

ORDINANCE 26-

Introduced by Councilor

**AN ORDINANCE AMENDING CHAPTER 8 – ANIMALS
ARTICLE II. – ANIMAL CONTROL**

THE CITY COUNCIL OF ALBERT LEA, MINNESOTA ORDAINS:

Chapter 8 – Animals, Article II. – Animal Control be amended to read as follows:

Sec. 8.029. Definitions.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

For the purposes of this ordinance, a service animal is defined in accordance with the Americans with Disabilities Act (ADA) as a dog that is individually trained to do work or perform tasks for a person with a disability. Emotional support animals, comfort animals, or therapy animals that do not meet this definition are not considered service animals and are subject to all regulations applicable to pets.

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~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

Altered means any female dog or cat that has been spayed or any male dog or cat that has been neutered.

Animal means a dog, a cat or both.

At large means off the premises of the owner and not under the physical control (by leash) of the owner, a member of the owner's immediate family, or a person designated by the owner.

Feral or Stray Cat: Any domesticated cat that is unowned, unsocialized to humans, and typically lives outdoors without direct human supervision or care.

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Kennel means any place where four (4) or more dogs or cats over three (3) months of age are kept for any purpose.

Owner means any person who owns, harbors, keeps or has custody of a dog or cat, or the parents or guardians of a person under eighteen (18) years of age who owns, harbors, keeps, or has custody of an animal.

Multifamily residence means a building or structure that is designed to house several different families in separate housing units, including, but not limited to, apartment complexes, attached townhomes and duplexes.

Restrained means within the limits of the owner's property or while confined within a vehicle being driven or parked on the streets or under the physical control by leash by the owner or person of suitable age and discretion. Any animal not restrained is deemed at large.

Service animal means a dog or a miniature horse.

Single-family residence means a standalone structure with its own lot and intended for one (1) family.

Unreasonably and/or excessively disturbs the peace and quiet means, but is not limited to, the creation of any noise by any animal which can be heard by any persons, from a location off the owner's property where the animal is being kept and which noise occurs repeatedly over at least a five (5) minute period of time with one (1) minute or less lapse of time between each noise during the five (5) minute period.

Sec. 8.030. Exemptions.

- (a) Hospitals and clinics operated by licensed veterinarians exclusively for the care and treatment of animals are exempt from this article except where such duties are expressly stated.
- (b) Service animals, properly trained as such and under the control of an owner, are exempt from this article.

Sec. 8.031. Animal control authority.

The city manager is authorized to employ animal control authorities for enforcement of this article and to have them deputized with police powers for such enforcement, including authority to issue complaints for the violation of this article.

- (1) Any person who owns, possesses, or harbors an animal within the city limits grants implied consent for entry upon his premises, without express consent, to the animal control authority or police officers for the purpose of enforcing the provisions of this article.
- (2) No unauthorized person shall break open the animal shelter or attempt to do so, or to take or let out any dogs or cats therefrom, or to take from any animal control authority any dog or cat taken up by them in compliance with city ordinance, or in any manner to interfere, hinder, or obstruct an animal control officer in the discharge of their duties under any ordinance of the city.

Sec. 8.032. Impoundment.

- (a) Any animal found in the city without a license tag, running at large or otherwise in need of impoundment under this article shall be placed in the animal shelter, and an accurate record of the time of such placement shall be kept on each animal.

- (b) Except as otherwise provided in this article, an owner or his representative may reclaim any animal from the shelter upon proof of and/or payment of the required license fee, impound fee, and the daily maintenance costs imposed by the animal shelter.
- (c) Any animal that has bitten a person shall immediately be impounded for at least fourteen (14) days and kept apart from other animals. The animal must be impounded at the shelter or with a licensed veterinarian at the ~~owners'-owner's~~ expense, except that an animal with proof of current rabies vaccination may be impounded by its owner.
- (d) Any animal adopted through the animal shelter over the age of six (6) months shall be altered within thirty (30) days of adoption. The animal control authority is responsible for enforcing this subsection.

Sec. 8.033. ~~Limitation on ownership.~~ Responsible Animal Ownership.

~~(a) *Single-family residences.* It shall be a petty misdemeanor for any person to own, keep, care for, have custody of or knowingly permit at any time more than two (2) dogs and two (2) cats in or about a single-family residence. Any single-family residence may contain both two (2) dogs and two (2) cats; provided, however, this section shall not apply to the following:~~

- ~~(1) One (1) litter of pups or kittens under ninety (90) days of age born to a licensed dog or cat owner; or~~
- ~~(2) Residents of newly annexed areas with more than two (2) dogs or two (2) cats at the time of annexation may have the additional animals until such time as one (1) of the animals existing at the time of annexation is no longer owned or possessed by the owner.~~

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~~(b) *Multifamily residences.* A multifamily residence may have no more than one (1) dog and one (1) cat.~~

~~(Code 1980, § 10.04, subd. 10; Code 1997, § 14-34; Ord. No. 20-243, § 14-34, 4-27-2020)~~

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(a) General Guidelines.

