

**AN ORDINANCE AMENDING CERTAIN PROVISIONS OF CHAPTER 210
RELATING TO THE KEEPING OF PETS AND REQUIREMENTS
RELATED TO DANGEROUS ANIMALS**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
HAZELWOOD, MISSOURI, AS FOLLOWS:**

SECTION 1.

Various sections of Chapter 210 of Title II of the Municipal Code are hereby amended to read as follows [All sections and provisions not specifically set forth herein are not amended in any way and remain in full force and effect]

TITLE II PUBLIC HEALTH SAFETY AND WELFARE
CHAPTER 210 ANIMALS AND FOWL

**Section 210.050 Confinement – Impoundment if Found Running at Large –
Penalties for Violation**

A. All dogs and cats within the City shall be confined in an enclosure on the property of the owner or custodian. However, they may be permitted out of such enclosure when on a leash and in the charge of some responsible person. All dogs and cats found contrary to the provisions of this Section shall be taken up and impounded.

In the event that there is attached to any impounded animal a current license tag of the City, or if the animal has a micro-chip inserted, it shall be the duty of the Animal Control Officer or Police Officer to give notice of the impoundment of such animal to the owner or person claiming to own such animal, or to the person to whom such tag shall have been issued, or micro-chip registered as show by the records of the City. This notice shall be accomplished within two business days after impoundment and given by mailing or personal service. The notice shall state the fact that the animal has been impounded and the manner in which the animal may be redeemed.

Any non-rabid dog or cat so impounded may be redeemed by paying a redemption fee in the amount of five dollars (\$5.00), after providing proof that the non-rabid dog or cat has been inoculated and has a license.

Exception: Any dog or cat so impounded after found running at large which has demonstrated the characteristics of a dangerous animal as described in Section 210.130 of this Code, may be retained and kept impounded and, in such a case, the notice, hearing and other requirements of Section 210.055 shall be followed.

B. Violations are punishable consistent with the General Penalty Provisions set forth in Title I of the Municipal Code.

C. Deleted and moved to new Section 210.055

C. Moved to this section from Section 210.070: For the protection of the residents of the City, City peace officers are authorized and empowered to destroy any dog or cat running at large on public or private property that is found to be vicious or is menacing the lives or safety of the inhabitants of the City.

D. The owner or custodian of an animal seized under this section shall be personally liable to the City and any agency assisting the City for the cost of the seizure, impoundment and care of the animal. If the charges for the seizure or impoundment and any other charges permitted under this chapter are not paid within 14 days of the seizure, or, if the owner, within 14 days of the written notice, fails to take possession of the animal(s), the animal(s) shall be deemed abandoned and may be disposed of by the City.

Section 210.055 Seizure and Impoundment of Certain Animals

A. *Seizure and Impoundment Due to Biting a Human or Being Suspected of Having Been Exposed to Rabies.* Animals which have bitten a human, or which have been exposed to or are suspected of having been exposed to rabies, are to be confined as follows:

1. [Not amended]
2. [Not amended]
3. [Not amended]
4. [Not amended]
5. [Not amended]
6. [Not amended]
7. [Not amended]

B. *Emergency Seizure and Impoundment of Animals.* When a Police Officer or Animal Control Officer has reasonable grounds to believe that prompt action is required to protect the health or safety of an animal or the health and safety of others, the Officer shall immediately seize the animal and comply with the procedure set forth in this Subsection B. A Police Officer or Animal Control Officer may only enter private property to seize an animal with consent of the owner of the animal or with an administrative warrant issued by the Municipal Judge in accordance with the procedure in Title I of the Municipal Code.

1. *Notice.* As soon as reasonably practicable, which shall not be more than two business days, after the emergency seizure of an animal, the Police Chief shall provide written notice to the owner containing:

- (a) a description of the animal including any identification upon the animal;
- (b) the fact that the animal has been impounded and the location where the animal has been impounded;
- (c) the reasons for the seizure and impoundment including the time, place and circumstances under which the animal was seized;
- (d) the date, time and location for a post-seizure / impound hearing and instructions as to how the owner may request that the hearing be rescheduled which shall be reasonably granted;
- (e) the name, business address, and telephone number of the officer having information concerning the seizure;
- (f) a statement that the cost of caring for and treating any animal properly seized under this section is the responsibility of the owner; and
- (g) a statement that the animal will not be returned to the owner until after the hearing, the owner has complied with any special orders to keep the animal and all charges are paid.

