

CITY OF MERIDIAN ORDINANCE NO. 22-_____

BY THE CITY COUNCIL:

BERNT, BORTON, CAVENER,
HOAGLUN, PERREAULT, STRADER

AN ORDINANCE AMENDING MERIDIAN CITY CODE SECTION 6-2-1 ADDING DEFINITIONS OF ANIMAL CONTROL AGENCY, ANIMAL CONTROL OFFICER, ANIMAL CONTROL SHELTER, AT-RISK DOG, BITE, DANGEROUS DOG, EUTHANASIA, JUSTIFIED PROVOCATION, PHYSICALLY ATTACK, PROVOKE, AND SERIOUS INJURY, AND DELETING DEFINITION OF VICIOUS DOG; AMENDING MERIDIAN CITY CODE SECTION 6-2-2, REGARDING ANIMAL CONTROL OFFICERS, CITY ANIMAL SHELTER, AND ANIMAL CONTROL AGENCY; REPEALING AND REPLACING MERIDIAN CITY CODE SECTION 6-2-6, REGARDING DESIGNATION AND MANAGEMENT OF DANGEROUS OR AT-RISK DOGS; AMENDING MERIDIAN CITY CODE SECTION 6-2-8(P), REGARDING FAILURE TO COMPLY WITH PROVISIONS REGARDING DANGEROUS AND AT-RISK DOGS; REPEALING ANY CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Meridian finds that the following ordinance will serve the public health, safety, and welfare of the people of Meridian;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MERIDIAN, ADA COUNTY, IDAHO:

Section 1. That Meridian City Code 6-2-1 shall be amended as follows:

Definitions.

As used in this chapter, the following terms shall be defined as in this section provided:

1. Abandoned animal means an animal that is impounded in accordance with the provisions of this chapter, and is.

- A. Suffering from serious injury, rabies, or other serious disease;
- B. Not wearing a legible license when it is impounded;
- C. Voluntarily relinquished by its owner; or
- D. Not reclaimed by its owner after five (5) working days of such impoundment, except that such time shall be tolled where the dog owner appeals a declaration that the dog is ~~a vicious dog~~ an At-Risk or Dangerous Dog.

2. Animal means any member of the animal kingdom, except members of the human race.

3. Animal Control Agency means an organization or agency designated and duly authorized by Meridian City Council to enforce the provisions of this chapter.

4. Animal Control Officer means any individual authorized by the City, by the Animal Control Agency, or by law to enforce the provisions of this chapter.

5. *Animal Shelter* means an animal control facility designated by the City or the Animal Control Agency as the location for the impounding of animals.

6. *At-Risk Dog* means any dog that:

- A. Without justified provocation bites or physically attacks a person without causing a serious injury, as defined in this Chapter; or
- B. Without justified 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 attacking 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.

7. *Bite or Bitten* means the skin of an individual has been broken or penetrated by an animal's teeth in an act of aggression, attack or defense.

~~*City animal shelter* means the primary location at which animals shall be impounded in accordance with the provisions of this chapter, as designated by the Chief of Police.~~

8. *Cruelty to animals* means the intentional and malicious infliction of pain, physical suffering, injury or death upon an animal, including, but not limited to.

- A. Depriving of or failing to provide an animal with adequate food, water, shelter, and/or essential veterinary care.
- B. Leaving an animal in one's possession, custody, control, or care unattended for more than thirty-six (36) hours.
- C. Maliciously or cruelly killing, maiming, wounding, beating, mutilating, torturing, tormenting, overworking, or otherwise abusing any animal.
- D. Allowing, arranging, or instigating a fight between two (2) animals, or training one (1) or more animals to fight other animals.
- E. Making accessible to any animal, by any means, with intent to cause harm or death, any substance that is poisonous, or that has, in any manner, been treated or prepared with any harmful or poisonous substance, except that this definition shall not include the lawful use of poisonous substances for the control of rodents and/or insects in furtherance of the public health; nor shall this definition include the lawful use of poisonous substances by a veterinarian or animal control officer for the purposes of euthanizing an animal.

9. *Dangerous Dog* means any dog that:

- A. Without justified provocation has inflicted serious injury on a person;
- B. Has previously been found to be At-Risk and thereafter bites or physically attacks a person without justified provocation, with or without causing a serious injury;
- C. Has previously been found to be a Dangerous dog pursuant to Idaho Code or a substantially conforming ordinance or statute from a foreign jurisdiction; or
- D. Has previously been found to be At-Risk and thereafter inflicts injury to a domestic

animal not on the real property of the owner of the dog.