There shall be no fixed numerical limit on the number of dogs or cats that may be kept in a single-family or multifamily residence. However, all animal owners must maintain their animals in a manner that does not create a nuisance, pose a health risk, or disrupt the safety and peace of the surrounding community.

(b) Community Responsibility Standard.

Owners must ensure that:

1. Animals are not kept in unsanitary or overcrowded conditions.
2. Noise, odor, and waste from animals are properly controlled.
3. Animals do not disturb neighbors, roam at large, or threaten the safety of people, other animals, or property.
4. The number of animals kept is manageable to the extent that each animal receives adequate care, shelter, food, water, medical attention, and humane treatment.

4-5. Maintain medical records showing rabies and other vaccinations to prevent the spread of infections and diseases among humans and animals.

(c) Feral Cats.

It is prohibited to intentionally feed or otherwise provide sustenance to feral or stray cats on public or private property unless part of a city-approved trap-neuter-return (TNR) program. Feeding feral cats without authorization contributes to overpopulation and health risks, and individuals found doing so may be subject to citation. The city encourages humane and coordinated efforts to manage feral cat populations in partnership with local animal welfare organizations.

(d) Inspection and Enforcement.

The city reserves the right to inspect properties upon receiving a complaint or having reason to believe that animals are being kept in violation of this ordinance. The city may order the reduction in the number of animals kept on a property if it is determined that the keeping of animals constitutes a nuisance, threat to public health, or is inconsistent with community standards of care and safety.

Sec. 8.034. License.

- (a) No person shall own, keep, or harbor any dog or cat of more than six (6) months of age without obtaining a license from the city. An application for license must recite the name and address of the owner, the address where the animal will be kept, and the sex, breed, age, color, and markings of the dog or cat and include a certificate of rabies vaccination for which a license is sought.
- (b) No license shall be issued without a certificate of vaccination against rabies from a licensed veterinarian. An owner must keep the dog or cat vaccinated against rabies at all times.
- (c) Upon payment of the license fee established by the annual fee schedule, the city shall keep a record of all licenses and issue a license tag for such license. The license tag must be fastened to the collar so it can be constantly worn by the animal. Lost license tags may be replaced upon presentation of the owner's receipt of payment for the current year.
- (d) Licenses must be renewed by April 1 ~~of every even-numbered year~~ every three years within 60 days of the most recent vaccination. The fees for licenses are set in the city's annual fee schedule. ~~The charge for a license issued in an odd-numbered year will be one-half (1/2) of the required fee.~~
- (e) Licenses must be obtained within ninety (90) days of establishing residence or annexation in the city.
- (f) When an application is made for an altered dog or cat, proof that the animal has been altered by a licensed veterinarian must be presented at the time of application for license.

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- (g) Dog and cat licenses are non-transferable. No refunds will be given due to the death of the animal or a change of residence.
 - (h) The licensing requirements of this section shall not apply to any animal belonging to a nonresident of the city, provided that the animal is not kept within the city limits for longer than thirty (30) days. The animal must be restrained at all times.
 - (i) Violation of this section is a **petty** misdemeanor.

Sec. 8.035. Dogs and Cats running at large.

It is a petty misdemeanor for any owner to permit a **dog or cat** to run at large at any time beyond the limits of the land owned by or possessed by the owner, keeper, or harbored, or upon the public streets or sidewalks, or other public or private property within the city. If a violation of this section occurs, it shall be no defense that the offending dog escaped or is otherwise at large without the permission of its owner.

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Sec. 8.036. Prohibited in public places.

No animal shall be permitted on the city beach area or allowed to swim in the city beach area. No animal shall be allowed in city parks and picnic areas unless restrained and attended by the owner or a person of suitable age and discretion. No animal shall be permitted in the municipal bathhouse or within the confines of the municipal outdoor swimming pool, except as allowed during city-sponsored events.

Sec. 8.037. Nuisances prohibited.

