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| Introduced by: | Navarre |
| Date: | 8/20/96 |
| Hearing: | 9/17/96 |
| Action: | Failed to Set for Hearing |
| Vote: | 4 Yes, 5 No |
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| Postponed: | 1/07/97 |
| Action: | Tabled |
| Vote: | 5 Yes, 3 No |

**KENAI PENINSULA BOROUGH
ORDINANCE 96-39**

**ENACTING CHAPTER 8.10 OF THE KENAI PENINSULA BOROUGH CODE OF
ORDINANCES PROVIDING FOR LIMITED BOROUGH-WIDE ANIMAL CONTROL
IN THE AREA OUTSIDE CITIES**

- WHEREAS,** the cities of Kenai, Soldotna, Homer, and Seward presently provide animal control services; and
- WHEREAS,** these cities also incur expenses providing services for animals owned by borough residents living outside cities largely because such borough animals either travel to or are delivered to the cities; and
- 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,** a recent newspaper article showed 305 dog and cat bites were reported to the Anchorage Animal Control Center since April, 1996, and that children under the age of ten are the likeliest victims; and
- WHEREAS,** Alaska Statute 29.35.210 provides that the borough may by ordinance, license, impound and dispose of animals on either an areawide or a non areawide basis; and
- WHEREAS,** it is desirable to implement limited animal control measures in the areas outside of the cities to be enforced by contract;

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

SECTION 1. That a new Chapter 8.10 of the Kenai Peninsula Borough Code of Ordinances shall be enacted to read as follows:

8.10.010. Definitions.

For the purposes of this chapter, the following terms are defined as provided below, unless otherwise stated:

- a. "Animal" means vertebrated domestic or domesticated member of the Animalia Kingdom;
- b. "At large" means an animal not under restraint.
- c. "Dangerous animal" means any animal which, due to improper or inadequate supervision or control has done an act harmful in its character to human beings or animals, regardless of whether the act is done in a playful or hostile manner.
- d. "Domesticated" means animals adapted to human use or pleasure.
- e. "Enforcing Municipality" refers to the municipality having jurisdiction and authority to enforce this chapter in the location where the animal is located. It means either:
 - (1) the borough, where enforcement is by the borough or a non-municipal contractor with the borough; or
 - (2) the city within the borough enforcing this chapter pursuant to an agreement with the borough.
- f. "Impoundment" means the seizure of animals by the methods set forth in this chapter.
- g. "Officer" means a person charged by law with the duty to enforce provisions of this title.
- h. "Owner" means a person or group of persons having title, keeping, harboring and having custody or control of an animal.
- i. "Person" includes an individual, a joint venture, partnership, corporation, or unincorporated association.
- j. "Restraint" means physical confinement, as in a building or a secure enclosure, or otherwise secured, as with a muzzle, so that it cannot injure other persons or their property.
- k. "Trespass" means to enter on the land of another without lawful permission.
- l. "Vicious animal" means an animal that has done an unreasonable act harmful to human beings or animals which act is done in a hostile manner.

8.10.020. Jurisdiction.

The borough has jurisdiction over domestic and domesticated animals as defined in this chapter.

8.10.030. Application.

The provisions of this chapter shall apply to domestic and domesticated animals owned by persons residing in the area of the borough outside of the cities.

8.10.040. Animal Restraint.

A. It shall be unlawful for an owner of any animal to permit such animal to trespass on the property of another person. An owner of an animal shall at all times take all steps reasonably necessary to ensure the animal will not trespass on the property of another person.

B. It shall be unlawful for an owner of a vicious or dangerous animal to permit such animal to run at large within the borough. An owner or caretaker of such an animal shall at all times either confine the animal in a building or a secure enclosure, or otherwise secure the animal, as with a muzzle and leash, so that it cannot injure other persons or their property.

8.10.050. Rabies.

A. No person may own a dog or cat over three months of age that does not have a current rabies vaccination.

B. Any animal reasonably suspected to be infected with the rabies virus shall be immediately reported to the enforcing municipality and impounded as provided in this chapter. The enforcing municipality shall thereafter proceed in accordance with applicable laws of that municipality governing rabies control.

C. Where the enforcing municipality is the borough, any animal reasonably suspected by the animal control officer to be infected with the rabies virus shall be quarantined for a minimum of ten days.

