

ORDINANCE NO. 2021-30

CITY OF KUNA, IDAHO

AN ORDINANCE OF THE CITY COUNCIL OF KUNA, IDAHO,

- **AMENDING SECTIONS 2 AND 3 OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE BY MAKING TECHNICAL CORRECTIONS (BOTH SECTIONS); THE ADDITION, DELETION, AND AMENDMENT OF DEFINITIONS; PROVIDING ACTIVITY RELATED TO ANIMAL FIGHTS IS UNLAWFUL; PROVIDING THAT THE USE OF BODY GRIPPING TRAPS WITHIN CITY LIMITS IS UNLAWFUL; PROVIDING THAT RELEASING A STRAY CAT AFTER STERILIZATION FOR POPULATION CONTROL PURPOSES IS NOT ABANDONMENT;**
- **REPEALING THE EXISTING SECTION 4 OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE ENTITLED “WILD ANIMALS” AND ENACTING A NEW SECTION 4 OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE ENTITLED “PROHIBITED ANIMALS,” WHICH PROHIBITS POSSESSION AND OWNERSHIP OF CERTAIN ENUMERATED ANIMALS AND PROVIDE EXCEPTIONS TO PROHIBITIONS; AND**
- **AMENDING SECTIONS 5, 6, 7, 8, 9, 10, 11, 12, 13, AND 14 OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE BY MAKING TECHNICAL CORRECTIONS (MULTIPLE SECTIONS); PROVIDING FOR NONCOMMERCIAL KENNEL LICENSES; PROVIDING THAT DOGS RUNNING AT LARGE IS UNLAWFUL; PROVIDING THAT DOG ENCLOSURES BE MAINTAINED AND REPAIRED; PROVIDING AN EXCEPTION TO FOUND STRAY ANIMALS PROVISION FOR CATCHING AND LATER RELEASING STRAY CATS AFTER STERILIZATION; UPDATING STANDARDS AND PROCEDURES FOR MANAGING RABID ANIMALS, INCLUDING QUARANTINE PROCEDURES; PROVIDING FOR THE AUTHORITY TO RESTRAIN ATTACKING ANIMALS; PROVIDING IT IS UNLAWFUL TO DIRECT A DOG TO ATTACK OTHER ANIMALS; AND**
- **REPEALING THE EXISTING SECTION 15, CHAPTER 3, TITLE 10 KUNA CITY ENTITLED “DISEASED ANIMALS,” WHICH PROVIDES FOR THE MANAGEMENT OF DISEASED ANIMALS, AND ENACTING A NEW SECTION 15, CHAPTER 3, TITLE 10 KUNA CITY CODE ENTITLED “CRIMINAL RESPONSIBILITY FOR DOG BITES AND ATTACKS,” PROVIDING THAT AN OWNER MAY INCUR CRIMINAL CONSEQUENCES FOR DOG ATTACKS AND BITES, AS WELL AS CERTAIN COLLATERAL CIVIL CONSEQUENCES; AND**
- **AMENDING SECTIONS 16, 21, 22, 23, 24, AND 25 OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE BY UPDATING PROVISIONS RELATED TO HABITUAL BARKING AND NOISEMAKING, PROVIDING EXCEPTIONS TO NOISEMAKING PROVISIONS, PROVIDING THAT ANIMAL NUISANCES ARE UNLAWFUL, AND PROVIDING FOR NUISANCE FERAL CAT PREVENTION; MAKING TECHNICAL CORRECTIONS (MULTIPLE SECTIONS); UPDATING PROVISIONS FOR IMPOUNDED ANIMALS THAT OWNERS REFUSE TO**

REDEEM AND REMOVING EXISTING IMPOUND APPEAL PROCEDURES; UPDATING HABITUAL ANIMAL CONTROL VIOLATOR PROVISIONS; AND

- **REPEALING THE EXISTING SECTION 26 OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE ENTITLED “PENALTIES,” WHICH PROVIDES FOR INFRACTIONS AND MISDEMEANOR PENALTIES FOR VIOLATIONS OF CHAPTER 3 OF TITLE 10; ENACTING A NEW SECTION 26 OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE ENTITLED “RESPONSIBILITY FOR ANIMALS OWNED BY MINORS,” WHICH PROVIDES PARENTAL OR GUARDIAN RESPONSIBILITY FOR LEGAL CONSEQUENCES FOR ANIMALS OWNED BY MINORS UNDER THEIR CARE; AND**
- **ENACTING A NEW SECTION OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE NUMBERED SECTION 27 AND ENTITLED “DESIGNATION AND MANAGEMENT OF DANGEROUS OR AT-RISK DOGS,” WHICH PROVIDES PROCEDURES AND STANDARDS FOR DESIGNATING DOGS AS AT-RISK OR DANGEROUS, AND PROVIDES RESTRICTIONS FOR THE KEEPING AND MANAGEMENT OF AT-RISK OR DANGEROUS DOGS WITHIN THE CITY; AND**
- **ENACTING A NEW SECTION OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE NUMBERED SECTION 28 AND ENTITLED “APPEAL PROCEDURE FOR AFFECTED PERSONS,” WHICH ESTABLISHES RIGHTS AND STANDARD PROCEDURES FOR APPEALING ENFORCEMENT DECISIONS MADE UNDER CHAPTER 3 OF TITLE 10 KUNA CITY CODE; AND**
- **ENACTING A NEW SECTION OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE NUMBERED SECTION 29 AND ENTITLED “PENALTIES,” WHICH PROVIDES INFRACTION AND MISDEMEANOR PENALTIES FOR VIOLATING PROVISIONS OF CHAPTER 3 OF TITLE 10 KUNA CITY CODE WHEN SPECIFIC PENALTIES ARE NOT PROVIDED FOR BY A PARTICULAR SECTION; AND**
- **DIRECTING THE CITY CLERK; AND**
- **PROVIDING AN EFFECTIVE DATE.**

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Kuna, Ada County, Idaho:

Section 1: That sections 2 and 3 of Chapter 3 of Title 10 Kuna City Code be and the same are hereby amended to read as follows:

10-3-2: - DEFINITIONS:

ABANDON: To leave an animal unattended for more than twenty-four (24) hours without the owner making arrangements for its proper care, sustenance and shelter, or releasing the animal upon public highways or public or private property. Shall not apply to a person who captures a free roaming at large domestic cat, transports the cat to a veterinarian for sterilization surgery, and releases the cat in the approximate location in which it was found for the purpose of cat population control. Shall not apply to the Animal Control Agency in accordance with 10-3-16(E).

AFFECTED PERSON: Means any person, in particular owners, whose rights to own or possess an animal have been adversely impacted by a specific decision to enforce any provision of this chapter against that person.

ANIMAL: Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as part of the animal kingdom. Animals shall be classified as follows:

Domestic animals: Those animals commonly accepted as domesticated household pets that have traditionally, through a long association with humans, lived in a state of human dependence or traditionally have been kept as a household pet. These animals shall include dogs, cats, ferrets, caged birds, pigeons, gerbils, hamsters, guinea pigs, domesticated rabbits, chinchillas, fish, nonpoisonous, nonvenomous and nonconstricting reptiles or amphibians, and other similar animals.

Farm animals: Those animals commonly associated with a farm or performing work in an agricultural setting. These animals shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including potbellied pigs), goats, llamas, alpacas, and other animals associated with a farm, ranch or stable operations.

ANIMAL CONTROL AGENCY: Any organization(s) authorized by the city council to enforce the provisions of this chapter.

ANIMAL CONTROL OFFICER: Any individual authorized by the city council or the Animal Control Agency to enforce the provisions of this chapter, to include, state or local law enforcement officers whose duties include assignments that involve animal seizure and impoundment.

ANIMAL CONTROL SHELTER: An animal control facility authorized by the city council or the Animal Control Agency as the location for the impounding of animals.

AT LARGE: Off the property of the owner and not under the control of such person by either leash, cord or chain (not to exceed eight (8) feet).

AT-RISK DOG: Means any dog that:

- A. Without justified provocation bites a person without causing a serious injury; or
- B. Without provocation and while at-large has killed, inflicted injury, or otherwise caused injury to a domestic animal by attacking a domestic animal not on the real property of the owner of the dog.
- C. Has previously been found to be an at-risk dog pursuant to the Idaho Code or a substantially conforming ordinance or statute from foreign jurisdiction.

