 6, Sections 6-1 through 6-21 of the Excelsior City Code be deleted in its entirety and replaced with the following:

Chapter 6 ANIMALS

- Sec. 6-1. Purpose of Chapter
- Sec. 6-2. Definitions
- Sec. 6-3. Registration and Licensing Requirements
- Sec. 6-4. Permitted Domesticated Animals
- Sec. 6-5. Non-Domesticated Animals
- Sec. 6-6. Limitations on Number of Dogs
- Sec. 6-7. Limitations on Number of Cats
- Sec. 6-8. Animal Breeders and Dealers
- Sec. 6-9. Running at Large
- Sec. 6-10. Impoundment Authority
- Sec. 6-11. Animal Nuisances
- Sec. 6-12. Confinement of Certain Animals
- Sec. 6-13. Impounded Animal Redemption
- Sec. 6-14. Rabies Control
- Sec. 6-15. Abuse/Neglect of Animals
- Sec. 6-16. Dangerous Animals and Potentially Dangerous Animals
- Sec. 6-17. Penalties for Violation
- Sec. 6-18. Enforcement
- Sec. 6-19. Appendices

Sec. 6-1. Purpose of Chapter

To preserve the public health, safety and welfare, and guard against public nuisances, the ownership and possession of animals must be regulated.

Sec. 6-2. Definitions

For the purpose of this ordinance, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL AUTHORITY. An agency of the state, county, municipality or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

ANIMAL ENFORCEMENT OFFICER. The designated law enforcement personnel charged by the City with enforcement of this ordinance.

ANIMAL SHELTER. Any premises designated by the City Council or the SLMPD for the purpose of impounding and caring for animals held under the authority of this ordinance.

AT LARGE. An animal is at large when it is off the premises of the person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of the animal, and the animal is not under restraint.

BARKING. The phrase "to bark excessively, continuously, or untimely" includes, but is not limited to, barking, whining, howling, baying, crying, or making other noise excessively, such that the creation of the noise by any single or combination of dogs can be heard by any person, including a law enforcement officer or animal control officer, from a location outside of the building or premises where the dog is being kept and which noise occurs repeatedly over at least a five minute period of time with one minute or less lapse of time between each animal noise during the five minute period. "Untimely" includes, but is not limited to, the noise which occurs repeatedly over a two-minute period of time with one-minute or less lapse of time between each animal noise during the two-minute period, between 10:00 p.m. and 7:00 a.m.

BODILY HARM. Physical pain or injury, illness, or any impairment of physical condition.

SUBSTANTIAL BODILY HARM. Bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

GREAT BODILY HARM. Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

CITY. The City of Excelsior.

COMMERCIAL KENNEL. A kennel used for boarding and breeding or selling dogs for a profit.

DANGEROUS ANIMAL. An animal, including dangerous dogs, as defined in Minnesota Statutes, Section 347.50, as amended, which has:

- (a) Without provocation, inflicted substantial bodily harm on a human being on public or private property; or
- (b) Killed a domestic animal without provocation while off the owner's property; or

- (c) Been found to be potentially dangerous and, after the owner has received notice that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

DEALER. A public or private agency, person, society, or corporation that sells or transfers dogs or cats to corporations, institutions or to other dealers who sell or transfer to corporations or institutions.

ANIMAL WASTE DEVICE. A device for sanitary removal of animal feces.

DOMESTICATED (DOMESTIC) ANIMAL. Such animals as dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar domesticated animals.

NON-DOMESTICATED (NON-DOMESTIC) ANIMAL. Animals which are naturally wild and not naturally trained or domesticated, or which are inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

- (a) Any member of the cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats;
- (b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs;
- (c) Any member or relative of the rodent family including any skunk (whether or not de-scented), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets;
- (d) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators; and
- (e) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subsection including, but not limited to, bears, deer, monkeys and other species non-indigenous to Minnesota.
- (f) Any animal defined as livestock by Minnesota Department of Agriculture Rule 1515.3100.

OWNER. Any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of an animal.

