

## CHAPTER 5

### Animals and Fowl

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## ARTICLE I

### In General

#### **Sec. 5-1. Fowl running at large.**

No person owning or having control of any chickens, ducks, geese, turkeys, pigeons or other domestic fowl shall permit the same to run or go at large upon any of the streets, alleys, avenues or other public places or to run or go upon the premises on any other person within the City. (1949 Comp. §6.0227)

#### **Sec. 5-2. Proximity to dwelling.**

No person shall keep any chickens, ducks, geese, turkeys, pigeons or other domestic fowl in any yard, enclosure or building closer than twenty-five (25) feet from any house or building occupied as a dwelling. (Ord. 717, §1)

#### **Sec. 5-3. Premises to be kept clean.**

No person who shall keep any chickens, ducks, geese, turkeys, pigeons or other domestic fowl within this City shall permit the yard or place within which such fowl are kept by reason of any want of care, food, ventilation or cleanliness or otherwise to be or become dangerous or detrimental to human health. The health commissioner shall have the power to declare all such yards or places kept in any unclean condition nuisances, and the same shall be abated as such. (1949 Comp. §6.0228)

#### **Sec. 5-4. Damaging property of others.**

All parties owning or keeping any chickens, ducks, geese or turkeys within the City shall be required to keep them so that they do not do damage to any other person. (1949 Comp. §8.0401)

#### **Sec. 5-5. Owners to enclose when notified.**

When any person within the City is notified by the Chief of Police that his or her chickens, ducks, geese or turkeys are damaging the property belonging to another, then it shall be the duty of the person owning or having such chickens, ducks, geese or turkeys under his or her control to enclose them within some suitable enclosure upon his or her premises. (1949 Comp. §8.0401)

#### **Sec. 5-6. Notice of damage; failure to enclose.**

Persons who are being damaged by fowl shall notify the Chief of Police and it shall be his or her duty to notify the owner of the fowl that they are damaging, molesting or annoying the complaining party, and if the owner of the fowl shall fail to properly enclose the fowl within a reasonable time after notification, then the person owning or keeping the fowl shall be deemed guilty of a misdemeanor. (1949 Comp. §8.0401)

#### **Sec. 5-7. Keeping of farm animals prohibited, exceptions.**

No person shall keep any swine, cattle, horses, sheep or goats or other farm animals or beasts of burden of any kind or any nondomesticated animals of any kind or nature within the corporate limits of the City; provided, however, that the provisions of this Section shall not be applicable in any zoning district of the City in which the keeping of such animals is permitted by the *Zoning and Land Use Code of the City of Fort Morgan, Colorado*. Neither shall this Section prohibit the temporary keeping of such animals for observation, treatment or care at a veterinary hospital or clinic, or the temporary keeping

thereof for slaughter in an enclosure adjacent to and used in connection with a slaughterhouse or meat packing plant. (Ord. 717, §2; Ord. 919)

**Sec. 5-8. Maintaining corrals or rabbitry.**

(a) No person shall erect or maintain any corral or rabbitry within the corporate limits of the City; provided that the provisions of this Section shall not be applicable to the erection or maintenance and use of corrals in areas zoned UA, urban agricultural district. Neither shall this Section prohibit the maintenance of corrals for the temporary keeping of animals for observation, treatment or care at a veterinary hospital or clinic, or corrals adjacent to and used in connection with a commercial slaughterhouse or meat packing plant, for purpose of holding or keeping animals for slaughter only.

(b) For the purposes of this Section, a *rabbitry* shall be defined to include the keeping of two (2) or more rabbits for the purpose of breeding and raising young, whether for commercial or noncommercial purposes. The keeping of no more than four (4) nonbred rabbits shall not be prohibited by the provisions of this Section. (Ord. 765, §1)

**Sec. 5-9. Burial of dead animals.**

No person shall bury or cause to be buried any dead animal or fowl or part thereof within the City. (1949 Comp. §6.0237)

**Sec. 5-10. Depositing dead, sick or injured animals on public property prohibited.**

No person shall throw or place any dead animal or fowl, or part thereof, or any animal or fowl, sick or injured, in or upon any of the streets, alleys or other public places within or belonging to the City. (1949 Comp. §6.0238)

**ARTICLE II**

**Dogs**

*Division 1. Generally*

**Sec. 5-11. Definitions.**

For the purpose of this Article, the words *inoculation* or *vaccination for rabies* shall mean the inoculation of a dog with the vaccine approved by the State Department of Public Health for use and prevention of rabies. (Ord. 380, §1)