ATTACK: Any aggressive action by an animal that a reasonable person would conclude places any person or domestic animal in reasonable belief of imminent and substantial bodily harm.

BARKING: A vocal sound produced by a dog that annoys or disturbs a reasonable person of normal sensitivities.

BITE OR BITTEN: When the skin of an individual has been broken or penetrated by an animal's teeth in an act of aggression, attack or defense.

CAT: Both the male and female of the Felidae species.

COMMERCIAL KENNEL: Any lot or premises or portion thereof, on which five (5) or more dogs, cats, or other household domestic animals are maintained, harbored, possessed, boarded, bred, or cared for in return for compensation, or are offered for sale. This definition does not include an animal clinic, animal hospital, or veterinary office where boarding is limited to short-term care incidental to the hospital purposes.

CURRENT VACCINATION: An animal that has received a primary rabies vaccine at least thirty (30) days ago, and no more than one (1) year ago, or has received a booster vaccine administered according to the manufacturer's written instructions. The rabies vaccine shall be licensed by the United States Department of Agriculture for use in that species (a list of the currently licensed vaccines can be found in the current "Compendium of Animal Rabies Vaccines" prepared and updated annually by the National Association of State Public Health Veterinarians). Rabies vaccination must be performed by or under the direct supervision of a veterinarian who is licensed or legally permitted to practice veterinary medicine.

DANGEROUS DOG: Means any dog that:

- A. Without justified provocation has inflicted serious injury on a person;
- B. Has been previously be found to be at-risk and thereafter bites or physically attacks a person without justified provocation;
- C. Has previously been found to be a dangerous dog pursuant to the Idaho Code or a substantially conforming ordinance or statute from foreign jurisdiction; or
- D. Has been previously found to be at-risk and thereafter inflicts injury to a domestic animal not on the real property of the owner of the dog.

DOG: Both the male and female of the Canine species.

EUTHANASIA: The procedure in which an animal is humanely killed by a method that is painless to the animal, and causing unconsciousness and death. This procedure to be performed by a certified euthanasia technician or licensed veterinarian in accordance with Idaho Code, Title 54, Chapter 21.

HARBORING: Allowing an animal to remain, or to be lodged, fed or sheltered on real property the owner occupies or controls for twenty-four (24) consecutive hours, or for one (1) or more hours per day for three (3) consecutive days.

HUMANE TRAP: A live animal box enclosure trap designed to capture and hold an animal without injury for a set period of time.

IMPOUND: To receive into the custody of the animal control shelter or an animal control authority officer.

JUSTIFIED PROVOCATION: Means to perform any act or omission that a reasonable person with common knowledge of dog behavior would conclude is likely to precipitate a bite or attack by an ordinary dog. Justified provocation includes, but is not limited to, the following:

- A. The dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault;
- B. The person was committing a crime or offense upon the property of the owner or custodian of the dog;
- C. The person was at the time, or had in the past, willfully tormented, abused or assaulted the dog;
- D. The dog was responding to pain or injury or protecting its offspring;
- E. The dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury sustained was to a person who was interfering with the dog while the dog was working in a place where it was lawfully engaged in such activity, including public lands;
- F. The dog was a Service Animal individually trained to do work or perform tasks for a person with a disability; or
- G. The person was intervening between two (2) or more animals engaged in aggressive behavior or fighting.

NONBITE EXPOSURE: Saliva from an animal who has come in contact with a person's open wound or mucus membrane that may pose health concerns.

NONCOMMERCIAL KENNEL: Any lot or premises or portion thereof on which more than four (4) dogs, or five (5) cats, or a combination of four (4) such animals, are maintained, harbored, possessed, boarded, bred, or cared for without compensation and which animals are not for sale. A noncommercial kennel license for such activity is required from the City Clerk.

OTHER SUPPORT OR THERAPY ANIMALS: These are support animals that provide companionship, relieve loneliness, or sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities, and therefore do not satisfy the definition for 'service animal' within the Americans with Disabilities Act.

OWN: To keep, harbor, or have control, charge or custody of an animal. Animals kept in the custody of a minor or incapacitated person shall be deemed to be owned by the minor's parent(s), guardian or other designated responsible person where the minor or incapacitated person resides.

OWNER: Any person who keeps, harbors, or has charge, custody or control of, or permits any animal to remain on their property.

PERSON: Any individual, corporation, society, co-partnership, limited partnership, limited liability company, association, or any other legal or business entity.

POSTED PROPERTY: Any property that has been posted with legible sign(s) stating the restrictions, prohibitions or regulations pertaining to use of the property. "Posted property" specifically includes "Bernie Fisher" Park and other public areas that are designated from time to time by resolution of the city council.

PROVOKE: A person performing an act or omission that an ordinary and reasonable person would conclude is likely to precipitate dog aggression in the form of a bite or attack.

PUBLICLY OWNED PROPERTY: Property owned, leased or otherwise used by tax supported agencies. (Example: City parks, schools, post office.)

QUARANTINE: The strict confinement of an animal in a manner which limits direct contact with other animals not in quarantine or persons other than the owner or caretaker. The quarantine shall be conducted by way of an order issued by the Animal Control Agency designating the specific place, manner and provisions of the quarantine.

RABIES SUSPECT ANIMAL: Any animal which has bitten, scratched, or broken the skin of an individual or has been bitten, scratched or otherwise wounded or had contact with a rabid animal; or any animal showing symptoms suggestive of rabies.

RESIDENCE: Refers to the place of abode for a person or family that is more than merely temporary shelter.

SANITIZE: To make physically clean to the maximum degree that is practical.

SECURE ENCLOSURE: An enclosure that securely impounds an animal.

SERIOUS INJURY: Means an injury to a person characterized by bruising, laceration, or other injury that would cause a reasonably prudent person to seek treatment from a medical professional without regard to whether the person actually sought medical treatment.

SERVICE ANIMAL: An animal specially trained to provide aid or assistance to a human, as defined by the Americans with Disabilities Act.

WAIVER: A statement signed by a licensed veterinarian qualifying the medical reason that an animal should not be vaccinated for rabies.

10-3-3: - CRUELTY TO ANIMALS:

- A. *Standard of animal care:* Owners shall provide their animals the minimum standard of care set forth in this section. Every owner shall provide the animal with sufficient wholesome food, water and shelter according to the following minimum standards:

1. *Adequate food*: Animals shall be provided, at intervals not to exceed twenty-four (24) hours, a quantity of wholesome foodstuff specific to the age of the animal's species that provides an adequate level of nutrition necessary to sustain the good health of the animal.
 2. *Adequate quantities of water*: Animals shall at all times have access to a supply of clean and fresh water. The owner shall replenish the water supply a minimum of every twenty-four (24) hours.
 3. *Sanitary animal keeping*: Owners shall keep their animals in a clean, sanitary and healthy manner and not confine them in a manner where they are forced to stand, sit or lie in their own excrement.
 4. *Shelter*: Every owner shall provide their domestic animals with a shelter structure possessing walls, roof, and raised floor intended to shield the animals from wind and rain. A structure that is ventilated and provides protection from excessive heat and cold. A structure commensurate to the size of the inhabiting animal to permit it to move about freely.
 5. *Tethering*: An owner shall not tether a dog or other domestic animal through use of a choke collar or tether or confine an animal in such manner that it can become entangled to the extent it cannot move freely, or reach shelter or water, or becomes entangled with another animal. The area where the animal is tethered or confined must be free of extraneous material that may cause it injury (materials such as glass, sharp metal and nails). A dog tether must be a minimum length of three (3) times the length of the dog, measured from the tip of its nose to the base of its tail. No animal may be kept continuously tethered for more than twelve (12) hours during any twenty-four-hour period or tethered on a continuous basis.
 6. *Exercise*: Confined animal must be regularly provided with physical activity appropriate to their species, age and condition sufficient to maintain their good health.
 7. *Veterinary care*: The owner of a diseased or injured animal shall promptly provide the animal with appropriate veterinary care and shall segregate the diseased animal from other animals, as necessary to prevent the transmittal of disease.
- B. *Torture or neglect*: It shall be unlawful for any person to allow an animal to suffer or permit any animal to be tortured, neglected, tormented, overloaded, overworked, cruelly beaten or mutilated that results in injury or death of the animal.
 - C. *Animal fights prohibited*: It shall be unlawful for any person to attend any dogfight, cockfight, bullfight, or other such combat between animals or humans. Any involvement with animal fights besides mere attendance shall be charged and prosecuted according to state law.
 - D. *Fighting equipment*: It shall be unlawful to possess cockspurs, slashers, gaffs, or other tools, equipment, devices or training facilities intended for purposes for training or engaging an animal in combat with another animal.
 - E. *Leg hold, snares, and body gripping traps*: It shall be illegal to set out any leg hold traps, snares, conibear, or other body gripping traps in the city unless approved by the Animal Control Agency and the city planning and zoning department. This shall not apply to common spring bar mouse traps set on private property for the purpose of controlling the common house mouse.

