

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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

1. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
2. "At large" means off the premises of the owner unless:
 - A. The animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and under the control of the person holding said leash, cord, chain or similar restraint, or
 - B. The animal is within a motor vehicle, or
 - C. The animal is housed within a veterinary hospital, licensed kennel, pet shop or animal shelter.
3. "Bothersome animal" means bees or other stinging insects, cattle, goats, horses, poultry, fowl, sheep or swine, except as may be permitted in an A-1 Rural Restricted Zoning District or as a legal pre-existing nonconforming use.
(Ord. 02-32 – Feb. 03 Supp.)
4. "Cat" means any member of the feline species, male or female, neutered or unneutered.
5. "Dangerous wild animal" means, for the purposes of this chapter, all of the following animals:
 - A. A member of the family canidae of the order carnivora, including but not limited to wolves, coyotes, and jackals. However, a dangerous wild animal does not include a domestic dog.
 - B. A member of the family hyaenidae of the order of carnivora, including but not limited to hyenas.

- C. A member of the family felidae of the order carnivora, including but not limited to lions, tigers, cougars, leopards, cheetahs, ocelots, and servals. However, a dangerous wild animal does not include a domestic cat.
- D. A member of the family ursidae of the order carnivora, including bears and pandas.
- E. A member of the family rhinoceros tidae of the order perissodactyla, which is a rhinoceros.
- F. A member of the order proboscidea, which is any species of elephant.
- G. A member of the order of primates other than humans, and including the following families: callitrichiadae, cebidae, cercopithecidae, cheirogaleidae, daubentoniidae, galagonidae, hominidae, hylobatidae, indridae, lemuridae, loridae, megaladapidae, or tarsiidae. A member includes but is not limited to marmosets, tamarins, monkeys, lemurs, galagos, bushbabies, great apes, gibbons, lesser apes, indris, sifakas, and tarsiers.
- H. A member of the order crocodilia, including but not limited to alligators, caimans, crocodiles, and gharials.
- I. A member of the order varanidae of the order squamata, which is limited to water monitors and crocodile monitors.
- J. A member of the order squamata which is any of the following:
- (1) A member of the family varanidae, which is limited to water monitors and crocodile monitors.
 - (2) A member of the family atractaspidae, including but not limited to mole vipers and burrowing asps.
 - (3) A member of the family helodermatidae, including but not limited to beaded lizards and gila monsters.
 - (4) A member of the family elapidae, voperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.
 - (5) A member of the superfamily henophidia, which is limited to reticulated pythons, anacondas, and African rock pythons.
- K. An animal which is the offspring of an animal listed above and another animal listed above or any other animal. It also includes animals which are the offspring of each subsequent generation. However, the offspring of a domestic dog and a wolf, or the offspring from each

subsequent generation in which at least one parent is a domestic dog are not dangerous wild animals.

(Ord. 07-21 – Aug. 07 Supp.)

6. “Dog” means any member of the canine species, male or female, neutered or unneutered.

7. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.

(Code of Iowa, Sec. 717.1)

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

9. “Vicious animal” means either of the following:

A. An animal which inflicts a bite or bites upon and/or attacks a human being or domesticated animal without cause or justification.

B. Notwithstanding subparagraph A above, an animal running at large which inflicts a bite or bites and/or attacks a human being or a domesticated animal, with or without cause or justification, shall be presumed to be vicious. This presumption may be rebutted with the burden of proof being on the owner or possessor of said animal to establish by a preponderance of the evidence that said animal is not a present danger to people or domesticated animals.

(Ord. 04-08 – Aug. 04

Supp.)

10. “Walker” means any person having control over or attempting to have control over an animal when it is off the premises of its owner.

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

55.06 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.

55.07 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.

