

Introduced by: Walli
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Action: Defeated
Vote: 2 yes, 11 no

**KENAI PENINSULA BOROUGH
ORDINANCE 92-08**

**AN ORDINANCE PROVIDING FOR ANIMAL CONTROL IN THE KENAI PENINSULA
BOROUGH IN THE AREA OUTSIDE CITIES**

WHEREAS, there have been numerous complaints of animals running at large in the Borough in the areas outside cities, damaging and destroying property, attacking people and other animals, and being a general nuisance; and

WHEREAS, Alaska Statutes 29.35.210 gives the Borough the power to enact ordinances for the licensing, impoundment and disposal of animals on a nonareawide basis; and

WHEREAS, every first class or home rule city in the Borough has an animal control ordinance; and

WHEREAS, it is desirable to enact a nonareawide Borough animal control ordinance;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI
PENINSULA BOROUGH:**

Section 1. Title 8, Animal Control, is hereby enacted to read as follows:

TITLE 8
ANIMAL CONTROL

Chapters:

- 8.04 General Provisions
- 8.08 General Regulations
- 8.12 Registration and Immunization
- 8.16 Kennels and Stockyards
- 8.20 Dog Bite and Attack Incidents
- 8.24 Rabies Control
- 8.28 Impoundment and Adoption
- 8.32 Animal Control Commission
- 8.36 Animal Control Office
- 8.40 Enforcement

Chapter 8.04

GENERAL PROVISIONS

Sections:

- 8.04.010 Jurisdiction.
- 8.04.020 Definitions.
- 8.04.030 Computation of time.

8.04.010 Jurisdiction. A. The borough has jurisdiction over domestic and domesticated animals, as defined in this title, in the area of the borough outside cities; including, but not limited to, the power to license, impound and dispose of such animals.

- B. The borough does not have jurisdiction over the following animals:
1. wild animals;
 2. game animals, the taking or possession of which is regulated by the state or federal government; and
 3. the offspring of wild or game animals bred to domestic animals.

8.40.020 Definitions. Terms used in this title are defined as follows, unless otherwise stated:

A. "Animal" means vertebrate domestic or domesticated members of the Animalia Kingdom, unless otherwise provided by this title.

B. "Animal control officer", or "chief animal control officer" means the person, appointed by the mayor, who has primary responsibility for administering and enforcing the provisions of this title, or a designee or subordinate.

C. "Animal control shelter" means any premises designated for the purpose of impounding and caring for animals impounded pursuant to this title.

D. "Annoyance" means an actual interference with the sleep, work, or reasonable right to peace, safety, or privacy of one or more persons.

E. "At large" means that an animal is not under restraint.

F. "Cat" means member of the genus and species Felis catus.

- G. "Competent voice control" means when all the following are met:
1. the person exhibiting the voice control is present with the animal and monitors all of its activities;
 2. the person exhibiting the voice control is capable of directing all of the animal's movements and activities by vocal commands; and
 3. the animal under voice control follows all of the vocal commands quickly and accurately.

H. "Confine" means to keep an animal in a pen, building, or other secure enclosure from which the animal cannot escape; and which keeps the animal from coming into contact with other humans or animals outside the area of confinement.

I. "Dog" means a member of the genus and species Canis familiaris, also known as the domestic dog; but does not include any other member of the family Canidae, the taking of which

is regulated by the State of Alaska, such as a fox, coyote, or wolf.

J. "Domesticated" means animals commonly and historically adapted to human use or pleasure with a generally docile or tame nature.

K. "Identification" means a collar and tag, brand, tattoo, or other mark or means which makes ownership of the animal ascertainable.

L. "Kennel" means any premises used for breeding, buying, selling, keeping, or boarding five or more dogs or cats over the age of six months, whether for profit or not.

M. "Livestock" includes, but is not limited to, domestic animals such as horses, cattle, sheep, goats, pigs, chickens, ducks, and other such animals normally considered farm animals, whether kept for profit or not.

N. "Owner" means any person, group of persons, association, or corporation owning, keeping, harboring, taking care of, or having custody of any animal or animals.

O. "Provocation" means the tormenting, abusing, or assaulting of an animal inciting it to attack or bite.

P. "Restraint" means:

1. actual physical control, such as a leash, chain, fence, or building; or
2. competent voice control while actively engaged in an organized activity which requires that an animal not be physically restrained, or in a form of recognized hunting which requires the use of an animal such as a retriever; or
3. the condition of an animal when on the property of its owner, when within the owner's sight, and when under competent voice control of the owner.

Q. "Running-at-large" means that an animal is not under restraint.

R. "Sanitary" means a condition free from elements including, but not limited to, bacteria, parasites, waste, or filth which would endanger health or hygiene, or free from objectionable odor.

"Stockyard" means: dairies, slaughterhouses, fur farms?

"Vicious" means any animal which when unprovoked has ever bitten or attacked a human being or another animal.

S. "Wild" refers to an animal which generally lives in its original and natural state and is not normally domesticated.

8.04.030 Computation of time. For purposes of this title, the word "day" refers to a calendar day. If a time period imposed by this title ends on a holiday or weekend day, the time period is extended until the next borough business day.

Chapter 8.08

GENERAL REGULATIONS

Sections:

- 8.08.010 Animal noise.
- 8.08.020 Confinement and restraint of animals.
- 8.08.030 Sanitary enclosures.
- 8.08.040 Diseased animals.
- 8.08.050 Animals in public places.
- 8.08.060 Live animal traps.
- 8.08.070 Adequate animal care.
- 8.08.080 Cruelty to animals.
- 8.08.090 Violation of general regulations.