- F. *Animal exhibition, circus*: It shall be unlawful for an animal exhibition or circus to perform acts or establish exhibits where the performing or exhibited animals are induced to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which is likely to cause physical injury or suffering.
- G. *Confinement without food and water; intervention*: A person observing a domestic animal confined without access to food or water for more than twenty-four (24) hours, should immediately contact the Animal Control Agency.
- H. *Improper containment of animal in motor vehicle or trailer*: No person(s) shall permit an animal to be contained within a motor vehicle or trailer under conditions that endanger the health, safety or well being of the animal. This provision includes circumstances relating to dangerous temperatures or lack of air, food, water and proper care. An Animal Control Officer, police officer or public official who has probable cause to believe a confined animal is imperiled shall have the authority to enter the motor vehicle or trailer by any reasonable means after making an effort to locate the owner.
- I. *Abandonment*: It shall be unlawful to abandon an animal intentionally, knowingly, recklessly, or, with criminal negligence, or leave an animal at a location without providing for the animal's continued care. Abandonment includes the disposing of an animal at or near an animal shelter, veterinary clinic or other place of shelter without first making provisions for its reasonable care.
 - 1. *Exceptions*: Shall not apply to a person who captures a free roaming at large domestic cat, transports the cat to a veterinarian for sterilization surgery, and releases the cat in the approximate location in which it was found for the purpose of cat population control. Shall not apply to the Animal Control Agency in accordance with 10-3-16(E).
- J. A violation of this section shall constitute a misdemeanor and shall be punished as provided for in section 1-4-1 of the Kuna City Code.

Section 2: That the existing Section 4 of Chapter 3 of Title 10 Kuna City Code be repealed, and that a new Section 4 of Chapter 3 of Title 10 Kuna City Code be enacted, as follows:

10-3-4: - PROHIBITED ANIMALS

- A. *Prohibited Animals*: It shall be unlawful for any person to harbor, keep, maintain or possess within the City any of the following animals:
 - 1. *Mammals*:
 - a. All members of the family Felidae (cat family), except domesticated cats.
 - b. All members of the family Canidae (dog family), except domesticated dogs.
 - c. All nonhuman primates.
 - d. All members of the order Insectivora, except hedgehogs.
 - e. All rodents, except domestic rats, mice, guinea pigs, hamsters, gerbils and squirrels not otherwise restricted by Federal law.
 - f. All marine mammals, including, but not limited to, whales, dolphins and seals.

- g. All animals from the order Xenarthra, including giant anteaters, sloths, tamanduas, armadillos and pangolins.
- h. All members of the family Procyonidae.
- i. All members of the family Mustelidae, except domestic ferrets (*Mustela putorius*).
- j. All civets, meerkats and members of the family Viverridae.
- k. All marsupials, except Virginia opossum, sugar gliders and bettongs.
- l. All members of the family Hyaenidae, including, but not limited to, hyenas and aardwolves.
- m. All members of the order Tubulidentata (aardvarks).
- n. All members of the order Hyracoidea (hyraxes).
- o. All hoofed animals belonging to the orders Perissodactyla and Artiodactyla, except domesticated farm or pack animals.
- p. All members of the family Elephantidae (elephants).
- q. All members of the order Chiroptera (bats).
- r. All members of the family Ursidae (bears).

2. *Birds:*

- a. Ostriches.
- b. Cassowaries.
- c. Penguins of any kind.
- d. Cranes of any kind.
- e. Flamingos.
- f. Hornbills.
- g. Herons and their relatives from the order Ciconiiformes.
- h. All birds of prey from the order Falconiformes.
- i. All owls from the order Strigiformes.

3. *Reptiles:*

- a. Sea turtles of any kind.
- b. Aldabra or Galapagos tortoises.
- c. Komodo dragons.
- d. All members of the order Crocodylia.
- e. Wild caught Gila monsters and beaded lizards.
- f. Elapids (family of venomous snakes) except North American species, such as coral snakes, that are housed under State guidelines.
- g. Viperids (family of venomous snakes) except North American species, including, but not limited to, rattlesnakes, cotton mouths and copperheads that are housed under State guidelines.
- h. Tuataras.
- i. Anacondas.

4. *Insects:* All insects listed as agricultural pests by the USDA and Idaho Department of Agriculture.

B. *Threatened or Endangered Animals:* All animals listed as threatened or endangered on either a State or Federal level and all illegally imported animals shall be prohibited in the same manner as those listed in subsection A of this section.

C. *Exceptions:* The provisions of this section shall not apply to keeping of prohibited animals by:

1. Any bona fide, licensed zoo accredited by the Association of Zoos and Aquariums;
 2. Any bona fide licensed veterinary hospital for treatment of illness or injury by licensed veterinarians;
 3. Bona fide educational or medical institutions accredited by the Idaho Department of Education;
 4. Bona fide rehabilitators permitted by the Idaho Fish and Game Department,
 5. Any person keeping raptors that has been permitted to do so by the Idaho Fish and Game Department; and
 6. A person whose property harbors wildlife or is enhanced with any structure to provide shelter or habitat to native wildlife such as native birds, bats, reptiles, amphibians, fish, or mammals which animals, through their own volition, enter or reside on any such property without being confined artificially by the property owner. People meeting this exception are not considered to be harboring or keeping the prohibited animals.
- D. The owner or custodian of any prohibited animal kept pursuant to an exception, shall at all times:
1. Keep the animal in a cage, enclosure or other confinement that is designed, constructed, and maintained to preclude the animal's escape. The cage, enclosure, or confinement shall be of sufficient size to allow the animal reasonable freedom of movement.
 2. Keep the animal in a manner that will not threaten or annoy any person of normal sensitivity.
 3. Employ adequate safeguards to prevent unauthorized access to the animal and to prevent the escape of the animal.
 4. Immediately notify the Animal Control Agency if the animal escapes and make every reasonable effort to recapture an animal that escapes.
 5. Allow Animal Control Officers to inspect the animal and the property to determine whether the owner or custodian is complying with this section.
 6. Allow the Animal Control Agency to inspect any permit an agency of the Federal or State government has issued to the owner or custodian that regulates the animal.
 7. Every person keeping a prohibited animal under this section must house the animal and care for it in a manner that is humane and in accordance with the particular requirements of the species, to include compliance with all State and Federal laws that apply to the welfare of animals.
- E. Prohibited animals may be impounded by the Animal Control Agency and the owner liable for related fees and costs as set forth in this chapter.

Section 3: That sections 6, 7, 8, 9, 10, 11, 12, 13, and 14 of Chapter 3 of Title 10 Kuna City Code be and the same are hereby amended to read as follows:

10-3-6: - DOGS PROHIBITED ON PUBLICLY OWNED PROPERTY:

- A. *Creation of dog-free areas*; exceptions: It is the intent of the city council to create areas within the city limits that are designated "dog-free" areas. It shall, therefore, be unlawful for any person to permit, allow, or carry any dog onto publicly owned posted property or any other public place that has been posted disallowing dogs, with the following exceptions:

1. Persons with disabilities utilizing assistance animals.
2. The dog is confined in a motorized vehicle.
3. The dog is confined to perimeter sidewalks or roadways only.
4. Police officers and their service animals.
5. Search and rescue animal handlers.
- 6.

