

CHAPTER 55 - ANIMAL PROTECTION AND CONTROL

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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. "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.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.

7. "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)

8. "Owner" means any person owning, keeping, sheltering or harboring an animal.
9. "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.

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 which 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 which 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 in compliance with the City's zoning regulations.

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.

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 or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.

55.09 VICIOUS DOGS.

It is unlawful for any person to harbor or keep a vicious dog within the City. A dog is deemed to be vicious when it has attacked or bitten any person without provocation, or when propensity to attack or bite persons exists and is known or ought reasonably to be known to the owner.

55.10 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 kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

55.11 OWNER'S DUTY.

It is the duty of the owner of any dog, cat or other animal which 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)

55.12 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 ten (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)

55.13 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

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 event.
 - 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 which 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.

55.14 WILD OR DANGEROUS ANIMALS.

1. Wild Animals Prohibited. No person shall harbor, maintain or keep a wild, dangerous or undomesticated animal within the City, except as hereinafter provided.
2. Definitions. A wild, dangerous or undomesticated animal shall be that which is not of a species customarily used as an ordinary household pet, but one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or property damage. Fish in an aquarium are not considered in this definition. This definition of said animals shall include, but not be limited to:

All poisonous animals, including rear-fang snakes

Alligators and crocodiles, thirty inches (30") in length or more

Apes (chimpanzees, gibbons, gorillas, orangutans and siamangs)

Baboons

Bears

Bison

Cheetahs

Constrictor snakes

Coyotes Deer

Gamecocks and other fighting birds

Hippopotami
Hyenas
Jaguars
Leopards Lions
Lynxes
Monkeys
Ostriches
Piranha fish
Pumas, also known as cougars, mountain lions and panthers
Rhinoceroses
Sharks
Snow leopards
Tigers
Wolves

Vicious animals, meaning any animal which has previously attacked or bitten any person or which has behaved in such a manner that a person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.

3. Exceptions. The provisions of subsections 1 and 2 of this section shall not apply to retail establishments, zoological gardens, circuses and zoos if:
 - A. The animals' location conforms to the provisions of the Zoning Ordinance of the City.
 - B. All animals and animal quarters are kept in a clean and sanitary condition and so maintained so to eliminate objectionable odors.
 - C. Animals are maintained in quarters so constructed as to prevent their escape.
 - D. No person lives or resides within one hundred feet (100?) of the quarters in which the animals are kept.
4. Vicious Animals.
 - A. The term "vicious animal" means:
 - (1) Any animal which has attacked a human being or domestic animal one or more times without provocation;
 - (2) Any animal with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
 - (3) Any animal that has been trained for fighting or is owned or kept for such purposes;
 - (4) Any animal trained to attack human beings, upon command or spontaneously, in response to

human activities, except dogs owned by or under the control of the police department, a law enforcement agency of the State or the United States or of a branch of the armed forces of the United States.

- B. Any "vicious animal," as defined herein, found at large in the City of Wahpeton, may be seized by any police officer or humane officer and, upon establishment to the satisfaction of the magistrate of the vicious character of said animal, it may be killed by a police officer or licensed veterinarian.
- C. If a vicious animal is so dangerous that it cannot be safely apprehended, it may be immediately destroyed by any police officer or humane officer.

(Section 55.15 - Ord. 142 - Feb. 13 Supp.)

55.15 PETS AND HOBBY ANIMALS.

1. Definitions. For purposes of this section, the following terms shall mean:
 - A. **AT LARGE:** An animal that is off the premises of the owner and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.
 - B. **BIRDS:** Parakeets, pigeons, birds of prey, pheasants, quail and other similar birds that are kept as pets or for hobby purposes. Chickens, geese and ducks are considered "farm animals" and may not be kept as household pets.
 - C. **FISH AND AMPHIBIANS:** Shall include frogs, toads and aquatic animals that are kept as pets or for hobby purposes.
 - D. **HOUSEHOLD PETS AND HOBBY ANIMALS:** "Mammals", "birds", fish, amphibians, arachnids, insects, and "reptiles" as specifically defined in this section.
 - E. **MAMMALS:** Rabbits, ferrets, mongoose, mink and similar small animals, and potbellied pigs that are kept as pets or for hobby purposes.
 - F. **OWNER:** Any person having temporary or permanent custody of, sheltering, having charge of, harboring, exercising control over or having property rights to any animal covered by this section.
 - G. **REPTILES:** Nonconstrictor snakes, lizards, geckos, salamanders, chameleons, iguanas, alligators and crocodiles less than thirty inches (30") in length, and similar reptiles that are kept as pets or for hobby purposes and that are not prohibited under the provisions of Section 55.15 of this chapter.
 - H. **UNDER RESTRAINT:** That an animal is secured by a leash or lead or under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.
2. Permitted Household Pets and Hobby Animals. "Household pets and hobby animals", as defined in subsection 1 of this section, may be kept within the City only in compliance with subsections 3, 4, 5 and 6 of this section.