- (a) The following are public nuisances and unlawful:
 - (1) Any animal which habitually barks, cries, or howls and unreasonably and/or excessively disturbs the peace and quiet of any person in the vicinity.
 - (2) Any animal that kills or attacks another domestic animal or livestock without provocation while off the owner's property.
 - (3) Any animal that damages property (that is not the property of the owner), including plantings, lawns, structures, or that deposits fecal matter ~~off~~on the owner's property that the owner fails to remove promptly.
 - (4) Any animal that, without provocation, chases, molests, or approaches pedestrians or bicyclists in a threatening manner upon the streets, sidewalks, right-of-way, or any public property, or habitually chases automobiles on the public streets or highways.
 - (5) Any animal that is kept under unsanitary and/or inhumane conditions, such that the maintenance or keeping of the animal creates odors to the annoyance of the public in the vicinity.
- (b) Any person who owns or harbors an animal declared to be a nuisance shall be guilty of a misdemeanor.

Sec. 8.038. Sanitation.

- (a) Any person who owns, keeps, or harbors any animal is responsible to keep his property clean of all fecal matter from the animal. All animal waste should be removed daily so as to keep the surrounding area free from obnoxious odors.
- (b) No animal may defecate upon public property or private property without the consent of the property owner, unless owner or person in charge of animal immediately removes animal waste from affected area and provides proper disposal.
- (c) Proper disposal of animal waste shall be limited to bagging for disposal by the owner or person in charge of animal's own waste receptacle, and bagging for disposal in a waste receptacle in a public park or park area.
- (d) The provisions stated in section 8.038 do not apply to seeing-eye dogs under control of a blind person.
- (e) Violation of this section is a petty misdemeanor.

Sec. 8.039. Care.

No owner shall fail to provide any animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinarian care when needed to prevent suffering, and with humane care and treatment. No person shall beat, cruelly ill-treat, torment or otherwise abuse any animal or cause or permit any animal fight or other combat between animal and humans.

Sec. 8.040. Rabies.

- (a) All dogs **and cats** over the age of six (6) months shall be inoculated for rabies, and shall be re-inoculated within the time required by the vaccination. A certificate of the veterinarian inoculating said dog or cat shall be provided with the application for license.
- (b) The animal control authority shall issue a proclamation ordering every person owning or keeping an animal securely confined on its property whenever the prevalence of rabies renders such action necessary to protect the public health and safety. Violation of such proclamation is unlawful and any animal running at large during this period may be destroyed by the enforcement authority without notice to the owner.

Sec. 8.041. Potentially dangerous dogs and dangerous dogs.

(a) The owner of a dog deemed potentially dangerous may be provided a summary review prior to requesting an appeal

(ba) Attack by a dog. It shall be unlawful for any person's dog to inflict or attempt to inflict bodily injury to any person or domestic animal, whether or not the owner is present. This subsection shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home-property with criminal intent.

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(cb) *Destruction of a dangerous dog.* The animal control authority shall have the right to order the destruction of dangerous dogs in accordance with the terms established by this article.

(de) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Dangerous dog means a dog ~~which~~ that has:

- (1) Without provocation, inflicted substantial bodily harm to any person on public or private property.
- (2) Killed a domestic animal without provocation while off the owner's property.
- ~~(3) Without provocation, chased or approached a pedestrian or bicyclist upon the streets, sidewalks, or any public or private property, other than the owner's property, in an apparent attitude of attack.~~
- (34) A known propensity, tendency, or disposition to attack unprovoked, causing injury or ~~otherwise threatening~~ threaten the safety of humans or domestic animals.
- (45) Been found ~~to be potentially dangerous and/or~~ the owner has personal knowledge of the same, and has aggressively bitten, attacked, or endangered the safety of people or domestic animals.

Domestic animal means an animal kept for companionship and enjoyment as opposed to livestock, including, but not limited to, dogs, cats, caged birds, gerbils, hamsters, domesticated rabbits, guinea pigs, nonpoisonous, nonvenomous and non-constricting reptiles and amphibians and other similar animals.

Potentially dangerous dog means a dog which has:

- ~~(1) Without provocation, inflicted bites on a person or a domestic animal on public or private property.~~
- (21) Without provocation, chased or approached a pedestrian or bicyclist on or upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack.
- (23) A known propensity, tendency, or disposition ~~to attack unprovoked, causing injury or otherwise~~ threatening the safety of people or domestic animals.

Proper enclosure means securely confined indoors or in a securely locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. The term "proper enclosure" does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. The enclosure shall not allow the egress of the dog in any manner without assistance from a person.

Substantial bodily harm means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of

any bodily member or organ, or which causes a fracture of any bodily member, as it may be amended from time to time.

Unprovoked means the condition in which the dog is not purposely excited, stimulated, agitated or disturbed.