10-3-7: - DOG LICENSES:

- A. *Location for purchasing license:* Dog licenses shall be purchased at locations designated by the city council.
- B. *License required; exceptions:* It shall be unlawful for any person to own, harbor, keep or possess a dog older than six (6) months of age within the city without first procuring a license as required by this chapter, except:
 1. Dogs whose owners are nonresidents, but who are temporarily residing within the city for thirty (30) days or less, and possessing a license issued by another municipality or other licensing authority.
 2. Dogs brought into the city for the purpose of participating in shows, exhibits, competitions or similar events.
 3. Dogs specially trained to assist people with disabilities where the dog is serving in this capacity.
 4. Dogs for sale through licensed pet stores.
- C. *License term; application; fees:*
 1. Dog licenses shall be valid until the last day of the month, one (1) year, three (3) years, or five (5) years from the month of original issue depending on the duration of license purchased. The owner of the dog located within the city shall make application at city council designated locations and pay a license fee according to the schedule of fees adopted by city resolution.
 2. No dog will be licensed as spayed or neutered without ~~valid~~ proof the surgery was performed.
 3. At time of payment the license issuer shall provide a receipt designating the dog owner's name, license number, animal gender (or status of spayed or neutered) and the amount paid. A metal tag bearing the number corresponding to that affixed upon the receipt will also be provided when purchasing a new license.
 4. If a license is lost, the dog owner shall apply for a replacement tag and pay the appropriate fee.
 5. Dog licenses may be purchased year round and renewed up to thirty (30) days prior to expiration.
- D. *Use of improper or imitation dog license:* It shall be unlawful for a person to allow their dog to wear a license tag issued to another dog, or wear an imitated city license tag representing the current year's registration, or any tag marked on plate or collar similar to that required by the city.

10-3-8: - LIMITATIONS ON NUMBER OF DOGS OR CATS:

- A. A single residence is limited to four (4) dogs or four (4) cats, or a combination of both dogs and cats not exceeding four (4) total animals, on the premises at one (1) time; unless

~~said~~ a person residing at the residence obtains a valid noncommercial kennel license, or commercial kennel license, that ~~affords~~ permits a greater number of dogs or cats.

- B. For the purposes of this section, the litter of a female dog or cat may be kept with its mother and the litter, and shall constitute one (1) dog or cat until the litter reaches six (6) months of age at which time this status will divest and each dog or cat shall be counted as an individual animal.
- C. A residence may exceed the four (4) dogs or cats per premises limit by an additional one (1) animal, where one (1) or more of the animals is a Service Animal, or Other Support or Therapy Animal, as defined in this Chapter, and the animal(s) will be in use at said premises in this special capacity and the person(s) utilizing the animal(s) reside(s) on the premises.

10-3-9: - NONCOMMERCIAL AND COMMERCIAL KENNEL LICENSES:

- A. *License requirements:* All kennels, commercial or noncommercial, must be properly licensed. Applications are to be addressed to the Animal Control Agency, with a duplicate application sent to the city. The application shall state the name and address of the owner, the location of the kennel or residence, and the number and type of dogs or cats to be kept. The city fee for a kennel license shall be set by resolution of the city council. An authorized officer of the Animal Control Agency shall inspect all prospective kennels or multiple animal residences prior to granting a kennel permit. The Animal Control Agency will ensure that the designated number of animals and the housing and keeping of such animals will not likely constitute a public nuisance.
- B. *Any application for a kennel permit must include:*
 - 1. Written approval from the Animal Control Agency that includes a statement about the number of dogs and/or cats that may be kept at the facility. Noncommercial kennel licenses are limited to ten (10) dogs or cats, or ten (10) dogs and cats in the aggregate.
 - 2. Licensing for each dog that is subject to licensing under section 10-3-7.
 - 3. Written City of Kuna Planning and Zoning Department approval for a commercial kennel license, which shall:
 - a. Be in the form of an approved conditional use permit and valid zoning certificate issued pursuant to Chapter 12 of Title 5, Kuna City Code.
 - b. Include the Kuna City Planning and Zoning Director or designee's signature on the kennel license.
 - 4. A noncommercial kennel license does not require a conditional use permit or zoning certificate.
- C. *Revocation of kennel license:*
 - 1. A kennel license may be revoked or the application for kennel license denied when any of the following conditions are found to exist:
 - a. Dogs or cats from the subject kennel are apprehended by an Animal Control Officer for running-at-large within the city limits more than one (1) time in any six-month period.
 - b. Failure of the kennel to maintain an accurate list of all the animals kept at the kennel. The list shall be maintained as part of the records of the kennel.

- c. The kennel keeping more than the approved number of animals at the kennel.
 - d. Failure of the kennel to allow access to an authorized Animal Control Officer to inspect the kennel facility.
 - e. Failure to maintain the kennel in a clean and sanitary manner by the kennel operator or its staff.
 - f. Failure by the kennel to provide the animal's adequate shelter and protection from the weather.
 - g. Failure by the kennel to provide the animal's with adequate ventilation.
 - h. The quartering together of temperamentally unsuited dogs or allowing the animals to be in proximity to one another which action causes the dogs to be abused or tormented.
 - i. Excessive or loud animal noises at the kennel.
 - j. Failure to adequately treat any diseased or injured dog or failure to segregate a diseased dog necessary to preventing the spread of disease to other animals.
 - k. Conviction on an animal nuisance or cruelty charge, or failure to abate a condition determined by the Animal Control Agency to contribute to, or constitute a condition of public nuisance.
- D. Upon notice of revocation, served by the Animal Control Officer, a kennel license holder shall have thirty (30) days to cure any noted defect. In the alternative, the kennel license holder may, within thirty (30) days, file a written protest to contest such revocation. The protest must be filed with the City of Kuna.
- E. If no protest has been submitted to the Kuna City Council by the kennel owner seeking review of a revocation within thirty (30) days after notice of that action, the kennel license shall be deemed revoked.

10-3-10: - ~~ANIMALS~~ DOGS RUNNING AT LARGE PROHIBITED:

- A. ~~Animals~~ *Dogs running at large*: It shall be unlawful for any owner to allow an animal dog(s) to run at large. Dogs on a leash, cord or chain (not to exceed eight (8) feet) and accompanied by a person competent to handle the animal shall be permitted on streets or public land, unless the city has posted and signed an area "dogs prohibited".
- B. *Impoundment*: The Animal Control Agency may impound any dog found running-at-large, subject to redemption in the manner as provided for in this chapter. It shall be unlawful to kill, destroy, or cause injury to a dog running-at-large, except as provided for elsewhere in this chapter.
- C. *Collar and tag required*: Every dog shall wear a substantial, durable collar, or harness at all times, to which the required license tag shall be securely attached.
- D. *Training and exercise grounds*: The city council may designate public grounds for the training or exercise of dogs, subject to certain rules and regulations. Dogs exercising in these areas need not be controlled by leash, provided they are under the control of a responsible person through whistle, voice, or other effective command.
- E. *Enclosure requirements*: Any owner who relies upon a fence, or other enclosure, to contain a dog while it is out of doors must maintain the fence or enclosure in a condition to prevent the dog from escaping and running at large. In the event a dog escapes and is found running

at large, or injures or attacks another animal or person through a defective fence, the Animal Control Agency may investigate and document the condition of the fence or enclosure where the owner regularly keeps the dog. If the fence is found to be defective or damaged, the owner shall repair the identified damage, deficiencies, or defects in the fence. If the owner fails to repair the identified damage, deficiencies, or defects, and the dog is again found running at large, the owner may be cited under this provision for failure to repair the fence to prevent a dog from running at large in addition to a citation for the dog running at large.

10-3-11: - FOUND STRAY ANIMALS:

It shall be unlawful for any person to take into their possession a stray animal without notifying the Animal Control Agency at once. The animal shall be released to the Animal Control Agency or an Animal Control Officer upon demand by that agency's representative without charge. This shall not apply to a person who captures a free roaming at large domestic cat, transports the cat to a veterinarian for sterilization surgery, and releases the cat in the approximate location where it was found for the purpose of cat population control.

