

CHAPTER 606
Dangerous and Vicious Animals

- 606.01 Definitions.
- 606.02 Determination of a Vicious Animal.
- 606.03 Requirements of Keeping Vicious Animals.
- 606.04 Enforcement of Restrictions on Vicious Animals.
- 606.05 Excused Behavior.
- 606.06 Responsibility of Parent or Legal Guardian.
- 606.07 Dogs.
- 606.08 Cruelty to Animals
- 606.09 Poisoning Animals
- 606.10 Birds and Birds' Nests
- 606.11 Domestic Animals & Fowl
- 606.12 Penalty
- 606.13 Severability.

CROSS REFERENCES

Animals – see M.C.L.A. 750.49 et seq

606.01 Definitions.

(a) Any animal that when unprovoked, approaches, in a dangerous or terrorizing manner, any person in an apparent attitude of attack in any public place, or upon any private property not occupied by the animal's owner; or

(b) Any animal with a known propensity, tendency or disposition to attack when unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals: or

(c) Any animal which bites, inflicts injury, assaults or other wise attacks a human being or domestic animal without provocation on public or private property: or

(d) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for animal fighting.

606.02 Determination of a Vicious Animal.

(a) Written Complaint. The City Council shall have the authority to make a determination that an animal is vicious, as defined in Section 1, upon the written complaint of any person.

(b) Informal Hearing/Notice. Prior to such a determination, the City Council shall conduct an informal hearing, written notice of which shall be given to the complainant and to owner of the animal, where the owner's address can be reasonably ascertained by the city. The hearing shall be held no less then ten (10) days, nor more than Twenty (20) days after such notice is mailed, by first class mail, to the owner of the animal. At such hearings, all interested persons shall have the opportunity to present evidence on the issue of the animal's viciousness.

(c) Mandatory Compliance or Removal from City. If, as a result of the hearing, the City Council determines that the animal is vicious, the owner, at the owner's expense, must within ten (10) calendar days, either comply with the requirements in Section 3 of this ordinance, or remove the animal from the City.

606.03 Requirements of Keeping Vicious Animals.

In addition to all of the other requirements of this Ordinance, the keeping of any vicious animal¹ is subject to the following requirements:

(a) Leash and Muzzle. No person shall permit a vicious animal to go outside the owner's home, or its kennel or pen, unless such animal is securely leashed with a

leash that is of sufficient strength that the animal cannot break or tear it, and that is no more than four (4) feet in length. No person shall permit a vicious animal to be kept on a chain, rope or other type of leash unless a competent person, of adequate size and strength is in physical control of the leash. Vicious animals may not be chained, tethered, tied or otherwise leashed to inanimate objects such as trees, posts, buildings, etc. While outside the owner's home or the animal's kennel or pen, all vicious animals must be muzzled by a muzzling device sufficient to prevent the animal from biting persons or other animals.

(b) Confinement Outdoors. Owner's of vicious animals who maintain their animal out of doors, must within ten days of the effective date of such a determination, fence a portion of their property with a perimeter or area fence. Within this perimeter fence, the vicious animal must be humanely confined inside a pen or kennel, which shall be a minimum of five (5) feet wide, ten (10) feet long and five (5) feet in height above grade. The pen or kennel may not share common fencing with the area or perimeter fence. The kennel or pen must have secure sides, a secure top attached to all sides, all to be at least nine (9) gauge chain link fencing with necessary steel supporting posts. The sides must be either buried (2) feet into the ground, sunken into a concrete pad, or securely attached to a wire bottom. The gate to the pen or kennel must be of the same material as the fencing, fit closely and be securely locked with a key or combination lock when such animals are within the structure. All pens or kennels erected to house must comply with all zoning and building regulations of the city and must be adequately lighted, appropriately ventilated and kept in a clean and sanitary condition.

(c) Confinement Indoors. Owners of vicious animals may maintain their animal indoors, provided that no vicious animal may be kept on a porch, patio or in any part of the house or structure that would allow the animal to exit such building on its own volition.

(d) Signs. All owners, keepers or harborers of vicious animals within the city shall display in a prominent place on their premises a sign easily readable by the public using the words: "Beware of Vicious Animal". In addition, a similar sign is required to be posted on the kennel or pen of animal if dog will not be confined exclusively indoors.