3. Limitation on the Number of Animals.
 - A. There shall be no numerical limitation on the number of animals described in subsection 1 of this section that are kept and maintained exclusively within the residence of the owner.
 - B. The following animals may be kept on residential premises outside the residence of the owner, but shall be subject to the following numerical limitations, which shall be the maximum number of animals permitted at any single location at any one time.
 - (1) Mammals of a maximum weight not exceeding ten (10) pounds, no more than ten (10) in number.
 - (2) Mammals exceeding ten (10) pounds in weight, no more than six (6) in number.
 - (3) Fish and amphibians, no more than fifty (50) in number.
 - (4) Birds, no more than thirty (30) in number.
4. Sanitation.
 - A. No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any property, except the premises of the owner, unless such owner immediately removes and disposes of all deposits by such animals.
 - B. No person owning, harboring, keeping, or in charge of an animal within the City shall permit any waste matter from the animal to collect and remain on the property of the owner so as to cause or create an unhealthy, unsanitary, dangerous, or offensive condition, or so as to create an odor.
 - C. No person owning, harboring, keeping or in charge of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.
5. Nuisances. No person shall keep animals subject to the provisions of this section which cause a "public nuisance". A "public nuisance" shall include:
 - A. Any animal that is repeatedly found at large.
 - B. Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animals are kept.
 - C. Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept.
 - D. Any animal, whether or not on the property of its owner, that, without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons on a public right of way.
 - E. Any animal that attacks domestic animals.
 - F. Any animal that causes unsanitary conditions in enclosures or surrounding where the animal

is kept.

- G. Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single location, or the inadequacy of the facilities.
 - H. Any animals kept for commercial purposes.
6. Commercial Use Prohibited. No persons shall keep animals covered by this section for commercial purposes, except on premises where such commercial use is permitted under the City's zoning ordinances or exclusively within the owner's residence. The following facts shall be considered evidence of commercial activity:
- A. The advertising of animals for sale.
 - B. The continuing periodic sale of animals.
 - C. Keeping animals in excess of the numerical limits established under subsection 3 of this section.
 - D. Licensing, registration or certification of the keeper of such animals as a "dealer".
 - E. The holding of an Iowa sales tax permit related to the sale of animals.
 - F. Reporting activities in connection with such animals as a business on any legally required document, report, or tax return.
 - G. Any other factors that indicate commercial activity.

(Section 55.16 - Ord. 142 - Feb. 13 Supp.)

55.16 DEAD ANIMALS.

The owner of any dead animal within the City shall properly bury or otherwise properly dispose of the same within twenty-four (24) hours.

55.17 SANITATION.

It is unlawful for any owner, keeper or walker of any animal to permit said animal to discharge said animal's feces upon any public or private property within the City, other than the property of the owner of the animal, if such owner, keeper or walker does not immediately thereafter remove and/or cleanup said animal's feces from the public or private property. In addition, it is unlawful for the owner or person in charge of any dog, cat or other animal to fail to keep the premises where the animal is kept in a clean and sanitary condition at all times. No owner shall allow waste matter from the animal to collect and remain on the property of the owner so as to cause or create an unhealthy, unsanitary, dangerous, or offensive condition, or so as to create an odor. Wastes on owner, keeper or harbors property shall be cleaned up and properly disposed of at least once every 24 hours. The provisions of this Section shall not apply to dogs used to guide the visually impaired while such dogs are acting in such capacity.

59.18 ANIMALS IN MOTOR VEHICLES; RESCUE.

No person shall leave an animal unattended in, or tethered to, a standing or parked motor vehicle, in a manner that endangers the health or safety of the animal.

The following persons may use reasonable means, including reasonable force to remove an animal from a motor vehicle when there is an apparent violation of this section.

- (1) peace officer
- (2) fire department personnel

The person rescuing the animal shall notify the Mayor or City Clerk and animal shall be taken to a veterinarian for treatment, if necessary. The cost of such treatment shall be paid by the City and the City shall claim reimbursement from the person judged to be responsible for leaving the animal unattended.

59.19 NUMBER OF DOMESTIC ANIMALS.

The total number of cats and dogs older than three (3) months shall not exceed six (6) per residence or place of business (excluding bona pet stores, animal grooming shop, licensed kennel, educational institute, circus, carnival or veterinary hospital treating such animals). A dog or canine, or a cat or feline is considered full-grown at the age of twelve (12) weeks of age.

59.20 FEMALES IN HEAT.

The owner of any female dog or cat in heat shall confine the female dog or cat in a building or a cage/kennel or keep the same in said owner's presence so that the female dog or cat cannot come into contact with another animal except for planned breeding. Furthermore, any female animal in estrus shall be deemed at large at any time except:

- a. When housed in a building which is completely enclosed;
- b. When housed in a veterinary hospital or boarding kennel licensed or registered with the State;
- c. When on the premises of the owner, provided the area in which such animal is located is completely enclosed by a fence or other structure having a height of at least sixty (60) inches; or
- d. When under the control of a person competent to restrain the animal, either by leash or properly restrained within a motor vehicle.