55.08 VICIOUS ANIMALS. No person shall own, keep or harbor a vicious, dangerous or bothersome animal within the City. Animals kept in the following circumstances are excluded from this requirement: *(Ord. 08-10 – Aug. 08 Supp.)*

1. Public zoos, fully accredited educational or medical institutions; public museums where such animals are kept as live specimens for public viewing; or animals kept for the purpose of instruction or research.
2. Exhibitions to the public by a traveling circus, carnival, exhibit or show.
3. Dangerous animals in a licensed veterinary hospital for treatment.
4. Dangerous animals under the jurisdiction of and in the possession of the State Department of Natural Resources.
5. Animals possessed under authority of a State-issued game breeder's license or scientific collector's license.

6. Dangerous animals maintained by the Federal, State or County government or its designee, pursuant to the enforcement of this chapter.

55.09 SEIZURE OF VICIOUS OR DANGEROUS ANIMALS. Any animal which is suspected of being vicious or dangerous shall be seized and impounded. Contemporaneously with such seizure, the owner of the animal shall be charged with the appropriate violation of this chapter. In the event the animal cannot be seized without exposing a person to danger or personal injury, the animal may be destroyed.

1. If the owner is ultimately found not guilty of violating this chapter, the animal involved shall be returned to the owner, and the owner shall bear no costs of the confinement.
2. If the owner is found or pleads guilty of violating the chapter, the animal shall be returned to the owner, only upon full payment of the confinement expenses and the owner shall also make provision to have the animal removed from the corporate limits of the City, or the animal shall not be released. A vicious or dangerous animal may be destroyed if appropriate conditions or provisions cannot be met or made to allow release of said animal, after notice and hearing to the owner or person harboring or maintaining the animal.
3. If after the conclusion of the court case, the owner does not redeem the animal, it will be disposed of as deemed appropriate by the City Manager.

If an owner refuses entry upon property to view an animal suspected of being vicious or dangerous, a law enforcement officer may request a search warrant from a magistrate. Such request shall detail the reason why the warrant is necessary and why the officer has reason to believe a violation of this chapter exists.

55.10 NUMBER OF ANIMALS. No person shall harbor or maintain such number of animals to create unhealthful or unsanitary conditions for the humans or animals occupying the premises or create any other conditions constituting a nuisance. If such conditions exist, the City Manager is authorized to make an investigation and after notice and hearing to the person harboring or maintaining the animals, the City Manager may order such number of animals be moved from the residence or premises to remedy or correct the unhealthful, unsanitary or other conditions constituting a nuisance. Upon the failure of the person to follow the orders issued by the City Manager, appropriate action may be pursued in the courts either to enforce the order of the City Manager and/or to correct the conditions and/or to abate the nuisance.

55.11 UNHEALTHFUL OR UNSANITARY CONDITIONS.

1. An owner shall keep all structures, pens, coops or yards wherein animals are confined clean, devoid of vermin and free of odors arising from feces.
2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of

the animal. The owner or walker shall be deemed to permit the animal's discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.

3. All feces removed as aforesaid shall be placed in an airtight container and shall be stored in a sanitary manner in an appropriate refuse container until it is removed pursuant to refuse collection procedures or otherwise disposed of in a sanitary manner.

4. An owner may, as an alternative to subsection 3, collect the feces and turn it under the surface of the owner's soil in any manner that prevents odor or collection of vermin.

55.12 TETHERING OF ANIMALS. No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public sidewalk, street or alley or private property other than the property of the owner.

55.13 ANIMALS IN PARKS AND ON GOLF COURSES.

1. No animal shall be allowed within 100 feet of any pool, pavilion, playground, food vendor or ball field in a City park, except properly trained service animals or other service animals for the blind, deaf or otherwise disabled. Police canines are exempt from this subsection. This subsection will not apply to animals on a public sidewalk in or adjacent to the public right-of-way or on a public trail in a public park. *(Ord. 00-37 – Feb. 01 Supp.)*

2. No animal shall be allowed in any other area of a City park unless it is attached to a leash not more than six (6) feet in length and of sufficient strength to restrain the animal when the leash is held by a person capable of restraining and controlling the animal.

3. No animal shall be allowed on any golf course operated by the City.

4. No animal shall be allowed within the zoo area bounded by the security fence.

55.14 RABIES VACCINATION.

1. It is unlawful for any person to own, keep or harbor a cat or dog over six (6) months of age which has not been currently vaccinated against rabies. Dogs kept in a State or Federally licensed kennel and which are kept under constant restraint are not subject to the provisions of this section.