10-3-12: - RABIES CONTROL, QUARANTINE:

A. Rabies Vaccination Requirements:

1. *Vaccination Required:* The owner or custodian of any dog or cat within the City shall vaccinate such animal against rabies within thirty (30) days of:
 - a. The dog or cat becoming four (4) months of age;
 - b. Acquiring a dog or cat without documented proof of current rabies vaccination; or
 - c. Bringing a dog or cat four (4) months of age or older into the City's limits.
2. *Revaccination Intervals:* The owner or custodian of any dog or cat within the City that has been vaccinated against rabies is required to revaccinate such animal within a period of not more than:
 - a. Twelve (12) months after the animal's initial vaccination, if the animal was between four (4) months and one (1) year of age at the time of such vaccination; and
 - b. Thirty-six (36) months after each subsequent vaccination.
3. *Rabies Vaccination Waiver:* Upon physical examination of a dog or cat, an Idaho licensed veterinarian may provide a written waiver from rabies vaccination based on an illness or infirmity in such animal, animal, or based on a positive rabies antibody titer obtained by laboratory testing. A written waiver must provide an expiration date, not to exceed twelve (12) months. Upon expiration, the animal must be vaccinated, or it must be physically reexamined by an Idaho licensed veterinarian, who may issue a new written waiver from rabies vaccination following the same guidelines set forth herein.
4. *Approved Vaccination:* Only U.S. Department of Agriculture (USDA) approved rabies vaccinations may be administered to dogs and cats within the City.
5. *Certificate of Vaccination:* An Idaho licensed veterinarian who vaccinates a dog or cat against rabies within the City, must immediately issue a certificate of

vaccination signed by the veterinarian to such animal's owner or custodian. The certificate of rabies vaccination shall provide the following information:

- a. The date of the vaccination;
 - b. The name and address of the vaccinated animal's owner or custodian;
 - c. The type of vaccine used, the vaccine manufacturer's name, and the vaccine's serial or lot number; and
 - d. The breed, age, color, sex, and name of the vaccinated dog or cat.
6. *Maintaining Vaccination Records:* The owner or custodian of a dog or cat shall maintain copies of the certificates of rabies vaccinations for the animal and shall produce such records upon request by:
- a. An Animal Control Officer;
 - b. A person who was injured by and potentially exposed to rabies by such animal;
 - c. A licensed physician who is currently treating a person who was injured by and potentially exposed to rabies by such animal; or
 - d. Veterinarian who is currently treating an animal that was injured by and potentially exposed to rabies by such animal.
- B. *Duty to Report and Confine Suspected Rabid Animals:* It shall be unlawful for an owner or person having charge, custody or control and any animal, who learns or observes the animal act in a manner that would lead a reasonable person to suspect the animal is infected with rabies:
1. To fail, refuse, or neglect to notify the Animal Control Agency at once;
 2. To fail to securely confine such animal as directed by the Animal Control Agency;
 3. To fail, refuse, or neglect to allow a licensed veterinarian to inspect or examine such animal for symptoms of rabies.
- C. *Quarantine of Biting Animals; Suspected Rabies – Procedures:*
1. An owner or custodian of any animal who learns of or observes such animal exhibiting rabies symptoms or observes the animal act in a manner that would lead a reasonable person to suspect the animal is infected with rabies, shall surrender the animal for quarantine to an animal shelter or licensed veterinarian.
 2. An owner or custodian of any animal that has bitten a human in which the skin was broken shall surrender such animal for quarantined confinement to an animal shelter or a licensed veterinarian.
 3. An owner or custodian of any animal which comes into contact with a known rabid or suspected rabid animal shall be quarantined in a place and manner, and for a period of time, designated by the Director of the Animal Control Agency.
 4. Quarantine period: Any animal quarantined for biting or under suspicion of rabies infection shall be confined and observed by a licensed veterinarian for a period of no less than ten (days) and not more than fifteen (15) days from the date the bite was inflicted.
 5. Alternative quarantine procedure: At the discretion of the Director of the Animal Control Agency the quarantine of an animal may be conducted at a licensed boarding kennel or upon the premises of the owner or custodian of the animal. During the period of quarantine, the animal must be securely confined and isolated from contact with humans and other animals. Within forty-eight (48) hours of the conclusion of the quarantine period, and at the owner's or custodian's expense,

shall have the animal examined by a licensed veterinarian, the Animal Control Agency, or a Animal Control Officer to determine whether the animal exhibits any symptoms of rabies or has died. In the case of a veterinary examination, the owner or custodian shall submit a true and accurate copy of the veterinarian's examination record to the Animal Control Agency. If the animal dies while in alternative quarantine, the animal's owner or custodian shall immediately notify the Animal Control Agency and surrender the carcass for testing if requested by the animal control agency.

6. Surrender for Destruction of rabid animals: The owner or custodian of an animal that is determined to be rabid shall surrender the infected animal to the Animal Control Agency, if not already in the Animal Control Agency.
 7. Impoundment; Fees and Costs; and Disposal of Quarantined Animal: Any animal exhibiting rabies symptoms may be impounded for quarantine, and the animal's owner shall be liable for all related fees and costs as set forth in this chapter. Impounded animals for quarantine are subject to disposal by the Animal Control Agency as set forth in this chapter.
- D. *Contagious Diseased Animals At Large*: It shall be unlawful for any person to permit or allow any animal with a contagious or infectious disease to run at large upon the public streets, or to be within and upon any public transportation facility, or any other public building or place within the City, or to expose such animal in any public building or place, whereby the health, safety and wellbeing of the public, or any member or members thereof, may be affected; nor shall such animal be shipped or removed from the premises of the owner of such animal, except under the supervision of the Animal Shelter Director

10-3-13: - ANIMALS PRESENTING AN IMMEDIATE DANGER:

- A. If an animal presents an immediate danger to the health and safety of a person, or the animal is threatening or harming a person, the animal may be restrained by whatever humane means necessary and even destroyed if absolutely necessary to prevent further injury to the victim. Alternatively, the officer or animal control agency may, if practical apprehend the animal and impound it.
- B. Any owner of an animal presenting an immediate danger, as described above, shall be guilty of a misdemeanor punishable as provided for in Kuna City Code § 1-4-1(B).

10-3-14: - DIRECTING A DOG TO HARASS OR ATTACK:

- A. It shall be unlawful for the owner of any animal to direct, encourage, cause, allow, or otherwise aid or assist a dog to threaten, charge, bite, harass, menace, or attack a person or other animal within the city. The aggressive animal may be seized and impounded. This section shall not apply to an attack by a dog under the control of a law enforcement officer or resultant from an attack upon an uninvited intruder who enters the owner's property with a criminal intent.
- B. Any person violating this section shall be guilty of a misdemeanor punishable as provided for in Kuna City Code § 1-4-1(B).

Section 4: That the existing Section 15 of Chapter 3 of Title 10 Kuna City Code be repealed, and a new Section 15 of Chapter 3 of Title 10 Kuna City Code be enacted as follows:

10-3-15: - CRIMINAL RESPONSIBILITY FOR DOG BITES AND ATTACKS:

~~A.~~ An owner, or person in possession, of a dog that bites or attacks a domestic animal, or bites or attacks a human being without causing serious injury, is guilty of an infraction, and shall be punished by a fine of \$150 upon conviction. Further, as a consequence of the owner (or person in possession) pleading guilty or being found guilty of an infraction under this subsection, the dog which bit or attacked shall be deemed at-risk, and the provisions of Kuna City Code 10-3-27 applicable to keeping at-risk dogs shall apply to that dog.

~~1.~~ If, within twelve (12) months of a conviction under this section, a dog again attacks or bites a domestic animal, or attacks or bites a human being without causing serious injury, the owner, or person in possession, shall be guilty of misdemeanor and punishable as provided for in Kuna City Code § 1-4-1(B). Further, as a consequence of the owner (or person in possession) pleading guilty or being found guilty of a misdemeanor under this subsection, the dog which bit or attacked shall be deemed dangerous, and the provisions of Kuna City Code 10-3-27 applicable to keeping dangerous dogs shall apply to that dog.

~~B.~~ Any owner, or person in possession, of a dog that bites or attacks a human being and causes serious injury shall be guilty of a misdemeanor and punishable as provided for in Kuna City Code § 1-4-1(B). Further, as a consequence of the owner (or person in possession) pleading guilty or being found guilty of a misdemeanor under this subsection, the dog which bit or attacked shall be deemed dangerous, and the provisions of Kuna City Code 10-3-27 applicable to keeping dangerous dogs shall apply to that dog.

