

ORDINANCE NO. 329-2012

AN ORDINANCE RELATING TO ANIMAL CONTROL; PROVIDING DEFINITIONS; REQUIRING THE LICENSING OF ANIMALS; PROVIDING IDENTIFICATION REQUIREMENTS; PROVIDING APPLICATION REQUIREMENTS AND SETTING FEES AND LICENSING DATES THEREFORE BY RESOLUTION; PROHIBITING IMITATION LICENSING TAGS; PROHIBITING ANIMALS RUNNING AT LARGE; REGULATING COMMERCIAL KENNELS; REQUIRING PROOF OF VACCINATION; PROVIDING FOR ENFORCEMENT; PROHIBITING INTERFERENCE WITH ANIMAL CONTROL ENFORCEMENT; PROHIBITING ANIMALS FROM DISTURBING THE PEACE; PROHIBITING ANIMALS FROM BECOMING A PUBLIC NUISANCE; REGULATING ANIMAL WASTE MATTER; PROVIDING FOR IMPOUNDMENT AND APPROVED IMPOUNDMENT FACILITIES; PROVIDING PENALTIES FOR IMPOUNDED ANIMALS; PROVIDING FOR VOLUNTARY ANIMAL DISPOSITION; PROVIDING FOR SALE OF ANIMALS; PROHIBITING FREEING OF IMPOUNDED ANIMALS OR FOWL; PROHIBITING LIVESTOCK WITHIN PUBLIC PARKS; PROHIBITING LARGE ANIMALS ON SIDEWALKS AND CERTAIN STREETS; PROHIBITING CRUELTY TO ANIMALS; PROHIBITING DOG OR COCK FIGHTS; PROVIDING FOR DETERMINATION OF VICIOUS ANIMALS; PROVIDING FOR REQUIREMENTS FOR VICIOUS ANIMALS AND CONTROL OF VICIOUS ANIMALS; PROHIBITING PURPOSE OR INTENT OR HARBORING OF VICIOUS ANIMALS; PROHIBITING COMMANDING AN ANIMAL TO ATTACK; PROVIDING FOR ACTIONS FOR DAMAGES, DESTRUCTION OF OFFENDING VICIOUS ANIMALS AND CIVIL PENALTIES; PROVIDING FOR LIABILITY FOR DAMAGES BY ANIMALS OWNED BY MINOR; PROVIDING FOR PENALTIES FOR VIOLATION; PROVIDING FOR ADMINISTRATIVE PROCEDURE; REPEALING ORDINANCES NO. 290-04 AND 301-05; PROVIDING FOR PUBLICATION; PROVIDING FOR SAVING AND SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES AND PROVIDING AN EFFECTIVE DATE.

SECTION:

- 6-2- 1: Definitions
- 6-2- 2: License Required
- 6-2- 3: Identification Requirements
- 6-2- 4: Application for License and License Fees
- 6-2- 5: Imitation License Tags
- 6-2- 6: Dogs Running at Large Prohibited
- 6-2- 7: Commercial Kennels Regulated
- 6-2- 8: Rabies
- 6-2- 9: Enforcement
- 6-2-10: Interference with Animal Control Officer Prohibited
- 6-2-11: Disturbing the Peace
- 6-2-12: Nuisances
- 6-2-13: Animal Waste Matter
- 6-2-14: Impounding
- 6-2-15: City Pound
- 6-2-16: Animals Impounded
- 6-2-17: Licensed Dogs Impounded
- 6-2-18: Unlicensed Dogs Impounded
- 6-2-19: Voluntary Animal Disposition
- 6-2-20: Notice of Sale of Animals
- 6-2-21: Freeing of Impounded Animals Prohibited
- 6-2-22: Livestock within Public Parks
- 6-2-23: Large Animals Prohibited on Sidewalks and Certain Streets
- 6-2-24: Cruelty to Animals
- 6-2-25: Dog or Cock Fights
- 6-2-26: Determination of a Vicious Animal
- 6-2-27: Vicious Animals
- 6-2-28: Control of Vicious Animals
- 6-2-29: Purpose or Intent; Harboring
- 6-2-30: Commanding an Animal to Attack Prohibited
- 6-2-31: Actions for Damages; Destruction of Offending Vicious Animal; Civil Penalty
- 6-2-32: Liability of Parents for Damages by Animal Owned by Minor
- 6-2-33: Penalties for Violation
- 6-2-34: Administrative Procedure
- 6-2-35: Repeal of Conflicting Ordinances
- 6-2-36: Publication
- 6-2-37: Saving & Severability Clause
- 6-2-38: Penalties
- 6-2-39: Effective Date