10. Dog means any male or female member of the canine family.

11. Euthanasia means a procedure in which an animal is humanely killed by a method that is painless to the animal and causing unconsciousness and death.

12. Impound means to deliver a seized animal to the city animal shelter.

13. 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 who was bitten or attacked was committing a crime or offense upon the property of the owner or custodian of the dog;
- C. The person who was bitten or attacked was willfully tormenting, abusing or assaulting the dog, or had done so in the past;
- D. The dog was responding to immediate 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; or
- F. The person was intervening between two (2) or more animals engaged in aggressive behavior or fighting, unless one or both of the animals is at large.

14. Livestock means domesticated animals, traditionally kept for use or profit, which are housed outdoors and/or in outdoor enclosures such as pens, barns, barnyards, pastures, corrals, coops, sties, stables, or paddock areas. Livestock shall include, but is not limited to: horses, donkeys, mules, cattle, llamas, alpacas, swine, sheep, goats, rabbits, poultry, and/or domesticated birds, ~~except that this definition shall not include~~ including chicken hens and roosters.

15. Own means to be the owner thereof; or to keep, harbor, or possess; or to accept or maintain custody, control, or care thereof.

16. Owner means any person owning, keeping, harboring, or possessing an animal, or accepting or maintaining custody, control, or care of an animal.

17. Physically attack means an aggressive action upon a person by a dog in which there is physical contact between the dog and the person.

18. Provoke means 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.

19. Seize means to take custody of an animal

20. *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.

21. *Veterinarian* means a doctor licensed to practice veterinary medicine in the State of Idaho.

~~Vicious Dog means a dog declared by the animal control officer to be a vicious dog.~~

Section 2. That Meridian City Code 6-2-2 shall be amended as follows:

6-2-2: Animal control officers; city animal shelter; animal control agency.

A. *Animal Control Agency.* City Council shall appoint an Animal Control Agency and authorize same to enforce the provisions of this chapter.

~~A. B. *Animal control officers.* The Chief of Police or the duly appointed animal control agency shall appoint one (1) or more animal control officer(s) officers who shall, under the direction of the Chief of Police, or the animal control agency, have the authority to enforce the provisions of this chapter. Additionally, the animal control officers shall be authorized to.~~

1. Seize and impound animals that are at large and unattended in city limits.
2. Seize, impound, and euthanize animals in accordance with the provisions of this chapter.
3. Remove and properly dispose of the carcass of any dead animal found in any public place.
4. Declare that an animal is abandoned.
5. Decide whether an abandoned animal shall be euthanized or made available for adoption.
6. Declare that a dog is a ~~vicious~~ Dangerous or At-Risk dog.
7. Seize and impound ~~vicious~~ Dangerous or At-Risk dogs in accordance with the provisions of this chapter, and euthanize same as authorized by this chapter.
8. Issue uniform citations for violations of this chapter. 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. C. *City animal shelter.* The Chief of Police City shall designate a city animal shelter. Such animal shelter shall provide adequate physical accommodations, materials, and staffing to provide basic housing, feeding, watering, vaccination, and supervision of animals impounded therein.~~

Section 3. That Meridian City Code section 6-2-6 shall be repealed and replaced with language to read as follows:

6-2-6. - Designation and Management of Dangerous or At-Risk Dogs:

- A. *Purpose.* Dangerous and At-Risk dogs found within the boundaries of the City of Meridian 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. The Notice of Designation shall:
 - a. Be personally served on the owner by an Animal Control Officer or other authorized person, or mailed to the owner via U.S. Mail.
 - 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 or photograph of the dog;
 - f. Provide notice that the owner may appeal the officer's decision to designate the animal as Dangerous or At-Risk, describe the appeal process as set forth in this chapter and explain that if the owner chooses to appeal the officer's decision, the owner shall be responsible for any fees associated with boarding and caring for the dog during the time the petition and any additional proceedings are pending, as well as any fees associated with processing and considering the appeal, pursuant to the fee schedule of the Animal Control Agency;
 - g. Provide notice that the officer's designation decision shall become final after ten (10) business days if the owner fails to appeal the Notice of Designation;
 - h. Provide notice that the owner of a dog designated as At-Risk or Dangerous may either keep the dog in their possession and be subject to the restrictions the Animal Control Agency puts in place for the keeping of such dog, or may voluntarily relinquish custody of a dog to the Animal Control Agency; and
 - i. Provide notice that a dog voluntarily relinquished to, or seized by, the Animal Control Agency pursuant to this section may be adoption or euthanasia, 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, as defined in this chapter.
3. An Animal Control Officer has the authority to seize and impound a dog that has been determined, by an Animal Control Officer, to be a Dangerous 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 as set forth herein, the officer shall provide notice to the owner

of the requirements and restrictions for keeping At-Risk dogs as provided in this section.