POTENTIALLY DANGEROUS ANIMAL. Any animal, including a potentially dangerous dog as defined in Minnesota Statutes, Section 347.50, as amended, that:

- (a) When unprovoked, inflicts bites on a human or domestic animal on public or private property; or
- (b) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the animal owner's property, in an apparent attitude of attack; or
- (c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals; or
- (d) Has been declared a potentially dangerous dog or potentially dangerous animal by any lawful authority of this or any other state or subdivision thereof.

PREMISES. A building, structure, shelter, or land where a dog or other domesticated or non-domesticated animal is kept or confined, and specifically excludes all public rights-of-way, sidewalks, and streets.

PROPER ENCLOSURE. Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the animal. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the animal from exiting.

PROVOCATION. An act that an adult could reasonably expect may cause an animal to attack or bite. With regard to an animal other than a dog, provocation also means an act that an adult could reasonably expect may cause an animal of that species to attack or bite.

PUBLIC NUISANCE - ANIMAL. Any animal that habitually worries, chases or molests persons travelling peaceably on a public road or off the premises of its owner, or violates a prohibition of this ordinance, is a public nuisance. It shall be considered a nuisance for any animal to bark excessively, continuously or untimely; to frequent school grounds, parks, or public beaches; to chase vehicles; to chase, molest, annoy or bite any person if the person is not on the property of the owner or custodian of the animal; to molest, defile or destroy any property, public or private; or to defecate in or upon public property or the property of another without being cleaned up immediately by the person in charge of the animal. The person having custody of the animal is responsible for disposing of the animal feces in a sanitary manner. Failure on the part of the owner or custodian to prevent his animals from committing an act of nuisance shall subject the owner or custodian to the penalty hereinafter provided.

RESTRAINT. An animal is considered to be under restraint, provided that:

- (a) It is on the premises of the person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of the animal; or
- (b) It is in a private motor vehicle or camper, with secured windows and doors, of a person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of the animal; or
- (c) In all other locations, other than animals in a designated "off-leash" park, it is on a secure leash of no longer than six feet in length.

SLMPD. The South Lake Minnetonka Police Department.

Sec. 6-3. Registration and Licensing Requirements

Subd. 1. *Licensure required.* All dogs over the age of six months kept in this City, including those allowed by a multiple dog license, shall be licensed and registered by the owner with the City. The fee for the license and registration shall be set by resolution of the City Council. License applications shall be made at the office of the City Clerk on City forms, setting forth the name and address of the owner, the name, breed, age, color, and gender of the dog, and such other information as may be considered necessary by the City. Applicants shall provide proof that each dog has current vaccination against rabies. License tags, if issued at the election of the City, shall be securely attached around the dog's neck at all times during the license term. If the tag is lost or stolen, the owner may obtain a duplicate license and tag upon payment of a fee set by resolution of the City Council.

Subd. 2. *Term of license.* The license period shall be that specified by the City in Appendix.

Subd. 3. *New residents of city.* Any person who moves into and becomes a resident of the city and who owns a dog within the city shall cause the same to be registered and licensed as provided hereinbefore within a period of not more than 30 days after becoming a resident of the city.

Subd. 4. *Transfer of license.* The license of any dog, licensed by the City, may be transferred to a new owner of the licensed dog for the duration of that license. The transfer is when the information regarding the new owner is filed with the City Clerk. The fee for license transfers shall be set by resolution of the City Council.

Subd. 5. *Revocation.* Any person making any false statement on any license application required by this section shall be guilty of a misdemeanor. The City Clerk/Treasurer shall revoke any license issued under this section if the owner has made any false statement on the license application. No refund of any fees shall be due to the licensee whose license has been revoked.

Subd. 6. *Reinstatement.* Any person whose license has been revoked under this section may reapply for such license after all deficiencies have been corrected. Any person making application after any revocation shall follow the procedures set out for the initial issuance of the license and shall pay the fees in the full amount that would be required for an original license.

Sec. 6-4. Permitted Domesticated Animals

Any person may own, keep, harbor, or maintain any of the various domesticated animals, including but not limited to, dogs and cats, adapted so as to live with humans in a tame condition.

Sec. 6-5. Non-Domesticated Animals

No person may own, keep, harbor, or maintain any non-domestic animal within the city limits.