(e) Insurance. All owners, keepers or harborers of vicious animals must provide proof to the City of Evert of public liability insurance for a single incident amount of Fifty Thousand Dollars (\$50,000.00) for bodily injury to, or death of any person or persons which may result from such animal. Such insurance policy will be made unless thirty (30) days written notice is first given to the City Clerk of the City of Evert.

(f) Identification Photographs. All owners, keepers or harborers of vicious animals must provide the City Clerk with two (2) color photographs, clearly showing the color and approximate size of the animal.

606.04 Enforcement of Restrictions on Vicious Animals.

(a) In the event of any law enforcement officer, animal control officer, or Osceola County Health Department employee has probable cause to believe that a vicious animal is being harbored in violation of this ordinance that officer or employee may:

(1) Order the violation immediately corrected and city owner, keeper or harborer to appear in court for the violation; or

(2) If the violation cannot be immediately corrected and the animal is posing an imminent and serious threat to the safety of human beings or other domestic animals, the vicious animal may be seized and impounded at the owners expense. The owner, harborer or keeper will be cited to appear in court for the violation.

(b) The animal may be released to the owner only after payment of any fees and penalties and upon presentation of proof that either animal will now be kept in accordance with the restrictions of this ordinance, or will be permanently removed from the City.

(c) If the owner, harborer or keeper of an alleged vicious animal fails to appear, or fails to either provide proof that the animal will now be kept in compliance with this ordinance and if the animal cannot be kept restrained or confined as specified in the ordinance, the animal will be humanely euthanized.

(d) In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance. Court costs, legal and administrative expenses of the City for such action shall be taxed against the owner, keeper or harborer of the animal against whom the complaint was issued.

(e) Each day that a Violation of this ordinance continues shall be deemed a separate offense.

606.05 Excused Behavior.

No animal shall be declared vicious pursuant to this ordinance, if the threat, injury, or damage caused by such animal was sustained by a person who, at the time was:

(a) committing an assault, a criminal trespass or other crime upon the property occupied by the owner, harborer or keeper of the animal: or

(b) was physically abusing or assaulting the animal. Nor shall any animal be declared vicious if it was responding to pain or injury, or was protecting itself, or its kennels, or its offspring.

606.06 Responsibility of Parent or Legal Guardian.

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

606.07 Dogs.

The following subsections shall apply to all dogs, located within the City of Evert.

(a) No dog shall be left outside unless located within a six foot fence, or is tied or tethered with a material of sufficient strength and located so that the dog can reach no further than ten (10) feet from the adjacent property line or from a city sidewalk..

(b) Any dog which barks, howls or yelps with such frequency and at such times as to disturb and irritate persons residing in the neighborhood in which it is kept is hereby declared to be a nuisance.

(c) No person shall keep a dog in the City of Evert in such a manner as to permit such dog to become a nuisance.

(d) It shall be unlawful for any dog to be or run at large any place within the City of Evert unless it shall be accompanied by the owner or other person having charge of the dog, and on a leash.

606.08 Cruelty to Animals

No person shall cruelly treat or abuse any animal or bird.

606.09 Poisoning Animals

No person shall throw or deposit any poisonous substance on any exposed public or private place where it endangers, or is likely to endanger, any animal or bird.

606.10 Birds and Birds' Nests

No person, except a public officer acting in his official capacity, shall molest, injure, kill or capture any wild bird, or molest or disturb any wild birds' nest or the contents thereof.

606.11 Domestic Animals and Fowl

No person shall keep or house any animals or domestic fowl, within the City of Evert, except dogs, cats, domestic caged birds, or other animals commonly classified as pets.

606.12 Penalty

(a) **First Offense** – The first violation of the above rules shall be a civil infraction, punishable by a fine not to exceed \$100.00 plus costs.

(b) **Second Offense** – The second violation of the above rules shall be a civil infraction, punishable by a fine not to exceed \$200.00 plus costs.

(c) **Third Offense** – The third or more violation of the above rules shall be a misdemeanor punishable by a fine of not greater than \$500.00 plus costs and/or jail sentence not to exceed 93 days in jail.

606.13 Severability.

If any provision of this subchapter is adjudged invalid by any court of competent jurisdiction, such judgment shall not effect or impair the validity of the remainder of the ordinance.