D. Conditions of Quarantine:

(1) Subject to subsections (D)(2) through (D)(4) of this section, while an animal is quarantined, its owner shall confine the animal indoors or in a secure enclosure so that it cannot leave its premises, or come in contact with persons or other animals. The animal may be taken outdoors for brief periods to relieve itself, provided it is kept on a secure leash under the control of an adult. The animal may be kept under equally secure conditions at a veterinary hospital or boarding kennel of the owner's choice. The owner shall inform the animal control officer where the animal is being kept. The owner or person in possession of a quarantined animal shall immediately notify the Alaska Department of Health and Welfare of any evidence of sickness or disease in the animal during its period of confinement and shall promptly deliver its carcass to the appropriate agency in the event of the animal's death during quarantine.

(2) No person may release an animal from quarantine without the written consent of the animal control officer. The animal control officer may require that an animal be inspected before releasing it from quarantine.

(3) No person may remove a quarantined animal from the borough without notifying the animal control officer in writing at least 48 hours before the intended removal and obtaining the written consent of the animal control officer to the removal.

(4) The animal control officer may direct that a quarantined animal be confined at an animal control center.

(5) To the extent that provisions of this subparagraph D are inconsistent with provisions in the code of an enforcing municipality, provisions in the enforcing municipality's code shall prevail. Where borough law conflicts with state law concerning rabies control, state law shall control.

(E) The owner of a quarantined animal shall bear the expense of keeping the animal while it is quarantined, wherever it is kept and whether the location of its quarantine is selected by its owner or directed by the animal control officer.

8.10.060. Unauthorized Animal Release.

It shall be unlawful for any person, other than an officer of the law performing duties pursuant to this chapter, to release an animal from restraint without its owner's consent, except to preserve the animal's life.

8.10.070. Licensing.

A. Any animal impounded under this chapter shall thereafter be registered and licensed at the owner's expense, and any applicable fees paid, in accordance with the registration and licensing requirements of the enforcing municipality impounding the animal. If the borough is the enforcing municipality, all impounded animals over four months of age shall be licensed and registered by the borough or its contractor, and licensing and impoundment fees paid prior to release. Such license shall state the name and address of the owner and the name, breed, color, age and sex of the animal. A numbered tag for the animal shall be issued by the animal control officer and worn by the animal at all times, securely fastened to a collar, harness or similar device. Borough licenses shall expire on December 31st each year and must be renewed by the following February 1 once a license is issued. Any such animal shall also be vaccinated for rabies before either licensing or release, or proof provided that the animal has a current rabies vaccination.

B. An owner may voluntarily register and license an animal with the enforcing municipality having authority to enforce this chapter in the area where the animal resides, at the owner's expense.

C. In order to encourage licensing and vaccination of animals, the mayor may establish one or more one-day clinics for voluntary licensing, registration and vaccination of animals within the borough.

8.10.080. Enforcement.

Provisions of this chapter requiring enforcement by an officer may be enforced either by the borough directly, or by private contractors or cities within the borough pursuant to agreements. Enforcement districts shall be established encompassing all areas of the borough outside of the cities. Funds for enforcement shall be allocated in proportion to the population in each enforcement district, as established by the most recent federal decennial census. The mayor is authorized to enter into either annual or long-term agreements with private contractors or such cities for enforcement of this chapter within agreed upon enforcement districts, subject to assembly and city council approval. Such approval shall be by resolution, unless an ordinance is otherwise required by law. Such agreements shall provide for reasonable compensation to the contractors and cities for costs incurred in enforcing this chapter. As a part of such compensation, it is anticipated that cities and contractors shall retain all fees collected from owners. Cities and contractors are not obligated to handle or respond to calls in the absence of an agreement.

8.10.090. Hearings and Appeals.

A person who owns an animal designated by an officer as vicious or dangerous may appeal that designation to the mayor or his designee by filing a written application for a hearing with the borough clerk within thirty days of the date of notice of such designation. Upon receipt of a timely application, the mayor or his designee shall conduct a hearing, providing the person with reasonable notice and opportunity to be heard. Appeals from the mayor's decision shall be filed with the superior court in Kenai, Alaska within 30 days of the mayor's decision, in accordance with the rules governing appeals from administrative agency decisions. Where a city is the enforcing municipality,

if the agreement with the city so provides, the person shall utilize the city's applicable appeal procedures instead of this procedure.

8.10.100. Interference.

No person may interfere with, hinder, or molest an officer performing a duty under this chapter.

8.10.110. Impoundment.

A. An animal control officer, or any police officer, or their designee may capture unrestrained vicious or dangerous animals, trespassing animals, other animals in violation of any provision in this chapter, or an animal reasonably suspected to be infected with the rabies virus.