**Sec. 5-12. Running at large.**

It shall be unlawful for any owner, possessor or person who keeps any dog to permit the same to run at large. A dog shall be deemed to be running at large when off or away from the premises of the owner, possessor or keeper thereof, and not under the control of such owner, possessor or keeper or his or her agent or servant by means of a leash, cord or chain. Any dog found off such premises and not so under control may be impounded under the provisions of Sections 5-24 to 5-27; and any such dog's owner, possessor or keeper violating the provisions of this Section shall, upon conviction thereof, be punished by a fine of not less than thirty-five dollars (\$35.00) or more than three hundred dollars (\$300.00) for each offense. The minimum fine shall be mandatory and the Court shall have no discretion to suspend any part thereof. (Ord. 432; Ord. 584, §1)

*Division 2. Registration and Vaccination*

**Sec. 5-13. Required.**

It shall be the duty of every person who owns or harbors any dog in the City to have such dog inoculated for rabies by a person authorized to do so, and to obtain from such person a Fort Morgan registration for such dog. The inoculation and registration shall be valid for a two-year period from the day the dog was last inoculated and registered by the City authorities, and the dog shall be inoculated and registered every two (2) years following the initial inoculation and registration. (Ord. 767, §1)

**Sec. 5-14. Persons authorized to inoculate and issue registrations; designation; fee.**

The City Council shall, upon the first Tuesday of each December of each year, designate the person legally authorized to inoculate and register any dog in the manner provided in this Article, and the dates, hours and places such inoculation and registering shall be obtainable. The City Council shall on the same day determine and set the annual inoculation and registration fee for the ensuing year; provided, however, that the City Council shall, at the time of the fixing of the inoculation and registration fee, designate the proportion of such fee to be retained by any person legally authorized to inoculate and issue such registration and the proportion of such inoculation and registration fee which shall within thirty (30) days after the collection thereof be remitted unto the City Clerk by the person legally authorized to collect such inoculation and registration fee. (Ord. 380, §4)

**Sec. 5-15. Authority generally; bond.**

The person legally authorized to inoculate and register dogs as provided in the preceding Section shall also be authorized to issue an inoculation and registration tag and collect the fees therefor as provided for in the preceding Section; provided, however, that such person designated as having the authority to inoculate and register dogs shall first enter into a bond to the City in the penal sum of one thousand dollars (\$1,000.00), conditioned upon the faithful performance of his or her duty and the accounting to the City Clerk for all moneys due the City coming into his or her hands for the inoculating and registering of any dog. The cost of any such bond shall be paid by the City. (Ord. 380, §4)

**Sec. 5-16. Certificate and tag preparation, contents.**

(a) The City Clerk shall prepare certificates in quadruplicate from together with corresponding tags for distribution to persons legally authorized, providing spaces for the following information and for such other information as the City Clerk may require, to be filled in by the persons legally authorized to vaccinate and register dogs:

- (1) The name and address of the owner or harbinger of an inoculated and registered dog.
- (2) The date of inoculation.
- (3) The year and series number of the dog tag.
- (4) The breed, age, color and sex of the inoculated dog.

(b) The tags shall be made of durable material suitable to be attached to the collar or harness of the inoculated dog. Such tag shall state the year for which it is issued and the series number of the certificate and tag. Such tags and certificates shall be prepared and distributed without charge by the City Clerk to persons legally authorized to vaccinate and register dogs. (Ord. 380, §5)

**Sec. 5-17. Issuance, disposition of copies.**

It shall be the duty of each person legally authorized to perform vaccinations and registrations of dogs when inoculating and registering dogs to fill out the quadruplicate certificate obtained from the City Clerk with the information required by Section 5-16, and immediately present one (1) quadruplicate copy to the owner or harbinger of the inoculated and registered dog, and mail two (2) copies to the City Clerk within five (5) days from the date of the inoculation and registration. The remaining quadruplicate copy of the certificate shall be retained by such person inoculating and registering. (Ord. 380, §6)

**Sec. 5-18. Filing of certificates.**

(a) The City Clerk shall file and register one (1) copy of such quadruplicate certificates, as provided in Section 5-17, and retain and file the same as the official registry of all dogs registered and inoculated with antirabic vaccine for the City. The remaining copy of such quadruplicate certificates shall be forwarded by the City Clerk to the Chief of Police to be retained as a record of the Police Department. Such inoculation and registration shall be valid for each calendar year and January and February of the following year.