6-2-1: DEFINITIONS

As used in this Chapter, each of the terms defined shall have the meanings given in this Section unless a different meaning is clearly required by the context. The word "shall" is mandatory, not directory.

ABUSE: Any case in which an animal has been the victim of intentional or negligent conduct resulting in the animal's bruising, bleeding, malnutrition, dehydration, burns, fractures or breaks of any bones, subdural hematoma, soft-tissue swelling or death.

ANIMAL: Any organism, other than a human being needing food to maintain and sustain its life which generally has mobility and a developed central nervous system.

AT LARGE: Off the premises of the owner, and not under the control of the owner or a member of his immediate family either by leash, cord, chain or otherwise provided for in this Chapter.

CRUELTY: (SEE ABUSE)

DOG: Shall be intended to mean both male and female.

ENCLOSURE: A fence or structure of at least six feet (6') in height, forming or causing containment suitable to prevent the entry of young children, and suitable to confine an animal in conjunction with other measures which may be taken by the owner such as tethering of the animal. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure and which is designed to keep unauthorized persons from releasing the animals enclosed therein.

IMPOUNDED: Taken into custody of the City Pound, Animal Shelter, or other approved impoundment facility.

KENNEL: Any lot or premises or portion thereof on which four (4) or more dogs, cats, exotic animals, or any combination thereof, are maintained, harbored, possessed, bred or cared for and are not for sale or compensation.

KENNEL, COMMERCIAL: Any lot or premises or portion thereof, on which three (3) or more dogs, cats, exotic animals or other household domestic animals, or any combination thereof, are maintained, harbored, boarded, bred or cared for in return for compensation or kept for sale.

LARGE ANIMAL: Shall be intended to mean both male and female. Large animals shall include:

- (A) Ruminants:
 - a. Bovine (cattle)
 - b. Caprine (goat)
 - c. Ovine (sheep)
 - d. Etc.
- (B) Equine (horses, mules)
- (C) Porcine (swine)
- (D) Feline (large exotic cats)
- (E) Other unscheduled animals with adult weight over one hundred (100) pounds.

NUISANCE: Any animal which:

- (A) Bites a person.
- (B) Chases vehicles or persons.
- (C) Damages or destroys property of persons other than the owner of the animal.
- (D) Scatters garbage.
- (E) Trespasses on private property of persons other than the owner of the animal.
- (F) Barks, howls, whines or otherwise vocalizes for five (5) or more total consecutive minutes and thereby disrupts one or more persons not then residing in the residence of the owner, possessor or keeper of the animal; provided, however, an initial occurrence shall result in the issuance of a warning only with any subsequent occurrence within a seven (7) day calendar period of the initial occurrence being subject to all penalties provided herein.
- (G) Makes unprovoked attacks on other animals.
- (H) Any biting animal may be declared vicious by the Animal Control Officer, law enforcement officer, or other City Official.

OWNER: Any person or persons keeping, harboring, possessing, caring for, or having custodial duties over any animal.

SENIOR CITIZEN: Any person who has attained the age of sixty-five (65) or older.

SMALL ANIMALS: Shall be intended to include both male and female. Small animals shall include:

- (A) Canine (dog, fox, coyote, wolf, etc.)
- (B) Feline (domestic and small exotic cats)
- (C) Primates
- (D) Avian (chickens, turkeys, water fowl and exotic birds)
- (E) Reptiles
- (F) Rodents (rabbits, hamsters, etc.)

TATTOO: Permanent numbering or lettering by means of indelible or permanent ink with said numbering or lettering designated by the licensing authority.