Section 5: That sections 16, 21, 22, 23, 24 and 25 of Chapter 3 of Title 10 Kuna City Code be and the same are hereby amended to read as follows:

10-3-16: - HABITUAL BARKING OR NOISEMAKING; NUISANCE:

A. *Prohibition:* It shall be unlawful for a person to fail to exercise proper care and control of their animal to prevent it from becoming a public nuisance, as the term public nuisance is defined in Chapter 1, Title 52, of the Idaho Code. A person shall be subject to criminal liability for allowing an animal to become a public nuisance when such person permits or allows an animal to:

1. Bark, bay, cry, howl, or emit any excessive animal noise audible beyond the boundaries of the property on which the animal is situated for an extended period of time, day or night, thereby unreasonably disturbing another person. For purposes of this section “extended period of time” means either:
 - a. Barking, baying, crying, howling, or other animal noise emitted by one or more animals incessantly for thirty (30) minutes, with no individual period of silence of more than one (1) minute during the thirty (30) minute period; or
 - b. Barking, baying, crying, howling or other animal noise emitted by one or more animals intermittently for a total of sixty (60) minutes or more within a twenty-four (24) hour period.

- B. *Exceptions*: This section shall not apply to animals that are being harassed or provoked by a person to cause such noise, that are maintained on land zoned for agricultural purposes, are kept at a properly permitted animal shelter established for the care and placement of unwanted or stray animals, or a pair kept at a properly zoned commercial boarding kennel.
- C. *Proof of excessive noise nuisance*: The owner or custodian of an animal may be charged with excessive animal noise nuisance when an Animal Control Officer:
1. Receives signed complaints alleging an animal noise nuisance from at least two (2) unrelated adult witnesses residing in different residences;
 2. Receives a signed complaint alleging an animal noise nuisance from one adult witness who has an audio or video recording of the alleged violation;
 3. Receives a signed complaint alleging an animal noise nuisance from one (1) adult witness and the Animal Control Officer also personally observes noise emission consistent with the complainant's allegations, even if the noise emission witnessed by the officer is for less than the required amount of time under this ordinance; or
 4. Personally witnesses the excessive noise violation for the required period of time under this ordinance.
- D. *Other Animal Nuisances*: An other animal nuisance may occur when:
1. An animal threatens, or acts aggressively towards, passersby;
 2. An animal chases vehicles, individuals on bicycles, scooters or similar devices, or pedestrians;
 3. An animal attacks other animals;
 4. An animal trespasses upon public or private property in such a manner as to damage the property;
 5. An excessive amount of animal feces is permitted to accumulate in such a manner as to prevent a health risk to a person or which is of such quantity as to generate odors off the premises of the animal owner; or
 6. An owner fails to confine a female dog during estrus or proestrus in a building or secure enclosure in such manner that such female dog cannot come into contact with male dogs, except for planned breeding.
- E. *Nuisance Feral Cat Prevention*: Any cat not spayed or neutered that is permitted to be out of doors not under the direct control of its owner is deemed a nuisance. The Animal Control Agency may seize any cat at large, and may spay or neuter such animal. The Animal Control Agency may mark the cat as being spayed or neutered by marking the animal's ear, or through some other methodology. A cat that is seized pursuant to this section, spayed or neutered, and marked as such, may be released by the Animal Control Agency to the location from which it was seized.

10-3-21: - ENFORCEMENT OFFICIAL; ANIMAL SHELTER:

- A. *Animal Control Agency*:
1. *Appointment of Animal Control Agency*: The city council is authorized to appoint an Animal Control Agency to enforce the provisions of this chapter.
 2. *Duty of Animal Control Agency, shelter and its officers or assigns*: The Animal Control Agency is authorized to enforce the provisions of this chapter and is designated as a peace officer for this purpose. The Animal Control Agency is

authorized to make necessary animal seizures. The agency may remove and keep any animal in violation of the provisions of this chapter. The Animal Control Agency shall issue a notice of ordinance violation to enforce provisions of this section. The notice of ordinance violation may be signed by any person witnessing a violation as well as the witnessing Animal Control Officer whose name shall be affixed on the notice of ordinance violation.

- B. *Designation of animal control shelter*: The city council shall designate an official animal control shelter where animals found in violation of this chapter shall be taken.

10-3-22: - OBSTRUCTING ANIMAL CONTROL OFFICER:

- A. No person shall obstruct, delay, hinder, or interfere with any person authorized by the city council to discharge their duties under this section. The following acts are considered obstructing or interfering with an Animal Control Officer duties:
1. Removing an animal from the animal control shelter or from the custody of an Animal Control Officer without the authority of the Animal Control Officer.
 2. Removing an animal from the animal control shelter without paying the designated fees.
 3. Threatening or obstructing an Animal Control Officer acting in their official powers or duties.
 4. Committing an act that interferes with or obstructs an Animal Control Officer acting in the discharge of their duties.
 5. An Animal Control Officer in the course of their duties has an obligation to identify who they are to those requesting that information and provide a current work address and, if necessary, sign an acknowledgement of receipt of infraction or misdemeanor.
 6. It is unlawful to make a false or misleading statement or representation about animal ownership or custody to an Animal Control Officer, shelter or officer.
- B. Any person violating this section shall be guilty of a misdemeanor punishable as provided for in Kuna City Code § 1-4-1(B).

10-3-23: - IMPOUNDING OF ANIMALS:

- A. An Animal Control Officer may impound an animal if they have probable cause to believe a person has violated any provision of this chapter for which an animal may be impounded. The notice and terms of impoundment, redemption and disposal of such animal: are set forth in this section.
- B. *Record of impounding*: At time of animal impoundment the Animal Control Officer shall record the date of impounding, a description of the animal impounded, and an assessment of its identity if that can be determined.
- C. *Identified animals*: Within twenty-four (24) hours after impoundment of an identified animal, the Animal Control Officer shall make a reasonable effort to notify the owner of the animal's impoundment.
- D. *Redeeming animals*:
1. Animals brought to the animal control shelter shall be provided humane treatment and sufficient food and water for their comfort, and held by the animal control

- shelter for a period of time, as determined by the impounding agency, unless they are subject to other provisions of this section.
2. This section does not apply to animals that are sick or injured to the extent that their impoundment will prolong their suffering and a better course of action would be to humanely euthanize the animal in the opinion of a licensed veterinarian.
 3. The owner of any animal that is lawfully impounded shall be responsible for and pay all fees and expenses related to the impoundment whether or not the animal is later claimed.
 4. The following protocol is required to reclaim an animal, unless otherwise noted:
 - a. Execution of a sworn statement of ownership.
 - b. Proof of current license (if required) in the circumstance the animal is untagged, or purchase of a license and tag.
 - c. Payment of the impoundment fees.
 - d. Payment of the boarding fee according to the boarding schedule.
 - e. Payment of any veterinary and hospital expenses incurred during the animal's impoundment.
- E. *Refusal to redeem impounded animal*; adoption; appeal: The animal may not be redeemed by the owner, if, in the judgment of a licensed veterinarian or an agent of the Animal Control Officer, an animal should not be returned to the owner for humane or public health reasons. The owner shall be provided written notice of this decision, and the owner shall be permitted to appeal this decision to the director as an affected person. After completion of an appeal, or after the time for filing an appeal has passed, the animal control agency may either: (1) find a responsible person to adopt the animal; or (2) euthanize the animal.
- F. *Impoundment fee*: The animal control shelter shall charge a fee, set by resolution of the City Council of Kuna, Idaho, for receiving an animal into custody. This fee shall be paid at time of animal redemption and these fees shall be remitted to the City of Kuna, Idaho.
- G. *Boarding fees*: The animal control shelter shall be entitled to charge a boarding fee for the keeping and selling of an animal and these fees shall be retained by the animal control shelter.
- H. The charges associated with the keeping and selling of an animal shall be determined by the animal control shelter with city council consultation. The fees charged by the animal control shelter for boarding and keeping any animal shall be paid at time of animal redemption along with any veterinary and hospital expenses incurred during the animal's impoundment. The animal control shelter is obligated to keep a fee schedule for services rendered available for public inspection and advise the city council annually the fees it charges for its services.

10-3-24: - CITY IMMUNE FROM LIABILITY:

The city, the city's designee, the Animal Control Officer, the Animal Control Officer, and Animal Control Officer shall be immune from all civil liability for actions taken pursuant to this chapter, or for any failure to take action to enforce the provisions of this chapter. This chapter has been enacted for the welfare of the public as a whole.