8.08.010 Animal noise. The owner of an animal shall not allow the animal to cause annoyance to any person by barking, howling, or making other sounds common to its species.

8.08.020 Confinement and restraint of animals. A. The owner of an animal shall keep the animal restrained at all times.

B. Except within a controlled environment for intentional breeding purposes, an owner must keep a female dog or cat in estrus confined in a building or secure enclosure or in a veterinary hospital or boarding kennel, in such manner that the female dog or cat cannot come in contact with a male dog or cat during estrus.

C. No person, other than the owner of an animal, shall release an animal from restraint, except to preserve the animal's life.

8.08.030 Sanitary enclosures. The owner of an animal shall maintain all structures, pens or yards, and areas adjacent thereto, in which such animal is kept, in a clean and sanitary condition and free from objectionable odor.

8.08.040 Diseased animals. No person shall keep or harbor any animal infected with a contagious or pestilential disease, except when such animal is closely confined, isolated from other animals, and under the care of a licensed veterinarian.

8.08.050 Animals in public places. No person shall tie, stake, or fasten any animal within any highway, road, or public place within the borough or in such a manner that the animal has access to any portion of any highway, road, or public place therein. The borough mayor may grant a waiver of this provision in the case of dog races, dog shows, and similar temporary sporting or festive events.

8.08.060 Live animal traps. A. The intentional capture of domestic animals by trap is prohibited; except when the permission of the borough animal control officer is obtained in

advance, and a borough-authorized live animal trap is used.

B. A person who is issued a borough-authorized live animal trap for the purposes of capture and control of unrestrained domestic animals shall:

1. check the trap at least twice every 24 hours to determine whether an animal has been trapped;
2. provide humane care, as defined in this chapter, for any animal captured; and
3. release the trapped animal without unreasonable delay to an animal control officer, upon request.

8.08.070 Adequate animal care. A. An animal owner shall provide his or her animal with adequate animal care, which is defined to include the following:

1. wholesome and nutritious food, at least once daily, sufficient to keep the animal in a healthy physical condition;
2. an adequate supply of fresh and clean water;
3. adequate air and ventilation;
4. humane care and treatment;
5. veterinary care when needed to prevent pain, disease, or suffering; and
6. adequate and sanitary shelter.

B. An animal control officer may impound into protective custody an animal that is not being provided with adequate animal care. The animal shall not be released from impoundment except pursuant to the requirements of this title for release of impounded animals.

8.08.080 Cruelty to animals. A. No person shall intentionally or recklessly kill, wound, injure, torment, poison, provoke, otherwise abuse or unnecessarily overwork an animal or cause or procure any such acts to be done, or attempt such acts; except as otherwise provided in this section.

B. No person shall intentionally injure or kill an animal unless:

1. the act committed is done humanely and in conformity with applicable federal, state, or borough law; or
2. such act is necessary to defend a human being or an animal from imminent bite or attack.

C. No person shall abandon an animal by failing to have a responsible caretaker to provide adequate care, as defined in this chapter, for the animal.

D. No person shall throw or deposit any poisonous substance on any exposed public or private place where it may endanger any domestic or domesticated animal.

E. No person shall, for sport, training, or entertainment abandon, harass, torture, or kill an animal or encourage an animal to fight with another animal.

F. No person shall intentionally trap a domestic or domesticated animal in a manner which may physically harm the animal, including, but not limited to, the use of steel jaw traps, snares, and spring traps.

G. No person, except a licensed veterinarian or authorized borough animal control officer, shall use a tranquilizer gun to capture an animal except in an emergency threatening bodily injury to persons or other animals and when all other efforts to capture the animal fail.

H. Acts in violation of this section constitute cruelty. Cruelty to animals is a misdemeanor, in addition to being an infraction.

I. An animal control officer may impound into protective custody an animal that is subjected to, or in danger of being subjected to, acts prohibited by this section. The animal shall not be released from impoundment except pursuant to the requirements of this title for release of impounded animals.

J. Nothing in this section shall be construed to prohibit or impede the lawful impounding of stray animals or the lawful destruction of an animal by its owner.

8.08.090 Violation of general regulations. Violation of any of the provisions of this chapter is an infraction; unless otherwise provided.

Chapter 8.12

REGISTRATION AND IMMUNIZATION

Sections:

- 8.12.010 Registration required--application for registration certificate--rabies immunization required--transfer--term of certificate.
8.12.020 Identification--placement--transfer--lost tag.
8.12.030 Exemptions.
8.12.040 Violation of registration and immunization regulations.

8.12.010 Registration required--application for registration certificate--rabies immunization required--transfer--term of registration certificate. A. All domestic animals within the borough must be individually registered.

B. An owner residing in the area outside cities shall apply to the borough for a registration certificate for each animal owned. The application for a certificate shall state:

1. the name and address of the owner;
2. the name, breed, color, age, and sex of the animal;
3. whether the animal is spayed or neutered; and
4. the location and description of any identification.

C. No registration certificate shall be issued unless proof of rabies immunization is provided, for the animal for which the certificate is sought, in the form of a completed and current State of Alaska approved rabies vaccination certificate, signed by a licensed veterinarian, or a State of Alaska approved lay vaccinator for rabies. This subsection applies only for animals for which rabies vaccinations are required by state or municipal law or regulation.