VICIOUS ANIMAL:

- (A) Any animal which, when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, any public grounds or places, or private property not owned or possessed by the owner of the animal; or
- (B) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- (C) Any animal which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation; or
- (D) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting; or
- (E) Guard dog.

Notwithstanding the definition of a "vicious animal" above, no animal may be declared vicious if any injury or damage is sustained by a person who, at the time of such injury or damage was sustained, was committing a willful trespass or other tort upon the premises occupied by the owner of the animal, or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime.

No animal may be declared vicious if the injury or damage was sustained as a result of teasing, tormenting, abusing or assaulting the animal. No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

There is a rebuttable presumption that a child of less than seven (7) years of age is not capable of teasing, tormenting, abusing or assaulting or provoking an animal or willfully trespassing.

6-2-2: LICENSE REQUIRED:

It shall be unlawful for any person to own, harbor, keep or possess a dog within the City without first procuring a license therefor, as provided by this Chapter; provided however, that the provisions of this Chapter shall not apply to any person visiting in the City for a period not exceeding thirty (30) days, and owning or possessing an animal, if such animal is:

- (A) Currently licensed and bearing the license issued by another municipality.
- (B) If such person is a permanent resident where no such license is required.
- (C) New residents of the City of New Meadows shall license animals in their possession within thirty (30) days of establishing residency.

6-2-3: IDENTIFICATION REQUIREMENTS:

Every dog shall wear at all times a substantial and durable collar, to which shall be securely attached the required license tag. The shape and color of the tag shall be changed each year and shall have stamped thereon a number that will correspond with the number on the certificate.

6-2-4: APPLICATION FOR LICENSE AND LICENSE FEES:

- (A) All dogs over six (6) months old shall be licensed. The owner or person having charge of any dog within the City limits shall make application to the City Clerk and pay a license fee as established by Resolution of the City of New Meadows. At the time of application evidence must be provided of proof of spaying or neutering from a licensed and qualified veterinarian. Senior citizens will receive licenses for their spayed or neutered dog, for a reduced fee, as established by Resolution of the City of New Meadows. Licensing fees shall be waived for any guide dog that has been properly trained for the purpose of and is used to guide a blind or partially blind person, a person with impaired hearing, or any other severely disabled person who requires a guide dog.
- (B) The owner shall state at the time application is made for such license, upon printed forms provided for such purpose, his name and address, and shall describe the dog to be licensed in such a manner that the dog may be identified with reasonable certainty.
- (C) All dogs shall be licensed annually for and by licensing date as established by Resolution of the City of New Meadows. Any application for license for any animal over six (6) months old must have proof of rabies vaccination.
- (D) Upon satisfactory proof that a license tag has been lost, a new tag of a different number may be issued by the City Clerk upon payment of a fee of two dollars (\$2.00) and the transaction shall be noted upon the City office files for the number that was originally issued.

6-2-5: IMITATION LICENSE TAGS:

It shall be unlawful for any person to allow any dog, owned, kept or harbored by him to wear a license tag received on accounts for any other licensed animal or to wear any imitation of a license tag issued by the City for that year, or any other tag marked on the plate or collar similar to that required by the City at that time and calculated to deceive.

6-2-6: DOGS OR ANIMALS RUNNING AT LARGE PROHIBITED:

It shall be unlawful for any owner to allow or permit any animal whether licensed or not, to be or remain upon the streets or alleys of the City or in a public place in the City or off the owner's premises without the consent of the person in possession of such other premises unless:

- (A) Such animal be in the charge of a person and controlled by a leash not exceeding six feet (6') in length.
- (B) Such animal be confined in a motor vehicle.
- (C) Any officer observing an animal running at large in violation of this Section shall have the authority to issue a citation to the animal's owner without first impounding the animal. Whenever a person shall be found guilty of violating this Section, he shall be fined as defined in an Animal Control Resolution set from time to time.

It shall be no defense that a person has exchanged animals since the date of the last offense.