If the owner is not known, it shall be the duty of the Police Chief to have a diligent investigation conducted to determine the identity of the owner of the animal.

The Police Chief or his designee shall cause the Notice to be both affixed to a conspicuous place where the animal was situated and at the owner's property (if different); and personally delivered to owner. If at least two attempts of personal delivery to owner fail, the notice shall be mailed to owner.

2. *Post-seizure / Impound Hearing.* The hearing shall be conducted in the same manner as the hearing described in Section 210.130 (C) of this Chapter.

Following the hearing, the Hearing Officer shall determine the disposition of the animal and, if such animal is to be returned to the owner, the conditions and requirements with which the owner must comply to retain custody of the animal. The Hearing Officer shall issue a decision after the close of the hearing and notify the owner in writing of the decision. The owner shall comply with all conditions and requirements set forth in the Decision in addition to conditions and requirements set forth in the Municipal Code.

3. *Appeal.* Any person aggrieved by the determination of the Hearing Officer may appeal the decision to the Circuit Court of St. Louis County pursuant to the provisions of Chapter 536, RSMo; provided, however, that any appeal must be filed with the Circuit Court within five (5) days of the date of the Hearing Officer's decision. Disposition of the animal shall be stayed pending the appeal.

4. The animal shall be held and cared for by the City during the pendency of the hearing and any appeal. However, the City may authorize the release of the animal to the owner upon certain conditions; in the event the owner fails to comply

with such conditions, the animal shall be seized by the City and held pending the proceedings.

C. *Non-Emergency Seizure and Impoundment of Animals.* An animal may be seized to protect the health or safety of an animal or the health and safety of others if the animal has been declared to be a dangerous animal and the owner has failed to comply with all requirements and conditions of keeping the dangerous animal. Prior to seizing the animal, the procedure set forth in this subsection shall be followed.

1. The Police Chief shall provide written notice to the owner containing:

- (a) a description of the animal;
- (b) the fact that the animal was previously declared to be a dangerous animal;
- (c) a detailed list of the failures of the owner to comply with the requirements and ordinance provisions regarding the keeping of a dangerous animal;
- (d) the date, time and location for a hearing and instructions as to how the owner may request that the hearing be rescheduled which shall be reasonably granted;
- (e) the name, business address, and telephone number of the officer having information concerning the matter; and
- (f) a statement that the cost of caring for and treating any animal properly seized under this section is the responsibility of the owner.

The Police Chief or his designee shall cause the Notice to be both affixed to a conspicuous place where the animal was situated and at the owner's property (if different); and personally delivered to owner. If at least two attempts of personal delivery to owner fail, the notice shall be mailed to owner.

2. *Hearing.* The hearing shall be conducted in the same manner as the hearing described in Section 210.130 (C) of this Chapter.

Following the hearing, the Hearing Officer shall determine the disposition of the animal and, if custody of the animal is to be retained by the owner, the conditions and requirements with which the owner must comply to retain custody of the animal. The Hearing Officer shall issue a decision after the close of the hearing and notify the owner in writing of the decision. The owner shall comply with all conditions and requirements set forth in the Decision in addition to conditions and requirements set forth in the Municipal Code.

3. *Appeal.* Any person aggrieved by the determination of the Hearing Officer may appeal the decision to the Circuit Court of St. Louis County pursuant to the provisions of Chapter 536, RSMo; provided, however, that any appeal must be filed with the Circuit Court within five (5) days of the date of the Hearing Officer's decision. Disposition of the animal shall be stayed pending the appeal.

4. If, during the pendency of the hearing and appeal under this subsection "C", the animal is involved in an incident which warrants the emergency seizure of the animal, nothing in this subsection "C" shall prevent the emergency seizure of the

animal. In such event, the procedure set forth in subsection "B" of this Section shall be followed.

D. *Authority of Hearing Officer.* In the event a sufficient quantum of evidence presented at the hearing supports a determination for seizure, impoundment and/or termination of the owner's rights of the animal(s), the hearing officer as a part of his decision may order, but is not limited to ordering, the one or more of the following actions be undertaken:

1. that the owner's and/or custodian's rights in and to the animal be terminated;
2. that the owner or custodian remove the animal from the premises by a specified date;
3. that the owner or custodian comply with special conditions and requirements for keeping the animal;
4. that animal control personnel, after a specified date, impound the animals; or
5. that animal control personnel sell, give away, adopt out or otherwise dispose of the animal with the owner or custodian of the animal being responsible to reimburse the City or agency as designated by the City for all costs and expenses including, but not limited to, board, care, veterinary services, and costs of disposal. If the animal is sold, the proceeds from the sale shall be retained by the City or the agency designated by the City.