D. No person shall use a registration certificate issued for one animal as registration for another animal.

E. The registration certificate shall be issued for a term consistent with the expiration date of the animal's rabies immunization certificate, or one calendar year, whichever is appropriate.

F. Animals kept in a licensed kennel or stockyard must be individually registered as required in this section, but at no charge other than the kennel or stockyard license fee, as set out in this title.

8.12.020 Identification--placement--transfer--lost tag. A. Upon compliance with the provisions of KPB 8.12.010, and payment of any required fees, there shall be issued to the owner a numbered registration certificate and a registration tag stamped with an identification number, for each animal.

B. The owner shall securely keep the registration tag fastened to the animal's choke chain, collar, or harness, which must be worn by animal at all times; except when an animal is in competition, in training, in use by law enforcement personnel, or while performing recognized hunting activities.

C. No person shall use a registration tag issued for one animal on another animal.

D. In the event that the registration tag is lost, the owner may obtain a duplicate tag upon the payment of the required fee.

8.12.030 Exemptions. The registration requirement shall not apply to any animal kept within the borough for less than 30 days; provided, that all animals shall at all times while in the borough be kept under restraint and are subject to all other provisions of this title.

8.12.040 Violation of registration and immunization regulations. Violation of any of the provisions of this chapter is an infraction; unless otherwise provided.

Chapter 8.16

KENNELS AND STOCKYARDS

Sections:

- 8.16.010 License required--application.
- 8.16.020 Inspection--before licensing--after licensing.
- 8.16.030 Sanitation procedures for inspection.
- 8.16.040 Standards for issuing license.
- 8.16.050 Transfer of ownership.
- 8.16.060 Operation--annoyance.
- 8.16.070 Revocation of license.
- 8.16.080 Violation of kennel and stockyard regulations.

8.16.010 License required--application. A. No person shall own or operate a kennel, or own five or more dogs or cats over the age of six months, without a kennel license.

B. No person shall own or operate a stockyard, or own five or more stockyard animals over the age of six months, without a stockyard license.

C. An owner shall apply to the borough for a license for a kennel or stockyard. The application for a license shall state:

1. the name and address of the owner, the name and address of the operator of the kennel or stockyard, and any business or facility names;
2. a description of the facility, including a legal description of the property, and a written and drawn site plan;
3. a copy of a current Alaska business license, current municipal sales tax registration certificate, and current municipal business license, if required;
4. a copy of a borough registration certificate for each animal in the kennel or stockyard.

8.16.020 Inspection--before licensing--after licensing. A. Before a kennel or stockyard license is issued, an animal control officer shall inspect the kennel or stockyard for compliance with this title.

B. The animal control officer may inspect a kennel or stockyard to determine whether the facility is in compliance with any and all provisions of this title.

8.16.030 Sanitation procedures for inspection. The mayor shall adopt sanitation policies, regulations or procedures for borough kennel or stockyard inspections.

8.16.040 Standards for issuing license. A. All kennel or stockyard facilities shall:

1. restrain or confine the animals on the premises;
2. be in a sanitary condition, as defined in this title; and
3. have a plan which provides for adequate animal care, as defined in this title.

B. If, upon application for a kennel or stockyard license, and an inspection, the facility

does not meet the requirements set forth in subsection (A) of this section or the rest of this chapter, the applicant will be given 15 days to bring the premises into compliance. If the facility is not brought into compliance within the 15 day period, then no license shall be issued, and the applicant shall close the facility immediately after the 15 day period lapses.

C. If, upon application for a kennel or stockyard license, and an inspection, the facility does meet the requirements set forth in this chapter, then a license shall be issued.

8.16.050 Transfer of ownership. If ownership of an animal kept in a kennel or stockyard, or ownership of the kennel or stockyard is transferred, the kennel owner or operator must notify the animal control office, in writing, of the transfer of ownership, within 30 days of the transfer, and include the name, address, and phone number of the new owner in the notice.

8.16.060 Operation--annoyance. No kennel or stockyard may be operated in a manner which constitutes an annoyance as defined in this title.

8.16.070 Revocation of license. If, upon an inspection, the animal control officer determines that the kennel or stockyard violates the standards or other provisions set forth in this chapter and title, the owner shall be notified, in writing, and shall be granted a reasonable length of time, but no more than 30 days, within which to remedy any deficiencies found and to comply with the requirements of this title. If, upon an inspection after the expiration of the time granted in the notice, an animal control officer finds that the kennel or stockyard is still in violation; then, the chief animal control officer may revoke the license of the kennel or stockyard owner.

8.16.080 Violation of kennel and stockyard regulations. Violation of any of the provisions of this chapter is an infraction; unless otherwise provided.

Chapter 8.20

DOG BITE AND ATTACK INCIDENTS

Sections:

- 8.20.010 Dog bite or attack report--impoundment--investigation--classification--determination.
- 8.20.020 Dangerous and vicious dogs--definitions and exceptions.
- 8.20.030 Conditions of release--compliance.
- 8.20.040 Vicious dog determination--appeal--voluntary relinquishment.
- 8.20.050 Dangerous and vicious dogs--rabies exception.
- 8.20.060 Violation of dog bite and attack regulations.

8.20.010 Dog bite or attack report--impoundment--investigation--classification --determination. A. Any person may report a dog bite or attack incident to the animal control office.

B. All dogs involved in bites or attacks are subject to immediate impoundment by an animal control officer.

C. Within six days of the bite or attack report, an animal control officer shall investigate, and make a recommendation for a classification of and a determination concerning each reported dog bite or attack incident.