Sec. 6-6. Limitations on Number of Dogs

Within the limits of the city, no person may own, keep, harbor, or maintain more than 2 dogs over the age of 6 months unless a multiple dog license is first obtained from the city.

Sec. 6-7. Limitations on Number of Cats

Within the limits of the city, an owner or household may not own, keep, harbor, or maintain more than 3 cats over the age of 6 months.

Sec. 6-8. Animal Breeders and Dealers

No person, firm, or corporation shall establish, maintain, conduct, or operate a commercial kennel or operate as a breeder or dealer of any animal within this city without first obtaining approval by the City Council.

Sec. 6-9. Running At Large

No owner of any animal shall permit such animal to run or move at large at any time within the city. The finding of any animal running at large shall be prima facie evidence of violation of this section by the owner of the animal.

Sec. 6-10. Impound Authority

The animal enforcement officer shall have authority to take into custody and impound those animals, found at large within the city. If the Animal Enforcement Officer is unable to take an animal into custody, the officer may, where possible, follow the animal to the property of its owner, and may issue a citation to the owner for violation of this ordinance. The Officer shall not take into custody an animal once it is upon the property of its owner except:

- (a) Where the Officer finds no one present upon the property and custody is necessary to prevent the animal from further running at large; or

- (b) The animal is previously declared as a dangerous dog or dangerous animal; or
- (c) It is a prohibited non-domesticated animal or which is inherently dangerous and, if left uncontrolled, poses a danger to public health, safety or welfare.

Sec. 6-11. Animal Nuisances

Subd. 1. It shall be unlawful for any owner to fail to exercise reasonable care and control of his or her animals to prevent them from becoming a public nuisance.

Subd. 2. The person having custody of the animal must have in their possession a device for removal of animal feces when in or on any public trail, sidewalk, in any city park, or along any public right-of-way (for example, along roadways and streets), or any other property, public or private, which is not the premises of the person owning, keeping, harboring, or maintaining the animal.

Subd. 3. No person having custody or control of a domesticated animal shall allow such animal on any public swimming beach or any public grounds where any sign is posted prohibiting animals in that area, except a recognized animal for life assistance.

Sec. 6-12. Confinement of Certain Animals

Every female animal in heat shall be confined in a building or other secure enclosure in such manner that such female animal cannot come into contact with another animal, except for planned breeding.

Sec. 6-13. Impounded Animal Redemption

Subd. 1. *Pound.* The City shall provide an adequate pound or facilities where animals taken into custody by an Animal Enforcement Officer shall be kept and properly fed and cared for until disposed of according to the provisions of this ordinance.

Subd. 2. *Notice of impoundment.* Within 24 hours of taking an animal into custody, the Animal Enforcement Officer shall give notice of the animal impoundment to the last known owner(s) and/or custodian(s) of the animal. If no address is available from Police records, City license records, or available microchip identification, notice shall be given to the residence with which the animal was last associated. The notice shall reasonably describe the animal and advise that, in the event the animal is not redeemed within five regular business days after a stated date, the animal may be destroyed.

Subd. 3. *Redemption by owner.* The owner of any animal seized pursuant to this section may retrieve the animal from the City's animal impound shelter, provided that the owner purchases the appropriate license within seven days, if the animal is not already properly licensed, pays all impound fees to cover the cost of

apprehending the animal, boarding fees to cover the cost of sheltering the animal, any veterinary costs incurred by the Animal Control Authority, and any other costs incurred by the Animal Control Authority. Any owner who fails to comply with these requirements within five regular business days, shall be deemed to have forfeited any property right to the animal and the Animal Control Authority may dispose of it, pursuant to subdivision 5 of this section. In determining the impounding fee, the City may establish a schedule of fees based on the number of times an animal has been impounded. Boarding fees shall be according to a schedule adopted and maintained by the SLMPD. License fees shall be adopted by the City Council by resolution.