10-3-25: - HABITUAL VIOLATOR:

- A. *Notice of Abatement*; appeal: In addition to any legal remedy available under the provisions of this chapter, the animal control agency may notify and direct, in writing, an owner who is guilty of three (3) convictions of a violation of this chapter in any twelve-month period to abate and remove the animal(s) causing the violations from the city within five (5) calendar days from the date of the notice; or, in the alternative, to abate and transfer ownership and possession of the animal to another person not living at the same place of residence. Such notice to abate shall provide notice that Notice of Abatement can be appealed as provided in Kuna City Code 10-3-28.
- B. A person that receives a notice of abatement shall be permitted to appeal the order to the director as an affected person as provided in Kuna City Code 10-3-28.
- C. *Failure to abate; impoundment of animal*: If the owner of the animal is found in violation of the abatement notice and has failed to timely appeal the notice or lost their appeal, the animal shall be removed and impounded by the Animal Control Officer, subject to all impoundment procedures; provided, however, the animal may not be returned to the same residence or property from where it formerly resided or was impounded. The owner of the animal shall be responsible for the fees incurred as a result of the seizure and impoundment of the animal.

Section 6: That the title and language in Section 26 of Chapter 3 of Title 10 Kuna City Code be repealed, and that the section be retitled, and new language inserted, as follows:

10-3-26: - RESPONSIBILITY FOR ANIMALS OWNED BY A MINOR:

Parental responsibility: In the event that the dog's owner is a minor, the parent or guardian shall be liable for all injuries, property damage, fines and impoundment fees caused or incurred by the animal.

Section 7: That Chapter 3 of Title 10 Kuna City Code is and the same is hereby amended by the addition thereto of new sections 27, 28, and 29 to read as follows.

10-3-27: - DESIGNATION AND MANAGEMENT OF DANGEROUS OR AT-RISK DOGS:

- A. *Purpose*.
 - 1. Dangerous and at-risk dogs found within the boundaries of the City of Kuna present a risk to the health, safety, and welfare of persons and other animals. The purpose of this section is to provide policies and procedures for the safe management of dangerous and at-risk dogs to promote the public health, safety, and welfare, while also promoting the humane and ethical treatment of animals.
- B. *Procedure for Designating a Dog as Dangerous or At-Risk*.
 - 1. If an Animal Control Officer has probable cause to believe a dog is dangerous or at-risk, as those terms are defined in this Chapter, the officer shall have authority to designate the dog as dangerous or at-risk and shall serve a written Notice of Designation on the owner of the dog. An Animal Control Officer shall have authority to designate an animal regardless of whether or not an owner has been charged with a crime related to an animal attack. The Notice of Designation shall:

- a. Be personally served on the owner by an Animal Control Officer within five (5) business days of the events being reported to the Animal Control Agency that provide grounds for the designation as dangerous or at-risk;
 - b. Identify whether the dog is being designated as dangerous or at-risk;
 - c. Identify the date on which the officer determined the dog to be dangerous or at-risk;
 - d. Provide a description of the factual circumstances and events that support the officer's decision to designate the dog as dangerous or at-risk;
 - e. Provide a clear description of the dog such that it can be identified;
 - f. Provide notice that the owner may petition the Animal Control Agency to review the officer's decision to designate the animal as dangerous or at-risk;
 - g. Provide notice that the officer's designation decision shall become final after ten (10) business days if the owner fails to petition the Animal Control Agency to review the Notice of Designation;
 - h. Provide notice that owners of a dog designated as at-risk or dangerous may either keep the dog in their possession and be subject to the restrictions of this section for the keeping of such dogs, or may voluntarily relinquish custody of a dog to the Animal Control Agency; and
 - i. Provide notice that the final disposition of a dog voluntarily relinquished to, or seized by, the Animal Control Agency pursuant to this section may be adoption or euthanasia, and this decision shall be in the sole discretion of the Animal Control Agency.
- 2. No dog may be designated as dangerous or at-risk when, at the time an injury or damage was sustained, the precipitating cause constituted justified provocation.
- 3. When an Animal Control Officer designates a dog as dangerous, the Animal Control Officer shall have authority to seize and impound such dog, and may in his discretion seize the dog if the Animal Control Officer determines that seizure is necessary to avoid a present or ongoing risk presented by the dog.
- 4. When an Animal Control Officer designates a dog as at-risk the Animal Control Officer shall have authority, but is not required, to seize and impound the dog. Where the officer chooses to leave the dog in the owner's custody and care, based upon the owner's express willingness to comply with requirements and restrictions for keeping such dogs, the officer shall provide notice to the owner of the requirements and restrictions for keeping at-risk dogs as provided in this section.
- 5. If an owner chooses to petition the Animal Control Agency to review the officer's designation decision, the owner shall be responsible for any fees associated with boarding and caring for the animal during the time the petition and any additional proceedings are pending, as well as any fees associated with processing and considering the petition.
- C. Any owner that receives a Notice of Designation shall be permitted to appeal that designation as an affected person as provided in Kuna City Code § 10-3-28.
- D. *Keeping Dangerous Dogs:* The owner of a dog designated as dangerous, or a new adoptive owner of a dog designated as dangerous prior to being adopted, shall be subject to the following restrictions for the keeping of such dog within the boundaries of the City of Kuna:

1. The dog shall be licensed pursuant to the provisions of this Chapter.
 2. The owner shall be required to have a microchip implanted in the dog that allows for identification of the animal and the owner shall be required to report the microchip number to the Animal Control Agency.
 3. The owner shall be required to procure and maintain liability insurance of not less than one hundred fifty thousand dollars (\$150,000) in the case of a dog that is designated as dangerous based on an attack or injury inflicted on any person, or twenty thousand dollars (\$20,000) in the case of a dog that is designated as dangerous based solely on attacks or injuries inflicted on animals but not people, that covers any damage or injury that may be caused by such dangerous dog; the City shall be named as an additional insured on this policy for the purpose that the City Clerk, or other licensing authority, will be notified by the insurance company if the policy is cancelled, terminated, or otherwise expires.
 4. The dog shall be contained within an enclosure on the owner's property; this enclosure may be a fence, kennel, or other adequate means of containing the animal to the owner's property. The Animal Control Agency shall be permitted to inspect such enclosure, and if the enclosure is found to be defective or inadequate by the agency the owner shall not be permitted to keep the dog until the enclosure improved as requested by the Animal Control Agency. Failure to improve the enclosure shall result in the inability of the owner to keep the dangerous dog.
 5. The owner shall be required to post signs on their property that announce to other persons that there is a dangerous dog on the property. Such signs must be placed at any potential entrance point to the yard or home (such as at gates, doors, and on the enclosure where the dog is kept), and must include words indicating the presence of a "vicious" or "dangerous" dog. A sign merely stating "Beware of Dog," without also identifying the dog to be "vicious," "dangerous," or some substantially similar word indicating the dog's propensity for aggression shall be insufficient.
 6. In the event the owner takes the dog off their property, the dog shall be on a leash no greater than three (3) feet in length, and the dog shall also be required to wear a muzzle. The leash must be of adequate strength to restrain the dog, and the person holding the leash must be physically capable of restraining and controlling the dog; the dog must not be allowed to be off leash within the City limits of Kuna including any areas designated as off leash areas, the dog shall not be kept at dog care facilities where dogs are kept in group off leash housing. The owner or custodian of the dog shall ensure that the dog is not allowed to have physical contact with any other dog or person other than the keeper, custodian or immediate family of the owner when off the property of the owner.
 7. The owner shall be required to spay or neuter the dog.
 8. The owner shall be obligated to schedule and obtain annual inspections of the dog by the Animal Control Agency.
- E. The owner of a dog designated as at-risk, or a new adoptive owner of a dog designated as at-risk prior to being adopted, shall be subject to the following restrictions for the keeping of such dog within the boundaries of the City of Kuna:
1. The dog shall be licensed pursuant to the provisions of this chapter;

