

CITY OF IRON MOUNTAIN
CHAPTER 6, ANIMALS
ARTICLE V, REGULATION OF VICIOUS DOGS

The following is an amendment to Chapter 6, Article V.

That Article V of the Code of Ordinances of the City of Iron Mountain, Michigan is hereby amended to read as follows:

Sec. 6-101. - Definitions.

"Dog officer" means any person employed or elected by the people of the state, or by any municipality, county or township, whose duty it is to preserve peace or to make arrests or to enforce the law, and includes conservation officers and members of the state police and the Dickinson County Animal Control officers.

"Impounded" means taken into the custody of the public pound of Dickinson County.

"Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog.

"Person" means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.

"Unconfined" means any dog which is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

"Vicious dog" shall include the following:

- (1) Any dog with a known vicious propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals.
- (2) Any dog which because of its vicious propensity is capable of inflicting serious physical harm or death to humans, and which would constitute a danger to human life or property if it were not kept in the manner required by this chapter.
- (3) Any dog which, without provocation, attacks or bites, or has attacked or bitten a human being or domestic animal.
- (4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

Notwithstanding the definition of a vicious dog above, no dog may be declared vicious if an injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. If a minor is under the age of seven years of age at the time the damage or injury was sustained, it shall be rebuttably presumed that such minor was not committing a trespass or other tort or teasing, tormenting or abusing the dog.

No dog may be declared vicious if an injury or damage was sustained by a domestic animal which at the time the injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog. No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault. The burden of proof thereon shall be upon the owner or keeper of the dog. (Ord. of 12-19-05, § 1)

Sec. 6-102. -Confinement.

The owner of a vicious dog shall not suffer or permit the dog to be unconfined. (Ord. of 12-19-05 § 2)

Sec. 6-103. - leash and muzzle required.

The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal. (Ord. of 12-19-05 § 3)

Sec. 6-104. - Owner to display warning signs.

The owner of a vicious dog shall display in a prominent place on his premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal. (Ord. of 12-19-05 § 4)

Sec. 6-105. - Dog fighting prohibited.

No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human being or domestic animals. (Ord. of 12-19-05, § 5)

Sec. 6-106. -Action for damages; destruction of offending vicious dog.

If any vicious dog shall, when unprovoked, kill or wound, or assist in killing or wounding any 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 dog, or while otherwise, on or off the property of the owner or keeper whether or not such vicious dog was on a leash and securely muzzled or whether the vicious dog escaped without fault of the owner or keeper, the owner or keeper of such dog shall be liable to the person aggrieved as aforesaid, for all damage sustained, to be recovered in a civil action, with costs of suit. It is rebuttably presumed as a matter of law that the owning, keeping or harboring of a vicious dog 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 or keeper of such vicious dog knew that such vicious dog possessed the propensity to cause such damage or that the vicious dog had a vicious nature. Upon such attack or assault, the dog officer in the city or town where the attack or assault occurred is hereby empowered to confiscate and destroy such vicious dog pursuant to section 6-108, if, based on all the facts and circumstances of the attack, the dog officer determines that the vicious dog poses a continued threat to the health and safety or welfare of the citizens of the City of Iron Mountain. If the attack causes serious personal injury to the victim, the dog officer shall confiscate and destroy such vicious dog. It shall be presumed to be a serious injury if the attack results in the victim requiring medical treatment caused by the vicious dog attack. (Ord. of 12-19-05, § 6; Ord. of 11-18-13(1))

Sec. 6-107. - Exemptions.

The provisions of this article shall not apply to K-9 or other dogs owned by any police department or any law enforcement agency of the State of Michigan, or the United States or a branch of the armed services of the United States. (Ord. of 12-19-05, § 7)

Sec. 6-108. - Penalties for violation.

(a) If any ~~vicious~~ dog shall, when unprovoked, kills, wounds causing serious injury or assists in killing or wounding causing serious injury to any animal described in section 6-106 of this article, the owner or keeper of said dog shall pay a \$200.00 fine which may be adjusted from time to time by the city council, and the dog officer is empowered to confiscate and, after expiration of a ten-day waiting period exclusive of Sundays and holidays shall destroy said dog. If the dog officer is unable to confiscate the dog because the owner or keeper has failed to quarantine the dog for any reason, the owner shall be subject to an additional \$500.00 fine which may be adjusted from time to time by the city council.

(b) If any ~~vicious~~ dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, and the dog officer determines that the vicious dog poses a continued threat to the health, safety, and welfare of the citizens as set forth in section 6-106, the owner or keeper shall pay a \$500.00 fine which may be adjusted from time to time by the city council. The dog officer is empowered to require the dog be quarantined and, after expiration of a ten-day waiting period exclusive of Sundays and holidays, shall destroy said vicious dog. At any time during the ten days, the owner may, at its expense, destroy the dog. If the owner does not destroy the dog within the ten-day waiting period, the dog officer shall confiscate the dog and have it humanely destroyed at the owner's expense. If the dog officer is unable to confiscate the dog because the owner or keeper has failed to quarantine the dog for any reason, the owner shall be subject to an additional \$500.00 fine which may be adjusted from time to time by the city council.

(c) If the owner or keeper of a dog ~~impounded~~ quarantined for an alleged violation of subsections (a) or (b) above, shall believe that no violations have occurred, such owner or keeper may petition the district court which has jurisdiction to order that the ~~impounded~~ quarantined dog be ~~returned to the owner or keeper released from quarantine~~ and should not be destroyed. ~~The impounded~~ A dog quarantined shall not be ~~returned to the owner released~~ or be destroyed pending resolution of such owner's or keeper's petition if the petition shall have been filed within ten days of ~~impoundment~~ quarantine of such dog and notice shall have been served within ten days of the filing of the petition upon the dog officer or keeper of the dog ~~pound~~. The hearing shall be conducted within seven days from serving of the notice, unless continued to a later date by the court. The decision of the district court may be appealed to the circuit court by any aggrieved party within 48 hours of the decision. The dog shall remain ~~impounded~~ quarantined pending the appeal. A hearing de novo, without a jury, shall be conducted within seven days of the appeal, unless adjourned to a later date by the court. The decision of the circuit court shall be final and conclusive upon all the parties thereto. However, the dog officer or any law enforcement officer shall have the right to declare a dog to be vicious for any actions of the dog subsequent to the date of the violation. If the court shall find that there shall not have been a violation of subsections (a) or (b), such dog may be released ~~to the custody of the owner or keeper upon payment to the pound-keeper or dog officer of the expense of keeping such dog from quarantine.~~ All issues herein shall be decided by the preponderance of the evidence. (Ord. of 12-19-05, § 8; Ord. of 11-18-13(1))

Sec. 6-109. -liability of parents for damages caused by dog owned by minor.

In the event that the owner or keeper of the ~~vicious~~ dog is a minor, the parent or guardian of such minor shall be liable for all injuries, property damage, and fines sustained by any person or domestic animal caused by an unprovoked attack by said ~~vicious~~ dog. (Ord. of 12-19-05, § 9)

The entire Chapter 6, Article V, is available for public inspection at www.cityofironmountain.com.

Effective date: This Ordinance shall become effective in the City of Iron Mountain 30 days following adoption by the City Council.

Passed: November 16, 2020
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Isaac Micheau
Clerk/Treasurer

Dale Alessandrini
Mayor