Subd. 4. *Disposition of unclaimed or injured animals.* Upon expiration of the five regular business day period, an animal in the custody of the Animal Enforcement Officer may be surrendered to the Animal Humane Society or euthanized. Nothing in this ordinance shall prevent the Animal Enforcement Officer from causing the animal to be euthanized in less than the five regular business days waiting period as aforesaid where the animal is injured and, in the opinion of the Animal Enforcement Officer or a veterinarian, the only humane act would be one of euthanization.

Subd. 5. *Records kept.* The Animal Enforcement Officer shall keep an accurate account of all animals received at the pound and all animals euthanized or released therefrom.

Sec. 6-14. Rabies Control

Subd. 1. Rabies Vaccination Required. It is unlawful for any person to own, keep, harbor, or maintain any animal over the age of six months which is susceptible to rabies unless that animal is vaccinated against rabies.

Subd. 2. Quarantine of biting animals.

- (a) Upon a written report being filed with the Animal Control Authority stating that an animal has bitten a human being and setting forth the name of the animal, if known, and the name and address of the owner or custodian, if known, the name of the person bitten and when and where the incident occurred, the Animal Enforcement Officer shall order the animal quarantined for a period of ten days. During quarantine, the animal shall be securely confined and kept from contact with any other animals.
- (b) At the discretion of the Animal Enforcement Officer, the quarantine may be on the premises of the owner. If the Animal Enforcement Officer so requires, the owner shall, at his or her own expense, place the animal in a veterinary hospital for the period of confinement or surrender the animal to the Animal Enforcement Officer for confinement. The animal shall not be released from confinement until the Animal Control Officer has determined that the animal is free from rabies and until the owner has paid the costs of any veterinary tests made upon the animal, as well as the costs of any confinement on premises other than that of the owner.

- (c) If the costs are not paid by the owner or custodian within ten days following written notice to the owner or custodian that the animal is available for release, the Animal Enforcement Officer shall forthwith cause the animal to be surrendered to the Animal Humane Society or to be euthanized.
- (d) Any person who shall fail to deliver to the Animal Enforcement Officer any animal which has bitten a human being and against which a sworn, written complaint has been filed, shall be guilty of a misdemeanor. Each day's neglect or failure to comply with the provisions of this subdivision shall be deemed a separate offense.
- (e) A dog or other animal displaying symptoms of being rabid may be seized at any place or time and shall be confined in the City impounding facility at the expense of the owner until found to be free from rabies.
- (f) If a dog or other animal appears to be diseased, vicious, dangerous, rabid, or has been exposed to rabies, and the dog or other animal cannot be impounded without serious risk of personal injury, the dog or other animal may be destroyed, if reasonably necessary for the safety of any person or persons.

Subd. 3. Rabies in city, proclamation.

The City adopts Minnesota statute 35.68 and 35.69, and any revisions thereof, regarding rabies proclamations.

Sec. 6-15. Abuse/Neglect of Animals

Subd. 1. *Improper care.*

- (a) *Food.* Animals must be provided with food of sufficient quantity and quality to allow for normal growth and maintenance of body weight.
- (b) *Water.* Animals must be provided with clean, fresh water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water supply.
- (c) *Shelter.* Animals must be provided with proper shelter and protection from the weather. A person in charge or control of any animal which is kept outdoors or in an unheated enclosure shall provide the animal with shelter and bedding as prescribed in this section as a minimum. The shelter shall include a moisture proof and wind proof structure of suitable size to accommodate the animal and allow retention of body heat. It shall be made of durable material with a solid, moisture-proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31, the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding

material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat. Shade from the direct rays of the sun, during the months of May to October shall be provided.

- (d) *Sanitation.* It shall be unlawful for any person to allow food and water receptacles, kennels, yards, or the premises where the animal is kept to be or to remain in an unhealthy, unsanitary, or obnoxious condition, or to permit the premises to be in such condition that obnoxious odors can be plainly detected on adjacent public or private property.
- (e) *Veterinary Care.* The owner or custodian of a domesticated animal shall provide adequate health care, including parasite and pest control, and care needed to prevent suffering.
- (f) *Cruelty to animals.* It shall be unlawful for any owner to beat, cruelly ill-treat, torment or otherwise abuse or neglect any animal. A person may not inflict cruelty on a pet or companion animal by the use of a cruel training or handling device or method.
- (g) *Interpretation of Terms.* A dispute as to the meaning of abuse, cruelty, neglect or adequate healthcare shall be resolved by an expert opinion.
- (h) *Animals in motor vehicles.* A person may not leave an animal unattended in a standing or parked motor vehicle in a manner that endangers the animal's health or safety. Animals carried in open vehicles, including trucks, boats, motorcycles, dirt bikes, trailers, etc., must be restrained in a crate or carrier or restrained by a chain or cable to prevent the animal from leaving the vehicle or being tossed out.