6-2-7: COMMERCIAL KENNELS REGULATED:

- (A) The keeping of any commercial kennel within the City limits is regulated by Zoning Ordinance of the City of New Meadows. A "commercial kennel" is hereby defined as any establishment where three (3) or more dogs are maintained, harbored, boarded, bred or cared for in return for compensation or kept for sale.
- (B) It shall be unlawful to keep, maintain or possess upon the premises of any one household more than three (3) dogs. Provided further that in the event the number of dogs upon the premises of any one household exceeds the number of three (3) for the reason that newborn offspring have been born to a dog living on said premises, then and in that event, it shall be lawful to keep, maintain and possess upon said premises said offspring until they reach the age of three (3) months.

6-2-8: RABIES:

The Animal Control Officer or any other law enforcement officer of the City shall have the authority to order the owner of any dog or animal which has bitten any person in such a manner so as to cause an abrasion of the skin to subject such dog to the City pound, a licensed veterinary hospital, animal shelter or other impoundment facility approved by the City for quarantine for a period of ten (10) days. If such animal shall be determined free from rabies, the same shall be returned to the owner upon payment of ten dollars (\$10.00) for each day the animal has been impounded and any actual veterinary or hospital costs incurred by the City in caring for the animal while impounded. If such fee is not paid, the animal shall be subject to disposal after proper notice is given to the owner provided that the owner can be located. The owner shall be responsible for all expenses incurred by the City for the care and/or disposal of said animal.

6-2-9: ENFORCEMENT:

- (A) The enforcement of this Chapter shall be the responsibility of the City of New Meadows and the City may designate an Animal Control Officer and give him the authority of a police officer in regard to animal control issues. Such officer shall be responsible to the City of New Meadows for the enforcement of all animal control regulations.
- (B) All fees collected shall be turned over to the City Clerk.

6-2-10: INTERFERENCE WITH ANIMAL CONTROL OFFICER PROHIBITED:

It shall be unlawful for any person to hinder, molest or in any way interfere with the Animal Control Officer, or any person authorized and acting through him, while he is lawfully engaged in the performance of his duties pursuant to this Chapter.

6-2-11: DISTURBING THE PEACE:

No person owning any dog or animal shall suffer or permit any such animal to disturb the peace and quiet of a neighborhood by howling, barking, whining or otherwise vocalizing, making loud or unusual noises, or by running through or across cultivated gardens or fields.

6-2-12: NUISANCES: Any animal is a public nuisance if it:

- (A) Bites a person.
- (B) Chases vehicles or persons.
- (C) Damages or destroys property of persons other than the owner of the animal.
- (D) Scatters garbage.
- (E) Trespasses on private property of persons other than the owner of the animal.
- (F) Barks, howls, whines, or otherwise vocalizes for five (5) or more total minutes in any fifteen (15) consecutive minutes and thereby disturbs one or more persons not then residing in the residence of the owner, possessor or keeper of the animal; provided, however, an initial occurrence shall result in the issuance of a warning only with any subsequent occurrence within a seven (7) day calendar period of the initial occurrence being subject to all penalties provided for herein.
- (G) Is kept in an open area during the time said animal is in heat and thereby attracts other animals to the area. All animals shall be kept in an enclosure as defined in the "Definitions" section of this Ordinance for the entire period of time during which said animal is in heat.

(H) Makes unprovoked attacks on other animals.

(I) Any biting animal may be declared vicious by the Animal Control Officer, law enforcement officer, or other City Official.

Exception to animal as Public Nuisance: An animal shall not be considered a public nuisance if the animal bites:

- I. A person battering an animal's owner or the owner's spouse or children or persons legally residing with the owner, or
- II. A person wrongfully assaulting the animal, or
- III. A person entering a fully fenced area, regardless of where located, if that area is conspicuously posted with signs warning of the presence of the animal within the fenced area.