A decision upholding seizure and impoundment shall become effective upon issuance. A decision terminating an owner's rights in the animal shall become effective if no timely appeal is filed under this Code unless a stay is issued by the City.

E. *Return to Owner - Conditions.* No animal properly seized under this Chapter shall be returned to its owner until, in the determination of the Hearing Officer, the animal is physically fit or the owner can demonstrate to the hearing officer's satisfaction that the owner can and will provide the necessary and that the Owner can and will comply with all conditions and requirements imposed for keeping the animal.

F. *Noncompliance with Order to Provide Veterinary Care.* If the animal requires veterinary care and the Police Chief is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the City. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when the veterinarian determines that the animal has incurred sever injuries or is incurably ill.

G. *Cost of Seizure and Care.* If any animal is properly seized or impounded under this chapter, the owner or keeper shall be personally liable to the City and any agency assisting the City for the cost of the seizure, impoundment and care of the animal(s). Furthermore, if the charges for the seizure or impoundment, and any other charges

permitted under this chapter are not paid within 14 days of the seizure, or, if the owner, within 14 days of notice of availability of the animals to be returned, fails to pay charges permitted under this chapter and take possession of the animal(s), the animal(s) shall be deemed to have been abandoned and may be disposed of by the City. The cost of caring for and treating any animal is the responsibility of the owner unless the Hearing Officer determines that the seizure was not justified.

Section 210.070

[The current section 210.070 pertains to killing of vicious dogs and cats who are running at large – this provision has been moved to Section 210.050]

New Section 210.070:

Section 210.070 Tethering; Prohibited Conduct.

It shall be unlawful for any owner or other person controlling, possessing or having custody any dog or cat to:

1. Leave a dog or cat tethered outdoors for eight (8) continuous hours or for a total of twelve (12) hours in a twenty-four-hour period.
2. Tether a dog or cat except by means of:
 - a. A properly fitting harness or collar of nylon or leather construction which does not chafe or injure the animal; and
 - b. A tether in proportion to the size of the animal such that its weight and construction do not burden or encumber the animal. The tether must be at least fifteen (15) feet in length with a swivel at both ends.
3. Tether a dog or cat in such a manner that the animal cannot access adequate shelter while tethered.
4. Tether a dog or cat outdoors under conditions where the animal or tether can become entangled on the tether, another animal or some other object or where the tether can restrict the animal's access to suitable, edible and sufficient food, clean water (cool in summer and unfrozen in winter) and appropriate shelter.
5. Tether a dog or cat outdoors in unsafe or unsanitary conditions or when the tether does not allow the animal to defecate or urinate in an area separate from the areas where it must eat, drink or lie down.
6. Expose a dog or cat to any weather conditions that cause immediate imminent threat to the animal's physical well-being.
7. No person shall tether an animal on a choke, prong or pinch collar or tow chain or in such a manner as to cause injury, strangulation or entanglement of the animal on fences, trees or other manmade or natural obstacles.
8. No person shall tether an animal in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

9. No person shall leave an animal tethered outside between the hours of 10:00 P.M. and 6:00 A.M., except temporarily tethering outdoors for a time period not exceeding fifteen (15) minutes.

Section 210.090 Issuance of Summons

Any peace officer or animal control officer is hereby authorized to issue a citation to any person violating any of the terms of this Chapter and, thereafter, such citation shall be prosecuted as all other violations of the Hazelwood City Code. The peace officers and animal control officers shall enforce all provisions of this Chapter and determine whether or not all dogs and cats on public property, including those on a leash, have a license and otherwise comply with this Chapter.

SECTION 2.

It is hereby declared to be the intention of the City Council that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the City Council intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect.

SECTION 3.

This Ordinance shall be in full force and effect from and after the date of its passage and approval.

PASSED this _____ day of _____, _____ by the Council of the City of Hazelwood, Missouri.

ATTEST:

Matthew G. Robinson - Mayor
City of Hazelwood, Missouri

Julie Lowery, CMC - City Clerk
City of Hazelwood, Missouri

APPROVED AS TO FORM:

Carl Lumley - Associate City Attorney
City of Hazelwood, Missouri