(b) For the period of January first to February twenty-eighth of each calendar year, the inoculation from the previous calendar year and the current calendar year shall both be valid. (Ord. 380, §8)

**Sec. 5-19. Attachment of tag; retention of certificate.**

Every owner or harbinger of a dog shall attach the tag evidencing the registration and inoculation with antirabic vaccine to the collar or harness of the inoculated dog, which collar or harness shall be worn by such dog at all times. A copy of the certificate shall be retained by the owner or harbinger of the inoculated dog for inspection by any member of the Police Department. (Ord. 380, §7)

**Sec. 5-20. Quarantine generally.**

A dog which is known to have bitten or injured any person, so as to cause an abrasion of the skin, or a dog which, in the opinion of a member of the Police Department, or any of the persons legally authorized to inoculate and register dogs, appears to be inflicted with rabies, shall be closely confined by its owner, in accordance with the direction of a member of the Police Department, or otherwise impounded at the direction of the Police Department for a period of not less than fourteen (14) days. (Ord. 380, §9)

**Sec. 5-21. Quarantine; disposition.**

If the owner of a dog referred to in the preceding Section cannot be determined or located, then a member of the Police Department shall otherwise confine such dog for a period not less than fourteen (14) days. If the owner of such dog is not determined, located or such dog claimed from confinement within fourteen (14) days, then the Chief of Police may order such dog destroyed; provided, however, that all costs incurred for the confinement of a dog under this Section shall be paid for by the owner of such dog. If, however, after fourteen (14) days of confinement, the dog is not claimed or the owner thereof determined or located, then the cost of confinement shall be borne by the City. (Ord. 380, §9)

**Sec. 5-22. Imported dogs.**

(a) All dogs which are brought into the City shall be in compliance with the laws, rules and regulations of the State regarding the handling of the animals, and shall have been vaccinated not less than thirty (30) days nor more than twelve (12) months prior to importation. The metal tag denoting

vaccination shall be firmly affixed to the collar or harness of the dog, and shall be evidence of compliance with this Section.

(b) If such imported dog remains in the City more than thirty (30) days, such dog shall be registered in accordance with the provisions of this Article. Any legally acceptable certificate of vaccination issued by a legally authorized person to the owner of a dog by any municipality, county or state shall be exchanged for a current inoculation and registration tag of the City and a transfer fee of one dollar (\$1.00) imposed thereon. (Ord. 380, §10)

**Sec. 5-23. Unlawful possession or use of certificate or tag.**

Only those persons who own or harbor a dog duly vaccinated and registered in accordance with the provisions of this Article shall be permitted or allowed to possess the certificates and tags provided for in this Article. No person may affix a tag evidencing vaccination as provided in this Article to the collar or harness of any dog, except the tag issued for that dog at the time of inoculation and registration. (Ord. 380, §11)

*Division 3. Impounding*

**Sec. 5-24. Generally.**

It shall be the duty of every police officer or dog catcher, appointed by the Chief of Police, to catch and impound any dog in violation of the provisions of this Article in a pound to be designated by the Chief of Police for such purpose. Upon impounding any such dog, a record shall be made of the breed, color and sex of any such dog, where it was caught and whether registered. (Ord. 380, §12)

**Sec. 5-25. Redemption.**

(a) Any dog that has been impounded under the provisions of this Article at the Animal Shelter may be redeemed by its owner or an authorized representative of the owner within five (5) days of its impoundment by paying a redemption fee established, from time to time, by resolution of the City Council. In the event that any impounded dog is not so redeemed within such five-day period, such impounded dog may be made available for adoption or otherwise disposed of at the discretion of the employees of the Animal Shelter acting under the direction of the Chief of Police; except that the Shelter Supervisor may determine that a dog without identification, including, but not limited to, a microchip, identification tag or rabies tag, may be disposed of in three (3) days if such Shelter Supervisor determines the Shelter has no additional resources for such animal or that such animal is dangerous.

(b) If the Animal Shelter acquires the dog from the owner or an authorized representative of the owner, the dog shall become the property of the Shelter at the time of transfer of the animal, and the dog may be disposed of by and at the discretion of the Shelter Supervisor. If the dog is determined to be abandoned, as defined under Section 18-9-201(1), C.R.S., the dog becomes the property of the Shelter and may be disposed of by and at the discretion of the Shelter Supervisor.