2. The owner shall be required to have a microchip implanted in the dog that allows for identification of the animal and the owner shall be required to report the microchip number to the Animal Control Agency;
 3. The dog shall be contained within an enclosure on the owner's property; this enclosure may be a fence, kennel, or other adequate means of containing the animal to the owner's property. The Animal Control Agency shall be permitted to inspect such enclosure, and if the enclosure is found to be defective or inadequate by the agency the owner shall not be permitted to keep the dog until the enclosure improved as requested by the Animal Control Agency. Therefore, the dog may be impounded until the enclosure is repaired or improved. Failure to improve the enclosure shall result in the inability of the owner to keep the at-risk or dangerous dog;
 4. In the event the owner takes the dog off their property, the dog shall be on a leash no greater than six (6) feet in length. Further the leash must be of adequate strength to restrain the dog, and the person holding the leash must be physically capable of restraining and controlling the dog; the dog must not be allowed to be off leash within the City Limits of Kuna including any areas designated as off leash areas, the dog shall not be kept at dog care facilities where dogs are kept in group off leash housing. The owner or custodian of the dog shall ensure that the dog is not allowed to have physical contact with any other dog or person other than the keeper, custodian or immediate family of the owner when off the property of the owner.
- F. In addition to any criminal penalties, failure to comply with any of the restrictions in section (D) or (E) above may result in the dog being immediately seized and impounded. An owner is permitted to redeem the animal from impound so long as the owner comes into compliance with the provisions of section (D) or (E), whichever is applicable, within ten (10) days of the dog being seized. If the owner fails to come into compliance with the provisions of the applicable section (D) or (E), the Animal Control Agency may place for adoption or euthanize the dog, provided the agency complies with the adoption or euthanasia guidelines provided for elsewhere in this Chapter.
- G. *Transfer of At-Risk or Dangerous Dogs:* If an owner of an at-risk or dangerous dog transfers ownership of the dog to another person they shall be obligated to notify the new owner of the designation. Further, they shall be obligated to notify the City of the transfer of ownership of the animal, and provide to the Animal Control Agency the name, physical address, and telephone number of the new owner of the dog. The new owner shall be obligated to comply with the requirements set forth in this section for keeping at-risk or dangerous dogs.
- H. *Disposition of Dogs Designated as Dangerous or At-risk.*
1. In the event a dog designated as dangerous again, while unprovoked, attacks a person, such dog shall be subject to immediate impounding by the Animal Control Agency and shall be humanely euthanized as expeditiously as reasonably possible. Such second attack need not cause serious injury for this provision to apply.
 2. As proscribed elsewhere in this Chapter, dangerous or at-risk dogs may be impounded under various circumstances. Where such dogs are voluntarily relinquished by the owner, or where the owner cannot or will not redeem the dog from impound, the Animal Control Agency shall be permitted to place the dog for adoption if, in agency's judgment, the dog can be safely adopted to a new home.

Where the agency concludes the dog cannot be safely adopted, the agency shall humanely euthanize such animal.

3. If the Animal Control Agency chooses to place for adoption a dog currently or previously designated as dangerous or at-risk to a new home, the Animal Control Agency shall provide written notice to the person(s) adopting the dog of its current or previous designation. Prior to approving the adoption, the agency shall obtain a written signed waiver from the adopting person(s) indicating they are aware of the dog's designation, and will not hold the City liable for incidents that may arise related to the dog's behavior. Further, where the designation is currently in place and not expired or vacated, the Animal Control Agency shall notify the person(s) adopting the animal of the restrictions placed on an owner of such animal provided for in Kuna City Code § 10-3-27(D)(2)(a-g) Kuna City Code, and the owner shall be obligated to comply with these restrictions.
 4. The Animal Control Agency, in its sole discretion, shall be authorized to deny a request to adopt a dangerous or at-risk dog. The Animal Control Agency shall be particularly sensitive to the potential risks associated with adopting the animal to a home with small children or other vulnerable individuals, and only approve such adoptions in rare circumstances. The agency's decision to deny an adoption request under this provision is not subject to appeal under Kuna City Code § 10-3-28, as the person denied the opportunity to adopt never possessed, nor had the right to possess, the animal at issue.
 5. The Animal Control Agency shall keep records of dogs designated as dangerous or at-risk. The records kept shall at a minimum contain information identifying the dog (including name, breed, color and markings description, microchip number, and gender), the date of the Notice of Designation, and the name and contact information for the current owner of such dog.
- I. *Expiration or cancellation of at-risk designation.*
1. The designation as an at-risk dog shall expire twenty-four (24) months after the Notice of Designation is served on the current or previous owner, provided the dog has not acted in a manner or committed an act during that twenty-four (24) month period that would constitute grounds to again designate the dog as dangerous or at-risk.
 2. An owner of an at-risk dog may petition the Animal Control Agency earlier than twenty-four (24) months to cancel the designation as at-risk. The petition shall set out factual or legal circumstances that would warrant the cancellation of the designation. The agency receiving such a petition shall investigate the circumstances asserted by the owner, and provide a written decision to the owner either granting or denying the petition. An owner may file more than one petition under this provision, provided no owner shall bring more than one such petition during any twelve (12) month period of time. The owner bringing such petition shall be responsible for all fees and costs incurred by the City or Animal Control Agency in processing said petition.
- J. The owner of a dog impounded under any provision of this section shall be liable to the Animal Control Agency for costs associated with boarding and caring for the animal until the animal redeemed from impound, adopted, or euthanized, except where the animal was voluntary relinquished to the Animal Control Agency.

- K. An owner of a dog who violates any provision of section 10-3-27 Kuna City Code shall be guilty of a misdemeanor and shall be punishable as provided for in section 1-4-1(B) of the Kuna City Code.

10-3-28: - APPEAL PROCEDURE FOR AFFECTED PERSONS:

- A. An affected person, as defined in this Chapter, shall have a right to appeal the enforcement decision that adversely impacted his or her rights to the director of the Animal Control Agency. These appeal procedures do not apply to the appeal of criminal charges that may be imposed under this section.
- B. An appeal is commenced by filing a petition for review with the director. The director shall have authority to sustain or vacate the enforcement decision.
- C. The petition for review must be received by the director within ten (10) business days of the affected person receiving notice of the enforcement decision, and shall briefly set forth the factual or legal basis for disputing the enforcement decision. Further, a copy of any written notice of the enforcement decision that may have been served upon the affected person shall be attached to the petition.
- D. Upon receipt of the petition, the director shall schedule the matter for a hearing to be held no sooner than fourteen (14) days, nor longer than twenty (21) days from the date of receipt of the petition. The director may provide the petitioner notice of the hearing date in person or by sending the petitioner written notice via U.S. Mail of the scheduled hearing date. If the petitioner is unavailable for the scheduled date, the petitioner and director may continue the hearing to a mutually agreed upon date, provided the hearing may not be continued more than fourteen (14) days from the original hearing date.
- E. The director, or the director's designee, shall act as a hearing officer at the scheduled hearing. The hearing may be held in person or conducted telephonically at the discretion of the director. At this hearing, the petitioner shall have the opportunity to present argument and evidence to the hearing officer to refute the enforcement decision. The agent who made the enforcement decision shall be permitted, but not required, to attend the hearing to offer argument or evidence in support of the enforcement decision. After considering the argument and evidence presented, the hearing officer shall enter a decision either sustaining or vacating the enforcement decision, and the hearing officer's decision must be supported by a preponderance of the evidence. This decision shall be written and sent to the petitioner via U.S. mail and postmarked no later than (7) days after the hearing.
- F. Failure by a petitioner to attend the hearing shall constitute waiver of their argument or objection, and the enforcement decision shall be considered the final decision of the Animal Control Agency.
- G. The Animal Control Agency is authorized to collect a reasonable fee to recover costs associated with holding the hearing and issuing the written decision contemplated in this section.

10-3-29: - PENALTIES:

Except where specifically provided otherwise within this Chapter, any person violating a provision of this Chapter shall be guilty of an infraction punishable as provided for in Kuna City Code § 1-4-1. A second violation of a provision of this Chapter within six (6) months from the date of the

commission of the prior offense for which the person was charged shall constitute a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00).

Section 8: Directing the City Clerk

The City Clerk is directed to file this Ordinance in the official records of the City and to provide the same to the City's codifier for inclusion and publication in the Kuna City Code.

Section 9: Effective Date

This Ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law and at the discretion of the City Clerk and in lieu of publication of the entire ordinance, a summary thereof in compliance with Section 50-901A, Idaho Code, may be published.

DATED this ____ day of _____, 2020

CITY OF KUNA

Joe L. Stear, Mayor

ATTEST:

Chris Engels, City Clerk