~~(d) *Evidence justifying designation as potentially dangerous dog.* The animal control authority shall designate any dog as a potentially dangerous dog upon receiving evidence the dangerous dog has:~~

~~(1) Without provocation, inflicted bites on a person or a domestic animal on public or private property.~~

~~(2) Without provocation, chased or approached a pedestrian or bicyclist, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack.~~

~~(3) A known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of people or domestic animals.~~

When a dog is declared a potentially dangerous dog, the animal control authority shall cause one

(1) owner of the potentially dangerous dog to be notified in writing that the dog is potentially dangerous, ~~and notify the owner of his appeal rights.~~

~~(e) *Evidence justifying designation as dangerous dog.* The animal control authority shall have the authority to designate any dog as a dangerous dog upon receiving evidence the dangerous dog has:~~

~~(1) Without provocation, inflicted substantial bodily harm to any person on public or private property.~~

~~(2) Killed a domestic animal without provocation while off the owner property.~~

~~(3) Been found to be potentially dangerous and/or has aggressively bitten, attacked, or endangered the safety of people and domestic animals, and the owner has personal knowledge of the same.~~

When a dog is declared a dangerous dog, the animal control authority shall cause one (1) owner of the dangerous dog to be so notified, and notify that owner of his appeal rights.

(f) *Authority to order destruction.* The animal control authority, upon finding that a dog is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the dog be destroyed, based on a written order containing one (1) or more of the following findings of fact:

(1) The dog is dangerous, as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks.

(2) The owner of the dog has demonstrated an inability or unwillingness to control the dog in order to prevent injury to persons or domestic animals.

~~(g) *Appeal hearing procedures—Potentially dangerous dog.* A potentially dangerous dog declaration appeal shall consist of a record review by the city manager or his designee, using~~

~~the designated appeal form supplied at the time of the written request. The appeal form must be completed and returned to the animal control authority or designee with written evidence and/or affidavits that dispute the declaration within fourteen (14) business days of notification. The owner of the dog shall be notified, in writing, of the record review results within ten (10) calendar days of receipt. The fee for an appeal of a potentially dangerous dog declaration is noted in the city's annual fee schedule and must be paid prior to the hearing. The individual conducting the review shall have the authority to amend the declaration or order as appropriate and to establish specific requirements for the dog found to be potentially dangerous.~~

(gh) Appeal hearing procedures—Dangerous dog.

- (1) The owner of a dog that has been declared dangerous may appeal the declaration and request a hearing. The appeal request is to be submitted in writing within fourteen (14) days of notification. If a hearing is requested, the animal control authority or the designee shall schedule a hearing within fourteen (14) calendar days. A dangerous declaration appeal shall consist of an appearance before an independent city employee or hired representative. The fee for an appeal of a dangerous dog declaration is noted in the city's annual fee schedule and must be paid prior to the hearing. The hearing authority may set limits on the evidence that may be submitted and the length of testimony offered. The hearing officer conducting the review shall have the authority to amend the declaration or order as appropriate and to establish specific requirements. Any time after a declaration has been issued, the animal control authority or the designee may seize a declared dog. All applicable fees and costs shall be the responsibility of the owner of the dog. The dog should not be released until all fees are paid in full and the owner has fully complied with the provisions of this Code. All dogs seized pursuant to this subsection may be disposed of by animal control after fourteen (14) calendar days of notification of declaration when the dog is not properly registered or an appeal has not been properly submitted pursuant to this section.
- (2) In the event the declaration is overturned, all fees will be reviewed by the hearing officer. The owner of the dog shall be notified by telephone of the hearing results within ten (10) business days. All decisions may be appealed to the state court of appeals.
- (3) The animal control authority, after having determined that a dog is dangerous, may proceed in the following manner:
 - a. The animal control authority shall cause one (1) owner of the dog to be notified in writing or in person that the dog is dangerous and may order the dog seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given fourteen (14) days to appeal this order by requesting a hearing for a review of this determination.
 - b. If no appeal is filed, the animal control authority may authorize the seizure and the destruction of the dog, unless the dog is already in custody or the owner consents to the seizure and destruction of the dog.

c. If an owner requests a hearing for determination as to the dangerous nature of the dog, the hearing shall be held before an impartial employee of the local government or impartial person retained by the local government, which shall set a date for hearing not more than three (3) weeks after demand for the hearing. The records of the animal control or city clerk's office shall be admissible for consideration by the hearing officer without further foundation. After considering all evidence pertaining to the temperament of the dog, the hearing officer shall make an order as it deems proper. The hearing officer shall issue a decision on the matter within ten (10) days after the hearing. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the animal control authority. The animal control authority may take the dog into custody for destruction, if the dog is not currently in custody. If the dog is ordered into custody for destruction, the owner shall immediately make the dog available to the animal control authority. If the owner does not immediately make the dog available, the animal control authority shall obtain an order or warrant authorizing the seizure and the destruction of the dog from a court of competent jurisdiction. In the event the dangerous dog declaration is upheld by the hearing officer, actual expenses for the hearing ~~up to a maximum of three hundred dollars (\$300.00) will~~ may be the responsibility of the dog's owner.

d. No person shall harbor a dog after it has been found to be dangerous and ordered into custody for destruction.