Subd. 2. *Removal of animals.* A Peace Officer, Animal Enforcement Officer, or a volunteer or professional member of a fire or rescue department of a political subdivision may use reasonable force to enter a motor vehicle and remove an animal which has been left in the vehicle in violation of this section. A person removing an animal under this subdivision shall use reasonable means to contact the owner of the animal to arrange for its return home. If the person is unable to contact the owner, the person may take the animal to an animal shelter.

Sec. 6-16. Dangerous Animals and Potentially Dangerous Animals

The City is authorized pursuant to Minnesota Statute Section 347.53 to regulate potentially dangerous and dangerous dogs or other animals.

Potentially Dangerous Animals; Declaration

The Animal Control Authority shall make such declaration upon a finding that the animal in question:

- (a) When unprovoked, inflicts bites on a human or domestic animal on public or private property; or
- (b) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the animal owner's property, in an apparent attitude of attack; or
- (c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals; or
- (d) Has been declared a potentially dangerous animal by any lawful authority of this or any other state or subdivision thereof.

In making such a determination, the Animal Enforcement Officer may rely upon any or all of the following:

- (a) Citizen complaint from an identified member of the public;
- (b) Police or citizen reports of running at large or other public nuisance;
- (c) Citation or convictions of an ordinance or statutory violation independent of site of violation involving the animal in question with the exception of a charge of failure to license;
- (d) Determination by any state or subdivision thereof that the animal in question is a potentially dangerous animal.

Potentially Dangerous Animals; Requirements

- (a) *Microchip Identification.* The owner of a potentially dangerous animal must have a microchip implanted in the animal for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Authority. If the microchip is not implanted by the owner, it may be implanted by the Animal Control Authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the animal's owner. It is a misdemeanor to remove a microchip from a dangerous or potentially dangerous animal.
- (b) *Confinement.* All potentially dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen, kennel, or fenced yard, except when leashed as required. Confinement does not include a porch, patio, unfenced yard, "invisible fence" or any part of a house, garage, cage, or other structure that would allow the animal to exit of its own volition or any house or structure in which screens are the only obstacles to preventing the animal from exiting.

- (c) *Impoundment.* Any potentially dangerous animal found off the premises of the owner, harborer, keeper, or custodian of same, is subject to immediate seizure and impoundment.

Dangerous Animals; Declaration

The Animal Control Authority shall make such declaration upon a finding that the animal in question has:

- (a) Without provocation, inflicted substantial bodily harm on a human being on public or private property; or
- (b) Killed a domestic animal without provocation while off the owner's property; or
- (c) Been found to be potentially dangerous and, after the owner has notice that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

In making such a determination, the Animal Enforcement Officer may rely upon any or all of the following:

- (a) Citizen complaint from an identified member of the public;
- (b) Police or citizen reports of running at large or other public nuisance;
- (c) Citation or convictions of an ordinance or statutory violation independent of site of violation involving the animal in question with the exception of a charge of failure to license;
- (d) Determination by any state or subdivision thereof that the animal in question is a dangerous animal.

Dangerous Animals; Registration

Subd 1. *Requirement.* No person may own a dangerous animal in the city unless the animal is registered as provided in this section.

Subd. 2. *Registration.* The Animal Control Authority shall issue a Certificate of Registration to the owner of a dangerous animal, if the owner presents sufficient evidence that:

- (a) A proper enclosure exists for the dangerous animal and a posting on the premises with a clearly visible warning sign that there is a dangerous animal on the property, including a warning symbol to inform children;
- (b) A policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least

\$1,000,000.00 insuring the owner for any personal injuries inflicted by the dangerous animal;

- (c) The owner has paid an annual fee to the SLMPD, in addition to any regular licensing fees, to obtain a Certificate of Registration for a dangerous animal under this section; and
- (d) The owner has had microchip identification implanted in the dangerous animal.