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 as set forth herein, the officer shall provide notice to the owner of the requirements and restrictions for keeping At-Risk dogs as provided in this section.

C. *Appeal.* An affected person, shall have a right to appeal an Animal Control Officer's decision to designate a dog as Dangerous or At-Risk. These appeal procedures shall not apply to the appeal of criminal charges that may be imposed under this section.

1. The dog owner may file an appeal with the director of the Animal Control Agency.
2. The appeal must be in writing, must be accompanied by the fee for processing such appeal per the Animal Control Agency's fee schedule, and must be received by the director within ten (10) business days of the mailing of notice or service of the Notice of Designation.
3. The written appeal shall briefly set forth the factual or legal basis for disputing the designation.
4. Upon receipt of the appeal, 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.
5. The director shall provide the dog owner notice of date, time, and location of the hearing by sending the written notice via U.S. Mail. If the owner is unavailable on the scheduled date, the owner and director may continue the hearing to a mutually agreed upon date within fourteen (14) days of the original hearing date.
6. 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 owner shall have the opportunity to present argument and evidence to the hearing officer to refute the designation. The animal control officer who made the enforcement decision shall attend the hearing to offer argument or evidence in support of the enforcement decision.
7. After considering the argument and evidence presented, the hearing officer shall enter a decision either sustaining or vacating the designation, which decision shall be supported by a preponderance of the evidence. The decision shall be written and sent to the petitioner via U.S. mail no later than (7) days after the hearing.
8. Failure by the owner to attend the hearing shall constitute waiver of their appeal, and the designation shall be considered the final decision of the animal control agency.
9. The animal control agency is authorized to adopt and collect a fee to recover costs associated with processing and considering the appeal.
10. The owner shall be responsible for any fees associated with boarding and caring for the dog during the time the appeal and any additional proceedings are pending.

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 comply with the following restrictions for the keeping of such dog within the boundaries of the City of Meridian:

1. The owner shall license the dog as required by this Chapter.
2. The dog shall be registered with the Animal Control Agency as a Dangerous Dog.
3. The owner shall have a microchip implanted in the dog that allows for identification of the animal and shall report the microchip number to the Animal Control Agency.
4. The owner shall be required to procure and maintain dog liability insurance or other insurance policy of not less than one hundred fifty thousand dollars (\$150,000) for a dog that is designated as Dangerous based on an attack or injury inflicted on any person, and/or dog liability insurance or other insurance policy in the amount of twenty thousand dollars (\$20,000) in the case of a dog that is designated as Dangerous based solely on attacks or injuries inflicted on another animal. Such insurance policy shall cover any and all damage or injury that may be caused by such Dangerous dog, and shall be in place for the life of the dog. The City of Meridian shall be named as an additional insured party on this policy for the purpose that the City will be notified by the insurance company if the policy is cancelled, terminated, or otherwise expires.
5. The dog shall be contained within a secure 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 annually, and if the enclosure is found to be defective or inadequate, an Animal Control Officer may seize and impound the dog until the enclosure is found to be adequate.
6. 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 and all potential entrance points to the yard and 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," or "Dangerous," shall be insufficient.
7. In the event the owner takes the dog off the owner's property, at all times, the owner shall keep the dog 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 owner shall not allow the dog to be off leash within the City of Meridian, including in any areas designated as off leash areas. The owner shall ensure that the dog does not have physical contact with any other dog or person other than the owner or immediate family of the owner when off the property of the owner.
8. The owner shall spay or neuter the dog.
9. The owner shall schedule and obtain annual inspections of the dog and the enclosure by the Animal Control Agency.