6-2-13: ANIMAL WASTE MATTER:

It shall be unlawful for a person owning or keeping an animal to allow the animal to deposit solid waste matter on any property other than that of the person owning or keeping the animal, but it shall be a defense to this action if the owner or keeper removes the solid waste and properly disposes of it. At no time shall the owner of any animal allow such solid waste matter to (on their own property) build up to a point where it:

- (A) Attracts flies and insects
- (B) Causes an offensive odor at neighboring properties
- (C) Becomes a health risk to people in the area

6-2-14: IMPOUNDING:

- (A) It shall be the duty of the Animal Control Officer of the City to apprehend any animal found running at large contrary to the provisions of this Chapter, and to impound such animal in the City pound or other suitable places; provided that if a fierce, dangerous or vicious animal found running at large cannot be safely taken up and impounded, such animal may be slain by any law enforcement officer or the Animal Control Officer of the City.
- (B) The Animal Control Officer or law enforcement officer so impounding or slaying any animal shall record a description of the animal, whether licensed or not in a book kept for that purpose.
- (C) If the animal is licensed and shall be wearing a license tag when apprehended or slain, the law enforcement officer or Animal Control Officer shall also record the name and address of the owner and the number of the tag.

6-2-15: CITY POUND:

The City of New Meadows is hereby authorized and empowered to secure and maintain a suitable pound for the purpose of carrying out the provisions of this Chapter. The Animal Control Officer or other City Official will be the judge of how animals are to be segregated and penned.

6-2-16: ANIMALS IMPOUNDED:

- (A) The owner or owners of any animals impounded may redeem the same by paying all the costs, charges and penalties assessed, if any, that have accrued up to the time of making the redemption, and when the same are paid, it shall be the duty of the Animal Control Officer or other City Official to release the animal from said pound to the said owner thereof. The owner of said animal shall pay a fee for impoundment set by resolution from time to time by the City Council and for the care and feeding for such animal, and any actual veterinary or hospital costs incurred by the City in caring for such animal while impounded.
- (B) All fees and boarding services for the taking up of such animals shall be payable to and collected by the City Clerk or other City Official.

6-2-17: LICENSED DOGS IMPOUNDED:

It shall be the duty of the Animal Control Officer to cause notice to be served either in person or by mail upon the registered owner of any licensed dog impounded under the provisions of this Chapter. Any dog not redeemed is declared to be a public nuisance and may be disposed of in a humane manner under the direction of the City of New Meadows, within three (3) days of notification. The owner shall be responsible for all expenses incurred by the City for the care and/or disposal of said animal.

6-2-18: UNLICENSED DOGS IMPOUNDED:

It shall be the duty of the Animal Control Officer to hold for a period of three (3) working days any unlicensed dog impounded under the provisions of this Chapter. Any such unlicensed dog not redeemed within said three day period shall be declared to be a stray dog and a public nuisance and may be disposed of in a humane manner under the direction of the City of New Meadows. The owner, if located, shall be responsible for all costs incurred by the City for the care and/or disposal of said animal.

6-2-19: VOLUNTARY ANIMAL DISPOSITION:

The Animal Control Officer, at the request of any owner, may pick up and dispose of any small animal. The owner of said animal shall be responsible for all costs incurred by the City for this service.

6-2-20: NOTICE OF SALE OF ANIMALS:

If the owner or person entitled to the possession of any large animal does not pay the charges and does not take said animal away within five (5) days from the time it is taken into custody, the City of New Meadows may sell such animal at public auction after having given at least five (5) days' notice of the time and place of such sale by publishing or by posting said notice in three (3) public places in the Municipality, as well as serving a copy of said notice upon the owner or possessor, if known, of said animal. Such animal may be redeemed at any time before the date of sale by the payment to the City of New Meadows of any fees, expenses and charges herein provided. All revenue from sale shall become part of the General Fund of the City.

6-2-21: FREEING OF IMPOUNDED ANIMALS AND POULTRY PROHIBITED:

- (A) It shall be unlawful to break upon or in any manner directly or indirectly, aid or assist in the breaking open of any pen or enclosure with intent of releasing any animal or poultry.
- (B) It shall be unlawful for any person except those responsible for the enforcement of this Chapter to release any animal from the City pound or from any other place where an animal may be held for observation.

6-2-22: LIVESTOCK WITHIN PUBLIC PARKS:

No animal of any kind shall be allowed within any public park within the City except when such animal is kept upon the regularly traveled motor vehicle public rights of way within said park.