Subd. 3. *Warning Symbol.* If the Animal Control Authority issues a Certificate of Registration to the owner of a dangerous animal pursuant to Subdivision 2, the Animal Control Authority must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a dangerous animal on the property. The warning symbol must be the uniform symbol provided by the Minnesota Commissioner of Public Safety. The Animal control authority may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.

Subd. 4. *Dangerous Animal Designation Review.* Beginning six months after an animal is declared dangerous, an owner may request annually that the designating Animal Control Authority review the designation. The owner must provide evidence that the animal 's behavior has changed due to age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the Animal Control Authority finds sufficient evidence that the animal 's behavior has changed, the Authority may rescind the dangerous animal designation.

Subd. 5. *Law Enforcement; Exemption.* The provisions of this section do not apply to dogs used by law enforcement officials for police work.

Subd. 6. *Exemption.* Animals may not be declared dangerous if the threat, injury, or damage was sustained by a person:

- (a) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the animal;
- (b) Who was provoking, tormenting, abusing, or assaulting the animal or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the animal; or
- (c) Who was committing or attempting to commit a crime.

Subd. 7. *Tag.* A dangerous animal registered under this section must have a standardized, easily identifiable tag identifying the animal as dangerous and containing the uniform dangerous animal symbol, affixed to the animal's collar at all times.

Dangerous Animals; Requirements

- (a) An owner of a dangerous animal shall keep the animal, while on the owner's property, in a proper enclosure. If the animal is outside the proper enclosure, the animal must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible adult. The muzzle must be made in a manner that will prevent the animal from biting any person or animal but that will not cause injury to the animal or interfere with its vision or respiration.
- (b) The owner of a dangerous animal must have a microchip implanted in the animal for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Animal Control Authority. If the microchip is not implanted by the owner, it may be implanted by the Animal Control Authority. In either case, all costs related to purchase and implantation of the microchip must be borne by the animal's owner. It is a misdemeanor to remove a microchip from a dangerous or potentially dangerous animal.
- (c) An owner of a dangerous animal must renew the registration of the animal annually until the animal is deceased. If the animal is removed from the jurisdiction, it must be registered as a dangerous animal in its new jurisdiction.
- (d) An owner of a dangerous animal must notify the Animal Control Authority in writing of the death of the animal or its transfer to a new location where the animal will reside, within 30 days of the death or transfer, and must, if requested by the Animal Control Authority, execute an affidavit under oath setting forth either the circumstances of the animal's death and disposition or the complete name, address, and telephone number of the person to whom the animal has been transferred or the address where the animal has been relocated.
- (e) An Animal Control Authority shall require a dangerous animal to be sterilized at the owner's expense. If the owner does not have the animal sterilized within 30 days, the Animal Control Authority shall seize the animal and have it sterilized at the owner's expense.
- (f) A person who owns a dangerous animal and who rents property from another where the animal will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a dangerous animal that will reside at the property.

Subd. 1. *Right to hearing.* The owner of any animal declared dangerous has the right to a hearing concerning the dangerous dog or dangerous animal declaration and, if applicable, prior potentially dangerous dog or potentially dangerous animal declarations for the animal. The animal owner must make the request in writing, on a form provided by the SLMPD, within 14 days of receiving

notice of the declaration. Failure to do so within 14 days of the date of receiving the notice will terminate the owner's right to a hearing under this section. Any hearing must be held within 14 days of the request to determine the validity of the declaration. The Hearing Officer must be an impartial person retained by the City or by the SLMPD to conduct the hearing. In the event that the declaration is upheld by the Hearing Officer, actual expenses of the hearing up to a maximum of \$1,000 will be the responsibility of the animal's owner. The Hearing Officer shall issue a decision on the matter within ten days after the hearing. The decision must be delivered to the animal's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the Animal Control Authority.

Subd. 2. Requirements during appeals process.