D. The bite or attack shall be classified as accidental or nonaccidental. If the incident is classified as nonaccidental, then the dog shall be determined to be either dangerous or vicious, as defined in this chapter.

E. The chief animal control officer shall review the recommendation and make a written determination that a dog is either dangerous or vicious, or not, within 10 days of the bite or attack report. Notice of the determination shall be sent by first class mail to the dog owner, no later than two days after the determination is made. Dogs involved in bites or attacks shall remain in the animal shelter pending the chief animal control officer's determination.

8.20.020 Dangerous and vicious dogs--definitions and exceptions. A. A dangerous dog means a dog not under restraint which has, without provocation, approached, in a threatening, menacing, or terrorizing manner, any person or domestic animal.

B. A vicious dog means a dog which has, without provocation, bitten, inflicted injury, assaulted or otherwise attacked or endangered the safety of a human being or domestic animal.

C. No dog is considered dangerous or vicious if the approach, injury, or damage was sustained by a person of sufficient age and understanding who:

1. was tormenting, abusing, or assaulting the dog; or
2. was committing or attempting to commit a crime or intentional tort which would warrant immediate defense of person or property.

8.20.030 Conditions of release--compliance. A. If the bite of attack incident is classified as accidental, the dog may be released to the owner, with or without conditions, at the

discretion of the chief animal control officer. The owner shall comply with the conditions of release, if any.

B. If the dog is determined to be dangerous, the chief animal control officer shall mail the owner of the dog a written order setting forth the conditions of release, accompanied by written findings and conclusions, no later than 10 days from the date of the chief animal control officer's dangerous dog determination.

C. A dog determined to be dangerous shall be only released to the owner upon the following conditions:

1. payment of the fee required by this title; and
2. execution of a statement agreeing to comply with the conditions of release.

D. The owner of the dangerous dog shall comply with the conditions of release.

8.20.040 Vicious dog--disposition--appeal--voluntary relinquishment. A. A dog determined to be vicious may not be released, but shall be humanely destroyed within five days of the mailing of the vicious dog determination to the owner.

B. The chief animal control officer's vicious dog determination may be appealed to the animal control commission, pursuant to the provisions of this title. The animal shall remain impounded pending the appeal hearing, if one is scheduled.

C. A vicious adjudication is not necessary if the owner voluntarily relinquishes the dog to the borough for euthanization.

8.20.050 Dangerous and vicious dogs--rabies exception. If at any time during a supervised quarantine or impoundment of dogs involved in bites or attacks, a dog is or becomes rabid or is tentatively diagnosed as being rabid, then the chief animal control officer may take any action necessary as provided in this title for rabid dogs, regardless of whether the dog is later determined to be rabies free.

8.20.060 Violation of dog bite and attack regulations. Violation of any of the provisions of this chapter is an infraction; unless otherwise provided.

Chapter 8.24

ANIMAL DISEASE CONTROL

Sections:

- 8.24.010 Surrender of animals.
- 8.24.020 Supervised quarantine.
- 8.24.030 Rabid animals--diagnosis--destruction--disposition.
- 8.24.040 Cooperation with State of Alaska officials.
- 8.24.050 Violation of animal disease control regulations.

8.24.010 Surrender of animals. A. If an animal has bitten or attacked a human or another animal, the owner of the animal shall immediately report the bite or attack to the animal control office. The owner shall surrender the animal, upon request by an animal control officer, for supervised quarantine or impoundment, at the discretion of the chief animal control officer.

B. An animal which is rabid or suspected of having rabies or has been directly exposed to a rabid animal, including the carcass or portion thereof, shall be surrendered by the owner or caretaker, upon request, to an animal control officer.

8.24.020 Supervised quarantine. An animal subject to a supervised quarantine shall be securely confined for a minimum period of 10 days following the bite or attack, or for the minimum period prescribed by state law or regulation, whichever is longer. The location and conditions of the quarantine shall be determined by the chief animal control officer, in cooperation with State of Alaska officials in charge of animal quarantine. The owner of the quarantined animal shall be liable for payment of any fees and costs associated with the quarantine, treatment, or care of the animal incurred by the borough.

8.24.030 Rabid animals--diagnosis--destruction--disposition. A. When an animal under supervised quarantine, other than at the borough animal shelter, is diagnosed or tentatively diagnosed as rabid, the chief animal control officer shall be notified immediately after the diagnosis by the person making the diagnosis.

B. If any animal is rabid or tentatively diagnosed as rabid, the chief animal control officer may take any action necessary; including, but not limited to, immediate impoundment and euthanasia, and the removal of tissue samples from the animal to confirm the diagnosis of rabies.

C. No person except an authorized agent of the state of Alaska, the chief animal control officer, or a licensed veterinarian may kill or cause to be killed any animal which is diagnosed as rabid or suspected to be rabid. Any domestic animal diagnosed or tentatively diagnosed as rabid by an Alaska licensed veterinarian shall be destroyed forthwith.

D. The chief animal control officer shall dispose of any dead domestic animal, or portions thereof, which was diagnosed as rabid or suspected of being rabid.

8.24.010 Cooperation with State of Alaska officials. A. The borough administration

may enter into cooperative agreements with the State of Alaska concerning quarantine and disposition of suspected or confirmed cases of animal disease dangerous to the health of human beings or other animals.