(c) The Fort Morgan Animal Shelter shall be a steward of stray dogs for the purposes of providing prophylactic veterinary care under the written protocol and direction of the Shelter Veterinarian. Dogs which, in the opinion of the Shelter Veterinarian or the Shelter Supervisor, are experiencing extreme pain or suffering, may be disposed of immediately by the Shelter through euthanasia after the Animal Shelter has exhausted reasonable efforts to contact the owner; however, for dogs without identification, the Shelter shall exhaust reasonable efforts to contact the owner for up to twenty-four (24) hours from the time of acquisition.

(d) The City and any employee of the City or any volunteer at the Animal Shelter who complies with the minimum holding period as set forth in Subsection (a) above or who disposes of a pet animal in accordance with the provisions as set forth in Subsection (a) hereof for owner-surrendered or abandoned dogs, or suffering animals, shall be immune from liability in any civil action brought by the owner of an animal concerning the Shelter's disposition of the animal, as provided in Section 35-80-106.3(2), C.R.S.

(e) For purposes of this Section, *days* shall mean days during which the Fort Morgan Animal Shelter is open to the public. (Ord. 717, §3; Ord. 1028)

**Sec. 5-26. Designation of pound and fee.**

Any dog in violation of any of the provisions of this Article shall be impounded in such place, at a fee for such impounding, as may be designated from time to time by the City Council. (Ord. 380, §12)

**Sec. 5-27. Violation; interference with enforcement.**

It shall be unlawful for any person to interfere with, molest, hinder or prevent the members of the Police Department or any person legally authorized to inoculate or register dogs in the discharge of their respective duties as prescribed in this Article, or to violate any of the provisions of this Article. (Ord. 380, §13)

**Sec. 5-28. Vicious dogs.**

(a) No person shall own, keep, possess or harbor a vicious dog within the City. For the purposes of this Section, a *vicious dog* is defined and declared to be a dog that unprovokedly bites or attacks human beings or other animals either on public or private property, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack.

(b) If, based upon one (1) or more sworn statements or such other evidence as the police magistrate reasonably shall require, the magistrate shall find that there is reasonable cause to believe that a dog is a vicious dog or that such dog constitutes a clear and present danger to the citizens of the community, the magistrate may order that such dog be captured or taken up, if not in custody, and mercifully destroyed under the direction of the Chief of Police.

(c) It shall be the duty of the Chief of Police to take up and impound any dog which is a vicious dog. In the event a vicious dog cannot be taken up and caught except by unnecessary exposure to danger of personal injury from such dog, it shall be lawful for the Chief of Police to forthwith destroy such dog without notice to the owner, keeper or possessor thereof. (Ord. 717, §4(part))

**Sec. 5-29. Notice or knowledge of violation not necessary for prosecution.**

For the purpose of prosecution for violations of this Article, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or keeper of the dog in question that such dog was violating any of the provisions of this Article at the time and place charged; it being the purpose and intent of this Article to impose strict liability upon the owner, possessor or keeper of any dog for the actions, conduct and condition of such dog. (Ord. 717, §4(part))

## ARTICLE III

### Cats

#### Sec. 5-30. Running at large.

(a) It shall be unlawful for any owner, possessor or person who keeps any cat to permit the same to run at large. A cat shall be deemed to be running at large when:

(1) It is off or away from the premises of the owner, possessor or keeper thereof and not under the control of such owner, possessor, keeper or his or her agent or servant; and

(2) A complaint is made to the police authorities or to the Animal Control Officer complaining that said cat is running at large.

(b) Any cat in violation of the provisions of this Article may be trapped or captured by the Animal Control Officer and impounded at the Fort Morgan Animal Shelter. The Animal Control Officer shall not be required to notify anyone, either before or after the fact, that any cat has been or may be trapped or impounded. It shall, at all times and in all events, therefore, be and remain the responsibility of the owner of the cat to contact the Animal Control Officer or the police authorities should the owner's cat be missing because it has been impounded by the City.

