

## CHAPTER 55

## ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.12 Keeping of Pit Bull Dogs and Vicious Dogs
55.02 Animal Neglect	55.13 Releasing of Animals
55.03 Livestock Neglect	55.14 Rabies Vaccination
55.04 Abandonment of Cats and Dogs	55.15 Owner's Duty
55.05 Livestock	55.16 Confinement
55.06 At Large Prohibited	55.17 Summons Issued
55.07 Damage or Interference	55.18 Right to Kill Untagged Dogs
55.08 Annoyance or Disturbance	55.19 Right to Kill Tagged Dogs
55.09 Keeping of Dangerous Animals Prohibited	55.20 Disposal of Other Animals
55.10 Keeping of Vicious Animals Prohibited	55.21 Pet Awards Prohibited
55.11 Seizure, Impoundment and Disposition of Dangerous or Vicious Animals	55.22 Kennels
	55.23 Penalties

**55.01 DEFINITIONS.** The following terms are defined for use in this chapter.

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.  
(*Code of Iowa, Sec. 717B.1*)
3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
  - A. The sale or offer for sale of goods or services.
  - B. A recruitment for employment or membership in an organization.
  - C. A solicitation to make an investment.
  - D. An amusement or entertainment activity.
5. "Dangerous animal" means:
  - A. Badgers, wolverines, weasels, skunk and mink;
  - B. Raccoons;
  - C. Bats; and
  - D. Scorpions.
6. "Fair" means any of the following:
  - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
  - B. An exhibition of agricultural or manufactured products.
  - C. An event for operation of amusement rides or devices or concession booths.
7. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.

8. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.

(*Code of Iowa, Sec. 717.1*)

9. “Owner” means any person owning, keeping, sheltering or harboring an animal.

10. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

11. “Pit bull dog” means:

- A. The Bull Terrier breed of dog;
- B. The Staffordshire Bull Terrier breed of dog;
- C. The American Pit Bull Terrier breed of dog;
- D. The American Staffordshire Terrier breed of dog;
- E. Dogs of mixed breed or of other breeds than above listed, which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; or
- F. Any dog which has the appearance and characteristics of being predominately of the breeds of Bull Terrier, Staffordshire Bull Terrier, American Pit Bull Terrier, American Staffordshire Terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.

The City Veterinarian will determine whether a dog is to be designated as a breed of pit bull in any cases of identity regarding breed of dog. If an owner desires to appeal this designation, said owner may appeal to the Council at the next regular meeting.

12. “Vicious animal” means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on three separate occasions within a twelve-month period.

13. “Vicious dog” means:

- A. Any dog with the propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
- B. Any dog that attacks a human being or a domestic animal on two or more occasions without provocation.

**55.02 ANIMAL NEGLECT.** It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means that causes unjustified pain, distress or suffering.

*(Code of Iowa, Sec. 717B.3)*

**55.03 LIVESTOCK NEGLECT.** It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means that causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

*(Code of Iowa, Sec. 717.2)*

**55.04 ABANDONMENT OF CATS AND DOGS.** A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

*(Code of Iowa, Sec. 717B.8)*

**55.05 LIVESTOCK.** It is unlawful for a person to keep livestock within the City except by written consent of the Council. However, any nonconforming use in existence at the time of the passage of the ordinance codified in this section<sup>†</sup>, or any future nonconforming use approved by the City, shall be allowed to continue under the following restrictions:

1. The number of head of livestock which a person may legally keep within the City shall be limited to the extent that there is adequate continuous acreage for the size and number of the livestock kept. It is unlawful for any person to keep within the City limits such a number of livestock which would tend to disrupt the peace and good order of the community or which becomes a nuisance due to noise, smell or other undesirable characteristics. Any shelter or enclosure will be maintained in a clean and sanitary condition, free from offensive odors and any fence used for the purpose of confining said livestock shall be of a character to eliminate nuisances or damages to adjoining property.
2. In the event of the sale, gift, conveyance or other transfer, whether by deed, inheritance or any other means, of any property afforded nonconforming use status herein, the right of the subsequent owner to continue such nonconforming use shall be terminated if not exercised within 365 days of the date said subsequent owner takes possession of the property.
3. The Mayor shall appoint a committee of four, consisting of two members of the Council and two residents of the City, for the purpose of enforcing this statute. Upon receipt of a complaint under this section, the committee shall, as soon as possible, proceed to the offending location to make a determination as to the validity of the complaint. If a majority of the members of the committee present believe that the complaint is valid, the committee shall contact, in writing, the owner of the offending property stating the nature of the complaint, that the committee feels the complaint is valid, the remedial action to be taken and the date the remedial action should be completed. The owner of the offending property shall also be informed that if the appropriate remedial action is not taken and completed by the date set forth, the matter will be referred to the entire Council. The Council shall reassess the complaint and elect to dismiss the complaint or enforce the complaint pursuant to the nuisance provisions of this Code of Ordinances.

**55.06 AT LARGE PROHIBITED.** It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

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<sup>†</sup> EDITOR'S NOTE: Ordinance No. 146 was adopted on May 12, 1997.

**55.07 DAMAGE OR INTERFERENCE.** It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

**55.08 ANNOYANCE OR DISTURBANCE.** It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles or other vehicles.

**55.09 KEEPING OF DANGEROUS ANIMALS PROHIBITED.** No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any purpose or in any capacity within the City.

**55.10 KEEPING OF VICIOUS ANIMALS PROHIBITED.** No person shall keep, shelter or harbor for any reason within the City a vicious animal as defined in this chapter, except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the local law enforcement officers that a guard dog is on duty at said premises.