B. The chief animal control officer shall cooperate with state officials investigating suspected or confirmed cases of such animal disease, and shall defer to the administrative decisions of the State of Alaska on the following matters:

1. surrender of jurisdiction of an animal to the state;
2. compliance with state mandated quarantines;
3. investigation of suspected or confirmed animal disease cases; and
4. control of the spread of rabies or other animal diseases, including area quarantine and the euthanasia of animals in order to test brain tissue.

8.24.050 Violation of animal disease control regulations. Violation of any of the provisions of this chapter is an infraction; unless otherwise provided.

Chapter 8.28

IMPOUNDMENT AND ADOPTION

Sections:

- 8.28.010 Impoundment procedure--animals running at large--pursuit onto private property--notification of owner--expenses.
- 8.28.020 Redemption of impounded animals.
- 8.28.030 Forfeiture of impounded animals--written determination--disposition of animal--appeal.
- 8.28.040 Livestock auction.
- 8.28.050 Adoption--requirements.
- 8.28.060 Voluntary release.
- 8.28.070 Violation of impoundment regulations.

8.28.010 Impoundment procedure--animals running at large--pursuit onto private property--notification of owner--expenses. A. Any animal found running-at-large in the borough, or any dog involved in a bite or attack, is subject to impoundment by a borough animal control officer. Animals running-at-large without identification shall be impounded at the animal control shelter for a period of not less than 72 hours, unless claimed by the owner sooner. Animals with identification which are found running-at-large in the borough shall be impounded for not less than 120 hours, unless claimed by the owner sooner. Animals may also be impounded as provided elsewhere in this title.

B. Animals not claimed by the owner within the mandatory minimum impoundment period may be held for adoption or disposed of in a humane manner, at the discretion of the chief animal control officer.

C. An animal control officer shall not pursue an animal running-at-large onto property posted with a "no trespassing" sign or onto property where the owner expressly refuses access to the animal control officer. However, this subsection does not limit the animal control office from carrying out his or her lawful duties under this title when entering posted or unposted private property.

D. Within 48 hours of impoundment, the animal control office shall make reasonable efforts to notify the owner of an animal impounded of the impoundment and the conditions under which the owner may regain custody of such animal, before the animal is adopted or disposed of.

E. The owner of an impounded animal is responsible for fees, expenses or costs incurred by the borough for care and maintenance of the impounded animal.

8.28.020 Redemption of impounded animals. The owner is entitled to reclaim possession of an impounded animal, unless otherwise provided by this title, upon the owner's compliance with the registration regulations set forth in this title, payment of fees and expenses as required by this title, and compliance with any conditions of release established by the chief animal control officer.

~~8.28.030 Forfeiture of impounded animals--written determination--disposition of animal--
appeal.~~ A. The following persons are subject to forfeiture of all interest and rights, if any, in
an animal:

- ~~1. persons who fail to provide adequate animal care;~~
- ~~2. persons who commit cruel acts against animals or fail to protect animals
against cruel acts of others;~~
- ~~3. persons who fail to comply with conditions of release of impounded animals
established by the chief animal control officer; and~~
- ~~4. persons who fail to pay impoundment and boarding fees and other costs and
expenses incurred by the borough for the care and maintenance of an animal.~~

~~B. The chief animal control officer shall make a written determination, including findings
and conclusions, that the owner has forfeited any right to the animals for the reasons listed in
this section. The determination shall be sent to the owner of the animal no later than two days
after the determination is made.~~

~~C. Forfeited animals shall be impounded, and may be adopted or disposed of in a
humane manner, at the discretion of the animal control officer.~~

~~D. The chief animal control officer's forfeiture determination may be appealed to the
animal control commission, pursuant to the provisions of this title. The animal shall remain
impounded pending the appeal hearing, if one is scheduled.~~

~~8.28.040 Livestock auction.~~ The chief animal control officer may, at his or her
discretion, auction impounded livestock.

~~8.28.050 Adoption--requirements.~~ A. The chief animal control officer may establish
adoption plans and fee schedules for impounded animals, consistent with the provisions of this
chapter.

~~B. No dog or cat shall be adopted from the shelter unless the prospective owner agrees
to have the animal spayed or neutered. A dog or cat which is at least six months old and is not
spayed or neutered when it is adopted must be spayed or neutered within 30 days of the date of
adoption. Dogs and cats which are under six months of age at the time of adoption shall be
spayed or neutered within six months of the date of adoption.~~

~~C. No animal shall be adopted from impoundment that shows symptoms of infectious or
contagious disease, or shows signs of aggression toward humans or other animals.~~

~~D. Records of adoptions shall be maintained by the animal control office.~~

~~8.28.060 Voluntary release.~~ A person may voluntarily release ownership of an animal
to the borough animal shelter, upon execution of a release of ownership in favor of the borough
and payment of a fee per animal, as provided in this title. The chief animal control officer may,
for good cause, waive the release fee.

~~8.28.070 Violation of impoundment regulations.~~ Violation of any of the provisions of
this chapter is an infraction; unless otherwise provided.

Chapter 8.32

ANIMAL CONTROL COMMISSION

Sections:

- 8.32.010 Animal control commission--term--membership--officers.
- 8.32.020 Animal control commission--jurisdiction.
- 8.32.030 Animal control commission--appeal procedure
- 8.32.040 Appeal decision--disposition of animals.
- 8.32.050 Appeals to superior court.
- 8.32.060 Fees upon appeal.
- 8.32.070 Violation of commission order--failure to pay fees.