B. An officer may pursue an animal onto private property in the course of effecting an impoundment.

C. To effect an impoundment, an officer or his designee may capture an animal by calling the animal or, when deemed necessary, by the use of a baited live capture cage trap. A citizen may also capture an animal which is in violation of this chapter by calling the animal for capture and removal. Except in an emergency, when capturing an animal for impoundment, private citizens may only use live traps, and such traps must have been approved by the animal control officer with authority for the area where the animal is located. In an emergency, where the animal is threatening life or property, capture by a citizen may be by any reasonable means necessary to hold the animal pending further disposition.

D. When responding to a call in the borough outside the city an officer is acting under the legal authority of the borough.

E. Unless the enforcing municipality is a city, an impounded animal shall be taken to the appropriate animal control shelter and confined in a humane manner for not less than 120 hours, unless earlier redeemed by the owner by completing registration and vaccination requirements, and paying all applicable fees. Immediately upon impounding an animal the animal control officer shall make reasonable efforts to notify the animal's owner of the impoundment and the conditions under which the owner may redeem the animal. Additionally, when the impounding officer determines an animal is vicious or dangerous, the officer shall promptly make reasonable efforts to notify the owner of this designation. Where the enforcing municipality is a city, that city's impoundment procedures shall govern.

8.10.120. Disposition of animals.

An impounded animal may be destroyed or otherwise disposed of by the enforcing municipality in accordance with that municipality's applicable ordinances. Where the borough is the enforcing municipality, animals not redeemed by the owner within the allotted time period may be either disposed of in a humane manner or made available for adoption upon payment of all accruing fees. Animals designated as vicious or showing symptoms of a major infectious or contagious disease shall not be available for adoption.

8.10.130. Fee schedule.

Fees for licensing or redeeming an impounded animal shall be the same fee normally charged by the enforcing municipality for the services provided. Where the borough is the enforcing municipality, fees shall be charged as follows:

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| Licensing | \$5.00 per year. |
| Replacements for lost license tags | \$0.25. |
| Medical care | Actual Veterinarian charges. |
| Impoundment: | |
| Animals weighing less than 15 pounds: | \$3.00 per day or partial day for feeding plus \$25. |
| Animals weighing 15 pounds or more: | \$5.00 per day or actual costs, whichever is greater, for feeding, plus the \$25 impoundment fee. If the animal is too large for existing municipal facilities, then the actual boarding costs will also be charged. |

8.10.140. Penalties and Remedies.

A. Any person who violates a provision of this chapter shall be guilty of a violation and, upon conviction, be subject to a fine of up to \$500 plus court costs. Enforcement of this chapter by the cities shall not include prosecution under this subparagraph.

B. In addition to any other penalty, fee or remedy provided herein, the borough or an aggrieved person may institute a civil action against a person who violates this chapter. Notwithstanding the availability of another remedy, a civil injunction or temporary restraining order may be obtained in order to obtain immediate compliance with the provisions of this chapter. On finding a violation or a threatened violation of this chapter the superior court shall grant injunctive relief.

C. In addition to any impoundment or other fees charged pursuant to this chapter, any person who violates any provision of this chapter shall be subject to a civil penalty of no more than \$500. Each and every day that such violation continues shall be deemed a separate and distinct violation.

D. A person found in violation of this chapter shall be liable for the prevailing party's costs and attorney fees incurred in pursuing an action.

SECTION 2. That all cats and dogs not currently vaccinated against rabies must be vaccinated within six months of the effective date of this ordinance.

SECTION 3. That an election shall be held on October 7, 1997, for the purpose of submitting the following propositions to the qualified voters within the Kenai Peninsula Borough on a non-areawide basis. The proposition must receive a majority vote of those qualified to vote on the proposition in order to be approved. The proposition must be in substantially the following form: "Shall the Kenai Peninsula borough enact Ordinance 96-39, and as may be hereafter amended by the assembly, adopting the non-areawide power to license, impound and dispose of domestic and domesticated animals."

SECTION 4. That this ordinance shall become effective only if the proposition described in Section 3 is approved by a majority of the qualified voters voting on the proposition held on October 7, 1997; except that provisions 8.10.080, 8.10.090, 8.10.100, 8.10.110, 8.10.120 and 8.10.130 contained in Section 1 of this ordinance shall become effective as to each enforcement district of the borough when the borough administration enters a binding agreement, or makes other provisions, for enforcement of this chapter within such district.

SECTION 5. That all remaining provisions of this ordinance shall become effective immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS ____ DAY OF _____, 1996.

Andrew P. Scalzi, Assembly President

ATTEST:

Gaye J. Vaughan, Borough Clerk