**55.11 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS OR VICIOUS ANIMALS.**

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or Police Chief, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or Police Chief shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, such officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
3. The order to remove a dangerous animal or vicious animal issued by the Mayor or Police Chief may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the Mayor or Police Chief, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the officer is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the officer is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or Police Chief issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

#### **55.12 KEEPING OF PIT BULL DOGS AND VICIOUS DOGS.**

1. Regulations. The keeping of pit bull dogs and vicious dogs within the City is subject to the following regulations and restrictions:

A. Leash and Muzzle. No person shall permit a pit bull or vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet. No person shall permit a pit bull or vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull and vicious dogs on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

B. Confinement. All pit bull and vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs and vicious animals must be locked with a key or combination lock while such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be imbedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs and vicious dogs must comply with all zoning and be adequately lighted and ventilated and kept in a clean and sanitary condition.

C. Confinement Indoors. No pit bull dog or vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

D. Signs. All owners, keepers or harborers of pit bull dogs and vicious dogs within the City shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animals.

E. Insurance. All owners, keepers or harborers of pit bull dogs or vicious dogs within the City shall provide proof to the Clerk of public liability insurance in a single incident

amount of \$50,000.00 for bodily injury to or death of any person or persons or for damages to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the Clerk.

F. Identification Photographs. All owners, keepers or harborers of pit bull dogs and vicious dogs must provide to the Clerk two color photographs (different views) of the animal clearly showing the color and approximate size of the animal.

G. Reporting Requirements. All owners, keepers or harborers of pit bull dogs and vicious dogs must, within ten (10) days of the incident, report the following information in writing to the Clerk as required herein:

- (1) The removal from the City or death of a pit bull dog or vicious dog;
- (2) The birth of offspring of a pit bull dog;
- (3) The new address of a pit bull dog owner should the owner move within the corporate City limits.

H. Sale or Transfer of Ownership Prohibited. No person shall sell, barter or in any other way dispose of a pit bull dog to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the owner of such dog; provided, the owner of a pit bull dog may sell or otherwise dispose of a dog or the offspring of such dog to persons who do not reside within the City.

I. Animals Born of Pit Bull Dogs. All offspring born of pit bull dogs must be removed from the City within eight (8) weeks of the birth of the animal.

2. Failure to Comply. It is unlawful for the owner, keeper or harborer of a pit bull dog or vicious dog to fail to comply with the requirements and conditions set forth in this section. Any dog found to be the subject of a violation of this section shall be subject to immediate seizure and impoundment.

3. Special Penalty. In addition to the standard penalty imposed for violation of any provisions of this section, upon conviction, the Court shall order the dog removed from the City. Should the defendant refuse to remove the dog from the City, the Magistrate shall find the defendant owner in contempt of court and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

### **55.13 RELEASING OF ANIMALS.**

1. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement is upon such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure or by unleashing the animal.

2. It is the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming into contact with public right-of-way or the property of another. Failure to restrain an animal pursuant to the foregoing shall constitute a simple misdemeanor.

3. It is unlawful for any person in any manner to interfere with any employee or designated representative of the City so as to hinder, delay or prevent the execution of said person's duties in relation to the matters and things contained in this chapter.

**55.14 RABIES VACCINATION.** Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in State or federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

*(Code of Iowa, Sec. 351.33)*

**55.15 OWNER'S DUTY.** It is the duty of the owner of any dog, cat, or other animal that has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

*(Code of Iowa, Sec. 351.38)*

**55.16 CONFINEMENT.** If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after 10 days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section does not apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

*(Code of Iowa, Sec. 351.39)*

**55.17 SUMMONS ISSUED.** The owner of any dog or other animal shall be issued a summons to appear before a proper court to answer charges of permitting such dog or animal to be at large in violation of this chapter.

**55.18 RIGHT TO KILL UNTAGGED DOGS.** It is lawful for any person, and the duty of all peace officers, to kill any dog for which a rabies vaccination tag is required, when the dog is not wearing a collar with a rabies vaccination tag attached.

**55.19 RIGHT TO KILL TAGGED DOGS.** It is lawful for any person to kill a dog wearing a collar with a rabies vaccination tag attached when the dog is caught in the act of worrying, chasing, maiming or killing any domestic animal or fowl or when such dog is attacking or attempting to bite a person.

**55.20 DISPOSAL OF OTHER ANIMALS.** If the owner of any animal apprehended, other than a dog, cannot be located after a reasonable effort by local authorities, such animal may be humanely destroyed or otherwise disposed of in accordance with the law.

**55.21 PET AWARDS PROHIBITED.**

*(Code of Iowa, Ch. 717E)*

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
  - A. A prize for participating in a game.
  - B. A prize for participating in a fair.
  - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

- D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.
- 2. Exceptions. This section does not apply to any of the following:
  - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
  - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

**55.22 KENNELS.** No person or persons shall have or maintain any premises on which five or more dogs, six months or older, are being kept within the City limits or on any City property without having obtained a license to operate a kennel issued by the State or Federal authorities. A current copy of this license needs to be filed with the City Clerk. No kennels shall be located closer than 75 feet to another residence.

**55.23 PENALTIES.** Anyone violating the provisions of this chapter commits a simple misdemeanor subject to imprisonment not exceed thirty days and/or fined as follows:

- 1 For the first violation, a minimum fine of \$65.00 shall be imposed.
- 2. Upon the second violation, a minimum fine of \$75.00 shall be imposed.
- 3. Upon the third and subsequent offenses, a minimum fine of \$100.00 shall be imposed for each violation and the animal(s) removed from the City limits permanently.
- 4 Each day the owner of an animal does not comply with this chapter is deemed a separate offense.
- 5 A conviction for, deferred judgment for or plea of guilty to, a violation of this chapter which occurred more than two (2) years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.