8.32.010 Animal control commission--term--membership--officers. A. There is established a borough animal control commission, which shall be composed of three members, with one alternate, appointed by the mayor and confirmed by the assembly.

B. The term of each appointed member of the board shall be three years, however, appointment of the initial three members shall be for a one-year term, a two-year term, and a three-year term. The alternate's initial term shall be for three years.

C. There shall be one member selected from each of the following groups to the extent practicable:

1. licensed veterinarians;
2. board members of the Humane Society of the United States or of a local chapter of that organization; or the Society for Prevention of Cruelty to Animals, and
3. members of the public who are Borough residents.

D. Commission members shall annually appoint a chairperson and vice chairperson.

8.32.020 Animal control commission--jurisdiction. The animal control board has appellate jurisdiction over dogs determined to be vicious by the chief animal control officer and over forfeiture determinations by the chief animal control officer.

8.32.030 Animal control commission--appeal procedure. A. The owner of an animal determined to be forfeited or a vicious dog may file a written request with the borough clerk for an appeal hearing before the animal control commission, pursuant to this chapter. The request must be filed within five days of the date the chief animal control officer's forfeiture or vicious dog determination is mailed to the owner, or the right to an appeal hearing is barred. The request must be accompanied by advance payment of impoundment fees calculated from the determination date to the date set for hearing before the animal control commission. If a request for hearing is timely filed, and advance payment of fees is timely received, an appeal hearing shall be set, no sooner than 20 and no later than 30 days after receipt of the request, before the animal control commission in accordance with the provisions of this chapter.

B. The chief animal control officer shall file the record regarding the case, with the borough clerk, no less than 15 days before the date of the hearing. Witness lists, written briefs,

and other information to be considered by the board shall be filed by the parties with the borough clerk, no less than seven days before the hearing. The borough clerk shall promptly distribute copies of the record and other filed information to the commission members.

C. All commission hearings shall be open to the public and taped, and minutes shall be kept. Commission deliberations are not subject to this public meeting requirement.

D. A quorum of the commission must be present in order to convene and take action. A quorum is two members. Action is taken by a majority of the members present.

E. The chairperson of the commission presides over the hearing. The borough clerk shall attend the hearings to record the proceedings, record votes, administer the oaths to witnesses, and prepare the decision forms. The borough attorney may attend the hearing to advise the commission.

F. The agenda and procedure for animal control commission hearings shall be as follows:

1. Call to order and roll call.
2. Call appeals, in the order placed on the agenda. If appellant is not present, the commission shall dismiss the appeal.
3. Opening presentation by borough staff--10 minutes.
4. Opening presentation by appellant animal owner--10 minutes.
5. Witness statements. All witnesses shall testify under oath, and are subject to examination by the animal control commission members.
6. Closing remarks by borough staff--10 minutes.
7. Closing remarks by animal owner--10 minutes.
8. Rebuttal remarks by borough--5 minutes.
9. Close hearing.
10. Commission deliberation.
11. Oral presentation of findings, conclusions, and order.
12. Call next appeal on the agenda following the procedures set forth in this subsection.
13. Adjourn.

G. The presiding officer makes decisions regarding the admissibility of evidence, and shall exclude irrelevant evidence from the hearing. For vicious dog hearings, the character of the dog on days other than the day(s) of the incident(s) for which it is being adjudicated vicious is not relevant.

H. The burden of proof, by the preponderance of the evidence, is on the appellant. Preponderance of the evidence means that the evidence as a whole shows the facts sought to be proved are more probable than not. The board shall defer to and uphold the determination of the chief animal control officer if the determination is supported by substantial evidence. For the purpose of vicious dog and forfeiture appeals, substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

8.32.040 Appeal decision--disposition of animals. A. After the hearing is closed, the commission shall deliberate and issue a written decision including findings and conclusions based on the evidence on the record, within ten days of the hearing. The decision shall include an order stating the amount of fees and costs associated with the care of the dog while the case was pending. The borough clerk shall promptly distribute the decision to the chief animal control officer and the appellant animal owner.

B. If the animal control commission affirms the determination of the chief animal control officer:

1. All dogs found to be vicious by the animal control commission shall be humanely destroyed.

2. All animals found to be forfeited shall remain in impoundment to be adopted or humanely destroyed, in the discretion of the chief animal control officer.

C. If the animal control board reverses the decision of the chief animal control officer in a vicious dog or forfeiture proceeding, it may order conditions of release prior to releasing an animal to its owner. The owner shall comply with the conditions of release.

8.32.050 Appeals to superior court. Either the animal owner or the borough may appeal the decision of the commission to the superior court in the Kenai venue district, within 30 days of the date of mailing of the board decision, as provided by the rules of appellate procedure governing appeals from administrative agency decisions. The record on appeal is the record established at the commission hearing.

8.32.060 Fees upon appeal. An animal whose owner is awaiting a decision of the animal control commission on appeal may remain in impoundment at the chief animal control officer's sole discretion. The owner is responsible for all fees and expenses incurred from the date of impoundment.

8.32.070 Violation of commission order--failure to pay fees. Violation of a animal control commission order is an infraction. Failure to impoundment fees pending appeal is an infraction.

Chapter 8.36

ANIMAL CONTROL OFFICE

Sections:

- 8.36.010 Animal control office--appointment of animal control officers--contract.
- 8.36.020 Powers and duties of animal control officers.
- 8.36.030 Policies, procedures, and regulations.
- 8.36.040 Recordkeeping--confidentiality.
- 8.36.050 Interference--release of animal--detention of animal.