(4) The city hereby adopts the procedures outlined in Minn. Stats. § 347.541 for disposition of seized dogs and hearings and incorporates the same by reference, as may be amended from time to time.

(hi) *Stopping an attack.* If any police officer or animal control authority is witness to an attack by a dog upon a person or domestic animal, the officer may take whatever means deemed appropriate to end the attack and prevent further injury.

(ij) *Notification of new address.* The owner of a dog which has been identified as dangerous or potentially dangerous shall notify the animal control authority in writing if the dog is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

(ik) *Dangerous dog requirements.* If the animal control authority or hearing officer does not order the destruction of a dog that has been declared dangerous, he may, as an alternative, order any or all of the following:

(1) That the owner provides and maintain a proper enclosure for the dangerous dog as defined in subsection (c) of this section.

(2) Post at the front and the rear of the premises with clearly visible warning signs there is a dangerous dog on the property, including a warning symbol to inform children, as specified in Minn. Stats. § 347.51;

(3) Provide and show proof annually of public liability insurance in the minimum amount of three hundred thousand dollars (\$300,000.00).

(4) If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six (6) feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or domestic animal, but will not cause injury to the dog or interfere with its vision or respiration.

(5) ~~The dog must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minn. Stats. § 347.51, and~~
~~The dog~~ shall have a microchip implant as provided by Minn. Stats. § 347.515.

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(6) All dogs deemed dangerous by the animal control authority shall be registered with the city within fourteen (14) days after the date the dog was so deemed and provide satisfactory proof thereof to the animal control authority. Continuing registration is required.

(7) The dog must be licensed ~~and up to date on rabies vaccination annually as a dangerous dog by April 1 in addition!~~ to standard pet license and pay the fee established by the annual fee schedule.

~~(k)~~ *Seizure.* As authorized by Minn. Stats. § 347.54, the animal control authority shall immediately seize any dangerous dog if the owner does not meet each of the requirements under subsection ~~(k)~~ of this section within fourteen 14 days after the date notice is sent to the owner that the dog is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

~~(m)~~ *Reclaiming dogs.* A dangerous dog seized may be reclaimed by the owner upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under subsection ~~(k)~~ of this section is fulfilled. A dog not reclaimed under this subsection within fourteen (14) days may be euthanized, and the owner is liable to the city for costs incurred in confining and impounding the dog.

~~(m)~~ *Subsequent offenses.* If an owner of a dog has subsequently violated the provisions under subsection ~~(k)~~ of this section with the same dog, the dog must be seized by animal control. The owner may request a hearing as defined in subsection ~~(h)~~ of this section. If the owner is found to have violated the provisions for which the dog was seized, the animal control authority shall order the dog destroyed ~~in a proper and humane manner~~ properly and humanely and the owner shall pay the costs of confining the dog. If the person is found not to have violated the provisions for which the dog was seized, the owner may reclaim the dog under the provisions of subsection ~~(m)~~ of this section. If the dog is not yet reclaimed by the owner within fourteen (14) days after the date the owner is notified that the dog may be reclaimed, the dog may be disposed of as provided under subsection ~~(k)~~ of this section and the owner is liable to animal control for the costs incurred in confining, impounding and disposing of the dog.

Sec. 8.042. Other Seizure and Disposal.

(a) Violations of Section 8.033(b) may cause seizure of animals.

(b) When an animal may be rehabilitated to proper health or meet the provisions under Section 8.041(j) the animal control authority may rehome the animal.

Sec. 8.043. Kennels Prohibited.

No person shall operate, maintain, or permit a kennel within the City limits. For purposes of this section, a "kennel" means any premises where four or more dogs, four or more cats, or any combination of six or more dogs and cats over the age of six months are kept, boarded, bred, trained, or offered for sale. Refer to Chapter 50 within the municipal code for all zoning requirements related to commercial kennels or runs.

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Secs. 80443 - 8.070. - Reserved