2. Every cat or dog which is over six (6) months of age shall wear a collar with a valid rabies vaccination tag attached to the collar when outside the owner's dwelling.

3. Cats and dogs shall be licensed by their owners through the procedure by which the rabies vaccination tag and certificate are obtained. The rabies vaccination tag and certificate shall be the license required by this chapter.

4. The owner of any dog or cat within the City which is subject to vaccination in accordance with the provisions of this chapter shall have such dog or cat vaccinated against rabies by a licensed veterinarian in such way as to maintain said dog or cat's immunity from rabies.

5. The owner shall attach a permanent identification device to the cat or dog's collar which contains the address and/or telephone number of the cat or dog's owner or veterinarian unless the information is engraved on the rabies vaccination tag. The owner shall notify the veterinarian who vaccinated the cat or dog for rabies of any change of address within five (5) days of moving. When permanent ownership of a cat or dog is transferred, the original owner must notify the veterinarian who vaccinated said cat or dog for rabies of the transfer and provide the new owner's name, address and telephone number within five (5) days after the transfer.

55.15 CONFINEMENT OF FEMALE ANIMALS IN HEAT. The owner of any female animal in heat shall confine said animal inside the house or building on the owner's premises during the heat period. The owner may remove the animal in heat from such premises for the purpose of defecating, urinating, breeding and/or appointments with the veterinarian provided the animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and is under control of the owner.

55.16 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)

55.17 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 horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

(Ord. 01-31 – Nov. 01 Supp.)

(Code of Iowa, Sec. 351.39)

55.18 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded at the impoundment facilities utilized by the City, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

55.19 POLICE SERVICE DOGS. Police service dogs of the Marion Police Department and those of other law enforcement agencies operating within the City are exempt from the provisions of this chapter.

55.20 CERTAIN BOTHERSOME ANIMALS. No person shall keep within the city such animals as bees, cattle, goats (except female pygmy goats), horses, poultry, fowl, sheep or swine (except for Vietnamese pot-bellied pigs), except as may be permitted in an A-1 Rural Restricted Zoning District or as allowed in Chapter 55A.

(Ord. 14-02 – Feb. 14 Supp.)

55.21 SCHEDULED OFFENSES AND FINES. The following scheduled fines are fixed for violations of the designated sections of this chapter:

1. For violation of Section 55.05 (running at large).

First Offense	\$25.00
Second Offense	\$50.00
Third Offense	\$75.00
Over third offense	\$100.00
2. For violation of Section 55.11 (sanitary conditions) - \$30.00.
3. For violation of Section 55.13 (animals in parks and on golf courses) - \$30.00.
4. For violation of Section 55.14 (rabies vaccination) - \$25.00.
5. For violation of Section 55.14 (rabies vaccination tags) - \$25.00.
6. For violation of Section 55.15 (confinement of females) - \$30.00.

(Ord. 01-20 – Aug. 01 Supp.)

55.22 OPERATION WITHOUT A STATE CERTIFICATE OR LICENSE. Except as noted in Section 162.11 of the Iowa Code, a person shall not operate a pound or shelter without a certificate of registration granted by the secretary of the Department of Agriculture and Land Stewardship under Chapter 162 of the Iowa Code. Except as noted in Section 162.11 of the Iowa Code, a person shall not operate as a pet shop, commercial kennel, public auction, dealer, commercial breeder, boarding kennel, nor research facility without a license or certificate of registration granted by the secretary of the Department of Agriculture and Land Stewardship under Chapter 162 of the Iowa Code. Each day of operation in violation of this section is a separate offense.

(Ord. 03-16 – Aug. 03 Supp.)

55.23 DANGEROUS WILD ANIMALS. No person shall own, keep or harbor a dangerous wild animal within the City. Animals kept in circumstances allowed under Chapter 717F of the Code of Iowa are excluded from this requirement.

(Ord. 07-21 – Aug. 07 Supp.)

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