8.36.010 Animal control office--appointment of animal control officers--contract. A. There is established an animal control office in the borough administration. The mayor shall appoint a chief animal control officer. The chief animal control officer shall establish job qualifications and appoint deputy animal control officers.

B. The borough may contract, in whole or in part, for any or part of its animal control services.

8.36.020 Powers and duties of animal control officers. The chief animal control officer has the power to administer and enforce the provisions of this title, including the operation of animal shelters and the development of animal control policies, regulations, and procedures, subject to the authority of the mayor and assembly, as appropriate. A deputy animal control officer has the duty to enforce the provisions of this title, subject to the chief animal control officer's authority, including but not limited to, the power to issue, file and serve citations for infractions.

8.36.030 Policies, regulations, and procedures. The chief animal control officer may establish written policies, regulations, and procedures to carry out the provisions of this title, and may amend or rescind such policies, regulations and procedures, subject to the approval of the mayor. The written animal control policies, regulations, and procedures adopted and administered by the chief animal control officer shall be compiled into a manual available to the public at cost.

8.36.040 Recordkeeping--confidentiality. A. The animal control office shall keep accurate and detailed records including, but not limited to, records regarding moneys received and expended, licensing, impoundment, disposition of animals, and investigations regarding animals coming under the borough's jurisdiction.

B. Complaints and investigation records shall be kept confidential and not released unless otherwise required by law.

8.36.050 Interference--release of animal--detention of animal. A. No person shall interfere with, hinder, or assault an animal control officer, or officer or agent of the borough in the performance of any duties under this title, including investigation and prosecution.

B. No person shall remove or release or attempt to remove or release any animal from the animal shelter, animal control vehicles, borough animal traps, the custody of an animal control officer, or from any other official custody without first obtaining permission to do so from the animal control office.

C. A person may lawfully detain any animal found in violation of the borough code, provided they immediately notify the animal control office and surrender the animal to the animal control officer in compliance with all provisions of borough code.

D. Violation of any of the provisions of this section is an infraction.

Chapter 8.40

ENFORCEMENT

Sections:

- 8.40.010 Citation for infraction--contents--response.
- 8.40.020 Infraction--conviction--punishment.
- 8.40.030 Forfeiture.
- 8.40.040 Civil penalty.
- 8.40.050 Fines for infractions.
- 8.40.060 Fees.

8.40.010 Citation for infraction--contents--response. A. An animal control officer or other authorized agent may issue, file and serve a citation for a violation of any of the provisions of this title constituting an infraction.

B. The citation shall be in writing, state the nature of the violation, name the alleged violator, and contain a notice to answer to the charges against the alleged violator in the Alaska State District Court for the Third Judicial District at Kenai. The citation shall further state that the defendant is entitled to a trial, to engage counsel at defendant's expense, to confront and question witnesses, to testify, and to subpoena witnesses in the defendant's behalf. The citation shall also indicate whether a court appearance is mandatory or can be waived, shall state the fine established by borough ordinance, the procedure the defendant must follow in responding to the citation, and the consequences for failure to respond.

C. A person issued a citation pursuant to this title may pay the applicable fine to the district court clerk upon entering the plea of no-contest and waiving appearance in court, or may enter a plea of not guilty and request a trial.

8.40.020 Infraction--conviction--punishment. A. Except as otherwise provided in this title, any person violating any provision of this title shall be deemed guilty of an infraction and, upon conviction, shall be punished by a fine of not less than \$50 nor greater than \$500, plus an award of restitution for the costs incurred by the borough to care for an animal, if any.

B. Persons who do not contest a citation for infraction, or who change their original plea of "not guilty" to "guilty" or "no contest", or persons convicted of the infraction charged shall be fined according to the mandatory minimum fine schedule provided in this chapter.

8.40.030 Forfeiture. Any person who is convicted of committing cruelty against an animal who is the owner of the animal, and is ordered by the court to forfeit the animal, or receives an adverse forfeiture determination or decision by the chief animal control officer or animal control commission, forfeits all rights of ownership in the animal. Such forfeited animals shall be subject to the impoundment, adoption, and disposition provisions of this title.

8.40.040 Civil penalty. The borough may institute a civil action against any person who violates any provision of this title. In addition to injunctive and compensatory relief, a civil

penalty not to exceed \$1,000 may be imposed for each violation, in addition to an award of fees and costs incurred in the action. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction. Each day that a violation of this title continues constitutes a separate violation.

g/v 8.40.050 Fines for infractions. The following mandatory minimum fines are hereby established for violations of the following provisions of this title:

A. General regulations, KPBB 8.08:

KPB 8.08.010, Animal noise	\$50
KPB 8.08.020(A), Failure to restrain:	
1st offense	\$75
2nd offense, same owner, within 12 months	\$100
3rd offense, same owner, within 12 months	\$200
KPB 8.08.020(B), Failure to confine animal during estrus	\$100
KPB 8.08.020(C), Release from restraint	\$50
KPB 8.08.030, Failure to provide sanitary enclosures	\$50
KPB 8.08.040, Keeping diseased animals	\$100
KPB 8.08.050, Animals in public places	\$50
KPB 8.08.060(A), Trapping domestic animals	\$50
KPB 8.08.060(B), Failure to check trap line	\$50
KPB 8.08.060(B), Failure to adequately care for	
	captured animal
	\$50
KPB 8.08.070, Failure to provide adequate care:	
1st offense	\$75
2d offense, same owner, within 12 months	\$100
3d offense, same owner, within 12 months	\$200
KPB 8.08.080, Cruelty to animals	\$250