(c) Any cat that has been impounded under the provisions of this Article at the Animal Shelter may be redeemed by its owner or an authorized representative of the owner within five (5) days of its impoundment by paying a redemption fee established, from time to time, by resolution of the City Council. In the event that any impounded cat is not so redeemed within such five-day period, such impounded cat may be made available for adoption or otherwise disposed of at the discretion of the employees of the Animal Shelter acting under the direction of the Chief of Police; except that the Shelter Supervisor may determine that a cat without identification, including but not limited to a microchip, identification tag or rabies tag, may be disposed of in three (3) days if such Shelter Supervisor determines the Shelter has no additional resources for such animal or that such animal is dangerous.

If the Animal Shelter acquires the cat from the owner or an authorized representative of the owner, the cat shall become the property of the Shelter at the time of transfer of the animal, and the cat may be disposed of by and at the discretion of the Shelter Supervisor. If the cat is determined to be abandoned, as defined under Section 18-9-201(1), C.R.S., the cat becomes the property of the Shelter and may be disposed of by and at the discretion of the Shelter Supervisor.

The Fort Morgan Animal Shelter shall be a steward of stray cats for the purposes of providing prophylactic veterinary care under the written protocol and direction of the Shelter Veterinarian. Cats which, in the opinion of the Shelter Veterinarian or the Shelter Supervisor, are experiencing extreme pain or suffering, may be disposed of immediately by the Shelter through euthanasia after the Animal Shelter has exhausted reasonable efforts to contact the owner; however, for cats without identification, the Shelter shall exhaust reasonable efforts to contact the owner for up to twenty-four (24) hours from the time of acquisition.

The City, any employee of the City or any volunteer at the Animal Shelter who complies with the minimum holding period as set forth in this Subsection (c) or who disposes of a pet animal in accordance with the provisions as set forth in this Subsection (c) for owner-surrendered or abandoned cats, or suffering animals, shall be immune from liability in any civil action brought by the owner of an animal concerning the Shelter's disposition of the animal, as provided in Section 35-80-106.3(2), C.R.S.

For purposes of this Section, *days* shall mean days during which the Fort Morgan Animal Shelter is open to the public.

(d) Any cat six (6) months of age or older, not proved by its owner to be kept for breeding purposes, shall be spayed or neutered. If requested to do so, the owner of a cat that is kept for breeding purposes shall provide proof of that fact by presenting his or her sworn statement reciting that the cat is so kept and further reciting that the statement is made upon penalty of perjury.

(e) In the event that an impounded cat that is required to be spayed or neutered is not so spayed or neutered, then as a condition of release or adoption, the owner or possessor must agree to have the cat spayed or neutered within fourteen (14) days after release or redemption. Evidence of compliance in the form of a written statement from a licensed veterinarian shall be submitted to the Animal Control Officer within twenty-one (21) days after redemption or adoption. Failure to present such evidence of compliance shall constitute an offense and shall be punishable as a municipal misdemeanor.

(f) Reference in this Article to *Animal Control Officer* shall include any and all police personnel of the City. (Ord. 794, §1(part); Ord. 1029)

**Sec. 5-31. Registration and inoculation.**

All of those provisions of Sections 5-11 and 5-13 through 5-18, inclusive, requiring the inoculation or vaccination for rabies and registration of dogs shall be fully equally applicable to cats. (Ord. 794, §1(part))

**Sec. 5-32. Quarantine of certain cats; disposition.**

Sections 5-20 and 5-21 of this Chapter requiring the quarantine of certain dogs and the disposition of unclaimed quarantined dogs shall be fully and equally applicable to cats. (Ord. 794, §1(part))

**Sec. 5-33. Imported cats.**

(a) All cats which are brought into the City shall have been vaccinated not less than thirty (30) days, nor more than twenty-four (24) months prior to importation.

(b) If such imported cat remains in the City more than thirty (30) days, such cat shall be registered and, if necessary, inoculated for rabies in accordance with the provisions of this Article. Any legally acceptable certificate of vaccination issued to the owner of a cat by any municipality, county or state shall be exchanged for a current inoculation and registration of the City for a transfer fee of one dollar (\$1.00). (Ord. 794, §1(part))

**Sec. 5-34. Notice or knowledge of violation not necessary for prosecution.**

For the purpose of prosecution for violation of this Article, it shall not be necessary in order to obtain a conviction to prove notice or knowledge on the part of the owner, possessor or keeper of the cat in question that such cat was violating any of the provisions of this Article at the time and place charged; it being the purpose and intent of this Article to impose strict liability upon the owner, possessor or keeper of any cat for the actions, conduct and condition of such cat. (Ord. 794, §1(part))