6-2-23: LARGE ANIMALS PROHIBITED ON SIDEWALKS AND CERTAIN STREETS:

It shall be unlawful and prohibited for horse-drawn vehicles or the riding of horses on all sidewalks of all streets and upon any street or alley which has been newly oiled.

6-2-24: CRUELTY TO ANIMALS:

It shall be unlawful for any person to torture or beat cruelly, starve, or otherwise ill-treat any animal in his care or charge, whether belonging to himself or any other person.

6-2-25: DOG OR COCK FIGHTS:

It shall be unlawful for any person to participate in any dog or cock fights within the limits of the City.

6-2-26: DETERMINATION OF A VICIOUS ANIMAL:

- (A) In the event that the Animal Control Officer or other law enforcement officer of the City has declared an animal vicious, the owner of the animal shall be notified in writing of this determination. If the owner of the animal contests the determination, he or she may, within five (5) days of such determination, bring a petition to the Mayor and City Council. The City Council shall conduct a hearing and make its own determination as to viciousness. Said hearing shall be conducted within fourteen (14) days of the petition. The City Council may decide all issues for or against the owner of the animal regardless of the fact that said owner fails to appear at said hearing.
- (B) The determination of the City Council shall be final and conclusive upon all parties thereto. However, the Animal Control Officer, any law enforcement officer, or any City Official shall have the right to declare an animal to be vicious for any subsequent actions of the animal.
- (C) In the event the Animal Control Officer or law enforcement officer has probable cause to believe that the animal in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, he may seize and impound the animal pending the aforesaid hearings. The owner of the animal shall be liable to the City for the costs and expenses of impoundment and care of such animal.

6-2-27: VICIOUS ANIMALS:

- (A) Requirements for Registration: No animal which has been declared vicious pursuant to this Chapter shall be licensed by the City for any licensing period commencing after March 1, 2012, unless the owner or keeper of such vicious animal shall meet the following requirements:
 - I. The owner shall present to the City Clerk or other licensing authority, proof that the owner or keeper has procured liability insurance in the amount of no less than one hundred thousand dollars (\$100,000.00), covering any damage or injury which may be caused by such vicious animal during the twelve (12) month period for which licensing is sought, which policy shall contain a provision requiring the City to be named as additional insured for the sole purpose of the City Clerk or other licensing authority where such animal is licensed to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.
 - II. The owner shall, at his own expense, have the licensing number assigned to such vicious animal, or such other identification number as the City Clerk or other licensing authority shall determine, tattooed upon such vicious animal by a licensed veterinarian or person trained as a tattooist and authorized as such by any state, county, city or town law enforcement agency. The tattoo shall be placed either on the upper inner lip or upper left rear thigh of the vicious animal. The Animal Control Officer may, in his discretion, designate the particular location of said tattoo. Said number shall be noted on the City licensing files for such vicious animal, if it is different from the licensing number of such vicious animal. For the purpose of this subsection "tattoo" shall be defined as any permanent numbering of a vicious animal by means of indelible or permanent ink

with the number designated by the licensing authority, or any other permanent, acceptable method of tattooing or micro chipping.

- III. The owner shall display a sign on his or her premises warning that there is a vicious animal on the premises. Said sign shall be visible and capable of being read from all public highways, streets, or alleys adjacent to said premises.
 - IV. The owner shall sign a statement attesting that:
 - i. The owner shall maintain and not voluntarily cancel the liability insurance required by this Section during the twelve (12) month period for which licensing is sought, unless the owner shall cease to own or keep the vicious animal prior to expiration of such license.
 - ii. The owner shall, on or prior to the effective date of such license for which application is being made, have an enclosure for the vicious animal on the property where the vicious animal will be kept or maintained.
 - iii. The owner shall notify the licensing authority, the Animal Control Officer, and the City of New Meadows within twenty-four (24) hours if a vicious animal is on the loose, is unconfined, has attacked another animal or has attacked a human being, or has died or has been sold or given away. If the vicious animal has been sold or given away the owner shall also provide the licensing authority with the name, address and telephone number of the new owner of the vicious animal.
- (B) An Animal Control Officer, law enforcement officer, or other City Official is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this Chapter, and any such Animal Control Officer is hereby empowered to seize and impound any vicious animal whose owner fails to comply with the provisions hereof.
- (C) In the event that the owner of the animal refuses to surrender the animal to the Animal Control Officer, the Animal Control Officer may request a law enforcement officer to obtain a search warrant from a justice of the District Court and to seize the animal upon execution of the warrant.