- (a) While awaiting final disposition of an appeal of a dangerous animal declaration, the owner of the animal shall keep the animal, while on the owner's property, in a proper enclosure. If the animal is outside the proper enclosure, it must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the animal from biting any person or animal but that will not cause injury to the animal or interfere with its vision or respiration. A person who transfers ownership of a dangerous dog or dangerous animal must notify the new owner that the Animal Control Authority has identified the animal as dangerous. The current owner must also notify the Animal Control Authority in writing of the transfer of ownership and provide the Animal Control Authority with the new owner's name, address, and telephone number.

Confiscation

Subd. 1. Seizure.

- (a) The Animal Control Authority having jurisdiction shall immediately seize any dangerous animal if:
 - 1) After 14 days after the owner has notice that the animal is dangerous, the animal is not validly registered under this section; or
 - 2) After 14 days after the owner has notice that the animal is dangerous, the owner does not secure the proper liability insurance or surety coverage as required under this section; or
 - 3) The animal is not maintained in the proper enclosure; or
 - 4) The animal is outside the proper enclosure and not under physical restraint of a responsible person as required in the previous section.

- 5) The animal is not sterilized within 30 days.
- (b) If an owner of an animal is convicted of a crime for which the animal was originally seized, the court may order that the animal be confiscated and may be disposed of in a manner permitted by law and that the owner pay the costs incurred in confiscating, confining, and destroying the animal.

Subd. 2. *Animals reclaimed.* A dangerous animal seized under Subdivision 1 may be reclaimed by the owner of the animal, upon payment of impounding and boarding fees, and presenting proof to the Animal Control Authority that the requirements of the previous section will be met. An animal not reclaimed under this subdivision within seven days may be surrendered to the Animal Humane Society or humanely euthanized, and the owner is liable to the Animal Control Authority for costs incurred in confining and disposing of the animal.

Destruction of Animals in Certain Circumstances

Subd. 1. *Circumstances*

An animal may be destroyed in a proper and humane manner by the Animal Control Authority if the animal:

- (a) Inflicted substantial or great bodily harm on a human on public or private property without provocation; or
- (b) Inflicted multiple bites on a human on public or private property without provocation; or
- (c) Bit multiple human victims on public or private property in the same attack without provocation; or
- (d) Bit a human on public or private property without provocation in an attack where more than one animal participated in the attack.

Subd. 2. *Right to hearing.* The Animal Control Authority may not destroy an animal until the animal owner has had the opportunity for a hearing before an impartial Hearing Officer designated by the Animal Control Authority. The animal owner must request a hearing within 14 days after the Animal Control Authority provides notice that it intends to destroy the animal.

Sec. 6-17. Penalties for Violation

- (a) A person who violates a provision of this ordinance is guilty of a misdemeanor.

Sec. 6-18. Enforcement

Citations are issued for certain violations. The Animal Control Officer or Police Officer is authorized to issue a citation to any person, firm, or entity for any alleged

violations of this ordinance and any other ordinances or statutes which provide the basis for prosecution of violations of this ordinance. Nothing within this ordinance shall be construed to limit the authority of Animal Control Officers or Police Officers to enforce any provisions of this ordinance or related statutes or ordinances.

Sec. 6-19. Appendices

- (a) Dog licenses issued in Excelsior are valid for the period of January 1 until the following December 31.
- (b) No person shall own, keep, harbor, or maintain, or otherwise house more than a combined total of four cats or dogs over the age of six months, nor more than three of the same species, within any household in the city unless authorized by section 6-8.
- (c) Domesticated animals shall be leashed at all times.

SECTION TWO: Effective Date. This Ordinance shall be effective thirty (30) days after its passage and publication.

Adopted by the Council of the City of Excelsior, Minnesota, this 21st day of October, 2013.

Mark W. Gaylord, Mayor

ATTEST:

Shirley Murphy, City Clerk

Cheri Johnson, Interim City Manager

First Reading of the Ordinance:	September 9, 2013
Second Reading and Adoption:	October 21, 2013
Publication of Ordinance:	October 31, 2013
Effective Date:	November 30, 2013