B. Registration and license regulations:

KPB 8.12.010, Failure to register	\$50
KPB 8.12.010(D), Misuse of registration certificate	\$100
KPB 8.12.020(B), Missing registration tags	\$50
KPB 8.12.020(C), Misuse of registration tag	\$100

C. Kennel and stockyard regulations:

KPB 8.16.010, Unlicensed kennel or stockyard (per day)	\$100
KPB 8.16.020, Failure to permit an inspection	\$150
KPB 8.16.050, Failure to report transfer	\$50
KPB 8.16.060, Annoyance	\$150
KPB 8.16.070, Failure to bring kennel/stockyard into compliance	\$200

D. Dog bite or attack regulations:

KPB 8.20.010(B), Failure to surrender dog	\$150
KPB 8.20.030, Violation of conditional release, dangerous dog	\$250

E. Animal disease regulations:

KPB 8.24.010, Failure to report bite or attack	\$50
KPB 8.24.010, Failure to surrender an animal	\$100
KPB 8.24.020, Failure to confine animal	\$100
KPB 8.24.020, Failure to comply with conditions of quarantine	\$100
KPB 8.24.030(A), Failure to report rabies diagnosis	\$50
KPB 8.24.030(C), Unauthorized destruction of rabid animal	\$50

F. Impoundment regulations:

KPB 8.28.010(E), Refusal to pay fees	\$50
KPB 8.28.020, Violation of conditional release	\$100
KPB 8.28.050(B), Failure to spay or neuter	\$150

G. Animal control commission regulations:

KPB 8.32.040, Violation of animal control commission order	\$250
KPB 8.32.060, Failure to pay fees pending appeal	\$100

H. Animal control office regulations:

KPB 8.36.050(A), Interference with animal control officers	\$150
KPB 8.36.050(B), Unauthorized release of an animal	\$75
KPB 8.36.050(C), Unlawful detainment of an animal	\$50

8.40.060 Fees and expenses. A. A person who is convicted of violating a provision of this title shall pay restitution to the borough for all fees, costs and expenses incurred by the borough for the custody, care and maintenance of an animal; including, but not limited to, impoundment fees and veterinary costs.

B. Registration and license fees shall be as follows:

Dog or cat registration, each calendar year:	\$35 per dog or cat, unspayed or unneutered
Dog or cat registration, each calendar year:	\$10 per dog or cat, spayed or neutered.
Kennel/stockyard license, each calendar year:	\$35 per year.

C. Impoundment fees:

Unregistered animals:	
Owner's first impoundment	\$30
Registered dogs, other animals, excluding cats:	
Owner's first impoundment	\$20
Owner's second impoundment, within 12 months	\$60
Owner's third impoundment, within 12 months	\$120
Owner's fourth impoundment, within 12 months	\$240
Each additional impoundment, same owner, within 12 months	\$300
Registered cats:	
Owner's first impoundment	\$10
Owner's second impoundment, within 12 months	\$60
Owner's third impoundment, within 12 months	\$80
Owner's fourth impoundment, within 12 months	\$160
Each additional impoundment, same owner, within 12 months	\$300

D. Daily boarding fees for each day or part of a day:

Dogs:	\$10
Cats:	\$5
Other animals weighing less than 15 pounds:	\$10
Other animals weighing more than 15 pounds:	\$30

E. The owner of an impounded animal shall be responsible for expenses and costs in addition to impoundment and boarding fees incurred by the borough for care and maintenance of the animal. The animal will not be returned to the owner unless and until fees, expenses and costs are paid. If the fees, expenses or costs are not paid within 120 hours of notice of impoundment to the owner, the animal will be subject to the adoption and disposition provisions of this title at the chief animal control officer's discretion.

F. Adoption fees:

Dog or other animal, spayed or neutered:	\$20
Dog or other animal, not spayed or neutered:	\$50
Cat, spayed or neutered:	\$15
Cat, not spayed or neutered:	\$45

G. The additional fee charged for the adoption of a dog or other animal or cat which has not been spayed or neutered entitles the new owner to a voucher to be used to help defray the cost of spaying or neutering the dog or cat by a licensed veterinarian.

Section 2. That KPB 21.12.010 is amended to read as follows:

21.12.010 Permitted when--exception required. All uses that may be noxious, injurious or hazardous to surrounding property or persons by reason of the

production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or conditions or the production or storage of explosive materials shall be permitted only by exception; except that any such use pertaining to animals shall be referred to the animal control office for disposition under Title 8 of the Borough Code of Ordinances.

Section 3. That KPB 17.06.470 is amended to read as follows:

C. Agricultural Lease. The mayor may lease borough land for agricultural purposes according to the terms fixed by the assembly except that the mayor shall not lease approved, unpatented general grant land without fully disclosing the unpatented status of the land to the lessee.

8. Leased lands shall be utilized for purposes within the scope of the application, the terms and conditions of the lease, and in conformity with the lessee's development plan, [AND] any land use or comprehensive plans, and any law or borough or city ordinance that applies, including any animal restraint ordinance. Utilization or development for other than the allowed uses, or failure to comply with any law or ordinance that applies, shall constitute a violation of the lease and the lease will become subject to cancellation.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS
____ DAY OF _____, 1992.

Betty J. Glick, Assembly President

ATTEST:

Gaye J. Vaughan, Borough Clerk