6-2-28: CONTROL OF VICIOUS ANIMALS:

- (A) All vicious animals shall be confined in an enclosure. It shall be unlawful for any owner to maintain a vicious animal upon any premises which does not have a locked enclosure, secured by a padlock or childproof lock.
- (B) It shall be unlawful for any owner to allow any vicious animal to be outside of the dwelling of the owner or outside of the enclosure unless it is necessary for the owner to obtain veterinary care for the vicious animal or to sell or give away the vicious animal or to comply with commands or directions of the Animal Control Officer, law enforcement officer, or other City Official with respect to the vicious animal, or to comply with the provisions of this Chapter. In such event, the vicious animal shall be securely muzzled and restrained with a chain having minimum tensile strength of three hundred (300) pounds and not exceeding three feet (3') in length, and shall be under the direct control and supervision of the owner of the vicious animal.

6-2-29: PURPOSE OR INTENT; HARBORING:

- (A) No person shall own or harbor any animal for the purpose of animal fighting, or train, torment, badger, bait or use any animal for the purpose of causing or encouraging said animal to make unprovoked attacks upon human beings or domestic animals.
- (B) No person shall possess with intent to sell, or offer for sale, breed or buy or attempt to buy within the State any vicious animal.

6-2-30: COMMANDING AN ANIMAL TO ATTACK; PROHIBITED:

Except where great bodily harm or death is likely to immediately ensue, it shall be unlawful for any person to command, encourage or aid by word or conduct, any animal to bite, chase, attack or attempt to bite, chase or attack, another person or animal.

6-2-31: ACTION FOR DAMAGES; DESTRUCTION OF OFFENDING VICIOUS ANIMAL; CIVIL PENALTY:

If any vicious animal shall, when unprovoked, kill or wound, or assist in killing or wounding any sheep, lamb, cattle, horse, hog, swine, fowl or other domestic animal, belonging to or in the possession of any person, or shall, when unprovoked, attack, assault, bite or otherwise injure any human being or assist in attacking, assaulting, biting or otherwise injuring any human being while out of or within the enclosure of the owner or keeper of such vicious animal, or while otherwise, on or off the property of the owner whether or not such vicious animal was on a leash and securely muzzled or whether the vicious animal escaped without fault of the owner or keeper, the owner or keeper of such animal shall be liable to the person aggrieved as aforesaid for all damages sustained, to be recovered in a civil action, with costs of suit. It is reputedly presumed as a matter of law that the owning, keeping or harboring of a vicious animal in violation of this Chapter is a nuisance. It shall not be necessary, in order to sustain any such action, to prove that the owner of such vicious animal knew that such vicious animal possessed the propensity to cause such damage or that the vicious animal had a vicious nature. Upon such attack or assault, the Animal Control Officer in the City is hereby empowered to confiscate and destroy such vicious animal, if the conduct of such vicious animal or its owner constituted a violation of the provisions of this Chapter, punishable by the confiscation and destruction of the animal. The owner shall be responsible for all costs incurred by the City for the care and/or destruction of said animal.

6-2-32: LIABILITY OF PARENTS FOR DAMAGES BY ANIMAL OWNED BY MINOR:

In the event that the owner of the vicious animal is a minor, the parent or guardian of such minor shall be liable for all injuries and property damage sustained by any person or domestic animal abused by an unprovoked attack by said vicious animal.