10. The owner shall receive a copy of these restrictions, and sign an agreement to comply with these restrictions for the keeping of Dangerous Dogs within the boundaries of the City of Meridian.
- E. *Keeping At-Risk Dogs.* 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 Meridian:
1. The owner shall license the dog as required by this chapter;
 2. The owner shall have a microchip implanted in the dog that allows for identification of the animal and shall 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 City limits 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. *Noncompliance; seizure of dog.* In addition to any criminal penalties, failure to comply with any of the restrictions in section (C) or (D) 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 (C) or (D), 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 (C) or (D) within ten (10) days of the dog being seized, the Animal Control Agency may place the dog up for adoption or euthanize the dog, in accordance with the adoption or euthanasia provisions set forth in this Chapter.
- G. *Transfer of ownership of At-Risk or Dangerous Dogs:* If an owner of an At-Risk or Dangerous dog transfers ownership of the dog to another person, the original owner shall be obligated to notify the new owner of the designation. Further, the original owner 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 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, physically attacks a person, or a domestic animal, such dog shall be subject to immediate impounding by the Animal Control Agency. If the designation is not appealed to the Animal Control Agency or upheld on appeal the dog shall be humanely euthanized as expeditiously as reasonably possible. Such second attack need not cause serious injury for this provision to apply.
 2. Where a Dangerous or At-Risk dog is voluntarily relinquished to the Animal Control Agency by the owner, or where the owner does not redeem the dog from impound within the timelines set forth in this Chapter, 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, 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. 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 Meridian City Code §§ 6-2-6 (C) or (D), and the owner shall comply with these restrictions. The agency shall obtain a written signed waiver from the adopting person(s) indicating they are aware of the dog's designation.
 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 agency's decision to deny an adoption request under this provision is not subject to appeal.
 5. The Animal Control Agency shall keep records of dogs designated as Dangerous or At-Risk. The records kept shall include, without limitation, 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.* 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 committed an act during that twenty-four (24) month period that would constitute grounds to designate the dog as Dangerous or again designate the dog as At-Risk.
- J. *Owner to pay fees.* The owner of a dog impounded under any provision of this section shall be liable to the Animal Control Agency for fees and costs associated with boarding and caring for the animal until the animal is redeemed from impound, adopted, or euthanized, except where the animal was voluntary relinquished to the Animal Control Agency.
- K. *Noncompliance.* An owner of a dog who violates or fails to comply with any provision of Meridian City Code section 6-2-6 shall be guilty of a misdemeanor.

- L. *Exceptions.* No dog owned, maintained, or kept for work as a law enforcement dog, either currently or retired, may be declared Dangerous or At-Risk if the action that would be so defined by this definition took place while the dog was acting within its capacity for law enforcement purposes.

Section 4. That Meridian City Code section 6-2-8(P) shall be amended as follows:

- P. ~~*Harboring vicious dog.*~~ *Dangerous and At-Risk Dogs.* It shall be unlawful for any person to violate or fail to comply with the provisions of Meridian City Code section 6-2-6. ~~to own a vicious dog in the City of Meridian more than fourteen (14) days following the entry of a final decision that the dog is a vicious dog. Fourteen (14) days following the entry of a final decision that the dog is a vicious dog, such dog may be considered to be contraband, and may be seized pursuant to warrant and euthanized. A violation of this subsection shall constitute a misdemeanor. Additionally, upon conviction, the court may authorize the animal control officer to seize, impound, and/or euthanize the dog giving rise to the violation.~~

Section 5. That all City of Meridian ordinances, or resolutions, or parts thereof, which are in conflict herewith, are hereby repealed.

Section 6. That this ordinance shall be effective immediately upon its passage and publication.

PASSED by the City Council of the City of Meridian, Idaho, this ____ day of _____, 2022.

APPROVED by the Mayor of the City of Meridian, Idaho, this ____ day of _____, 2022.

APPROVED:

Robert E. Simison, Mayor

ATTEST:

Chris Johnson, City Clerk

CERTIFICATION OF SUMMARY:

William L.M. Nary, City Attorney of the City of Meridian, Idaho, hereby certifies that the summary below is true and complete and upon its publication will provide adequate notice to the public.

SUMMARY OF CITY OF MERIDIAN ORDINANCE NO. 22 - _____

An ordinance amending Meridian City Code section 6-2-1, adding definitions of animal control agency, animal control officer, animal control shelter, At-Risk dog, bite, Dangerous dog, euthanasia, justified provocation, physically attack, provoke, and serious injury, and deleting definition of vicious dog; amending Meridian City Code section 6-2-2, regarding Animal Control Officers, City animal shelter, and Animal Control Agency; repealing and replacing Meridian City Code section 6-2-6, regarding designation and management of Dangerous or At-Risk dogs; amending Meridian City Code section 6-2-8(P), regarding failure to comply with provisions regarding Dangerous and At-Risk dogs; repealing any conflicting ordinances; and providing an effective date.