6-2-33: PENALTIES FOR VIOLATION:

(A) Vicious Animals:

I. Any vicious animal:

- i. Which does not have a valid license in accordance with the provisions of this Chapter; and
- ii. Whose owner does not secure the liability insurance coverage required in accordance with Section 6-2-29; and
- iii. Which is not maintained on property with an enclosure; and
- iv. Which shall be outside of the dwelling of the owner, or outside of an enclosure; and
- v. Which is not tattooed or micro chipped;

- 1. Shall be confiscated by the Animal Control Officer and destroyed in an expeditious and humane manner after the expiration of a three (3) day waiting period exclusive of Sundays and holidays. In addition, the owner shall pay a three hundred dollar (\$300.00) fine, or be sentenced to up to a maximum of six months in jail, or both. The owner shall be responsible for all costs incurred by the City for the care and / or destruction of said animal.
- 2. If any vicious animal shall, when unprovoked, kill, wound, or worry or assist in killing or wounding any animal described in Section 6-2-33, the owner of said animal shall pay a three hundred dollar (\$300.00) fine and the Animal Control Officer is empowered to confiscate and, after the expiration of a three (3) day waiting period exclusive of Sundays and holidays, shall destroy said vicious animal. The owner shall be responsible for all costs incurred by the City for the care and/or destruction of said animal. For each subsequent violation the same owner of another vicious animal shall pay a fine of three hundred fifty dollars (\$350.00).
- 3. If any vicious animal shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner shall pay a five hundred dollar (\$500.00) fine plus all legal and other costs incurred by the City for such action. The Animal Control Officer is empowered to and shall confiscate and, after the expiration of a three (3) day waiting period exclusive of Sundays and holidays, shall destroy said vicious animal. The owner shall be responsible for all costs incurred by the City for the care and/or destruction of said animal.
- 4. If any animal owner objects to the destruction of an animal pursuant to this Section, he shall file a petition with the Mayor or City Clerk and a hearing on the merits shall be had before the City Council within fourteen (14) days. The decision of the City Council shall be final and binding on all parties.

6-2-34: ADMINISTRATIVE PROCEDURE:

- (A) In order to eliminate burdening the court system with violations of this Ordinance, and as a convenience to the public, a law enforcement officer or Animal Control Officer may, in addition to or in lieu of impounding an animal running at large or being unlicensed, or in lieu of issuing a misdemeanor criminal citation for a violation of this Ordinance, issue to any person who is in violation of this Ordinance a Notice of Ordinance Violation.
- (B) Any person receiving a Notice of Ordinance Violation may pay, in addition to any required license fee or impound fees, a fixed penalty as set forth by resolution of the City Council from time to time. Such penalty and/or license fee and impound fees shall be paid to the New Meadows City Clerk, in person or by mail, within ten (10) days of the issuance of the Notice of Ordinance Violation.
- (C) In the event that a person does not make payment of the penalty and/or license and impound fees as set forth in this section, a misdemeanor citation for violation of the section of the Ordinance for which the Notice of Ordinance Violation was given shall be issued.

No fine and/or tattooing requirement shall be suspended by any court of competent jurisdiction.

6-2-35: REPEAL OF CONFLICTING ORDINANCES:

Ordinance No. 290-04, passed and approved by the City of New Meadows on December 13, 2004, and Ordinance No. 301-05, passed and approved by the City of New Meadows on November 14, 2005, and all ordinances or parts of ordinances in conflict herewith are hereby repealed.

6-2-36: PUBLICATION:

This ordinance may be published in summary form as allowed by Idaho Code.

6-2-37: SAVING & SERVABILITY CLAUSE:

Ordinance No. 290-04, repealed by this ordinance, shall remain in force to authorize the arrest, prosecution, conviction and punishment of a person who violates Ordinance 290-04 prior to the effective date of this ordinance.

If any portion of this ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the ordinance shall be applied to effectuate the purposes of this ordinance.

6-2-38: PENALTIES:

Any violation of this ordinance shall be a misdemeanor punishable in accordance with the general misdemeanor statutes of the State of Idaho.

6-2-39: EFFECTIVE DATE:

This ordinance shall be in full force and effect after its passage, approval and publication.

PASSED AND APPROVED this ___9th___ day of ___April_____, 2012.

_/s/ Julie Spelman_____ Julie Spelman, Mayor

ATTEST: _/s/ Jacob Qualls_____ Jacob M Qualls, City Clerk

