

ORDINANCE NO. 355-11

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF
MONONA, IOWA 2007, BY AMENDING PROVISIONS PERTAINING TO
ANIMAL PROTECTION AND CONTROL**

BE IT ENACTED by the City Council of the City of Monona, Iowa:

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions

55.02 Animal Neglect

55.03 Livestock Neglect

55.04 Abandonment of Cats and Dogs

55.05 Livestock

55.06 At Large Prohibited

55.07 Damage or Interference

55.08 Annoyance or Disturbance

55.09 Dangerous Animals

55.10 Rabies Vaccination

55.11 Owner's Duty

55.12 Confinement

55.13 At Large: Impoundment

55.14 Animal Waste Clean-up

55.15 Animal Complaints/Traps

55.16 Disposition of Animals

55.17 Dog /Cat License Required

55.18 Severability

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 and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. "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)
4. "Owner" means any person who owns, harbors, keeps, maintains, has the possession or control of, shelters or is the custodian of an animal. An animal is deemed to be harbored if it is fed or sheltered for one day or more. "Owner" includes any person who knowingly permits an animal to remain on or about the premises under the control of that person. *(Ord. 323-04 – Nov. 06 Supp.)*

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. Every owner shall provide adequate sanitation which shall mean periodic cleaning or sanitizing housing facilities and any area where the animal is confined or restrained.

(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 by written consent of the Council or 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. All dogs and cats shall be kept on a leash at all times when beyond the Owner's property. No dog or cat shall be allowed to run at large.

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 DANGEROUS ANIMALS.

Subd 1. DEFINITION OF TERMS. As used in this Chapter:

A. "Dangerous Animal" means any dog or other animal that:

1. Has known propensity, tendency or disposition to attack unprovoked, causing injury, or otherwise threatening the safety of humans or domestic animal; or
2. When unprovoked, inflicts bites on a human or domestic animal on public or private property; or
3. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets sidewalks, or any public or private property, other than the animal owner's property, in an apparent attitude of attack; or

4. Is non-domesticated and not naturally tame or gentle, but which is of wild nature or disposition and:

a. Any animal or species prohibited by Federal or Iowa Law.

b. Any non-domesticated animal or species.

5. Is owned or harbored primarily or in part of the purpose of animal fighting, or any animal trained for fighting.

B. All applicable definitions contained in Monona City Code 55.17 Animal License/Permit are hereby incorporated in this Subdivision by reference.

Subd 2. CLASSIFICATION OF DANGEROUS ANIMAL.

If the Monona Animal Control Board has reasonable cause to believe a particular animal is dangerous, the Animal Control Board may find, declare and classify said animal as dangerous. The Animal Control Board will be made up of the Police Chief, a veterinarian, and a representative appointed by the city council.

Subd 3. NOTICE OF DANGEROUS ANIMAL CLASSIFICATION.

Within three (3) calendar days of classifying an animal as dangerous, the Animal Control Board shall notify the animal's owner in writing of said classification. The notice shall identify the requirements and conditions for maintaining a dangerous animal as set forth in this Ordinance. If the owner cannot be located, the animal shall be immediately impounded and notice shall be posted on the owner's property or sent by certified mail, return receipt requested, to the owner's last known address.

Subd 4. HEARING ON DANGEROUS ANIMAL CLASSIFICATION.

A. The owner of an animal classified as dangerous shall have the right to file, within five (5) regular business days after being sent notice by certified mail, return receipt requested, a written request for a hearing before the Animal Control Board to contest the dangerous animal classification. The hearing shall be held within seven (7) calendar days after the Animal Control Board receives the owner's written request. The request for hearing shall be sent to the Monona City Administrator.

B. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and cross-examine witnesses.

C. The Animal Control Board shall issue its decision within three (3) calendar days after the close of the hearing and shall notify the owner in writing of the decision.

D. If the Animal Control Board upholds the dangerous animal classification, the owner shall comply with all of the requirements and conditions for maintaining a dangerous animal as set forth in this Ordinance.

E. The decision of the Animal Control Board is final.

Subd 5. REQUIREMENTS FOR KEEPING A DANGEROUS ANIMAL.

The owner of a Dangerous Animal shall be subject to the following requirements:

A. PERMIT AND TAG REQUIRED FOR A DANGEROUS ANIMAL

1. The owner of a dangerous dog animal, within three (3) business days after the classification of the animal as dangerous or upon acquisition of the animal, obtain an annual permit from the City Administrator/Clerk to harbor the animal. The fee for such permit shall be five-hundred dollars (\$500) per year.

2. The permit for maintaining a dangerous animal shall be presented to the Animal Control Board upon demand.

B. CONFINEMENT. All dangerous animals shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner. The pen or structure must have minimum dimensions of five (5) feet by ten (10) feet and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two (2) feet. All pens or structures must be adequately lighted and kept clean and sanitary. The enclosure must also protect the animal from the elements.

C. PROHIBITED CONFINEMENT. No dangerous animal shall be kept on a porch or any part of a building, which would allow the animal to exit on its own volition. No dangerous animal may be kept in a building with open windows or screen windows which are the only obstacles preventing said animal from exiting. No dangerous animal may be kept in any portion of any multiple dwelling or housing.

D. LEASH AND MUZZLE. The owner of a dangerous animal shall not allow the animal to go outside its kennel, pen, or structure unless the animal is muzzled, restrained by a chain or leash not more than four (4) feet in length, and under the physical control of a responsible and competent person. The muzzle must not cause injury to the animal or interfere with its vision or respiration, but must prevent the animal from biting any human or animal.

E. SIGNS. The owner of a dangerous animal shall display in a prominent place on the owner's premises a clearly visible warning sign indicating there is a dangerous animal on the premises. The sign must be readable from the public street, highway or

thoroughfare. The owner shall also display a sign with a symbol warning children of the presence of a dangerous animal. Similar signs shall be posted on the animal's kennel, pen, or enclosed structure.

F. SALES OR PURCHASES. No person shall possess with intent to sell, offer for sale, breed, transfer ownership of or buy or attempt to transfer ownership of or buy any dangerous animal.

G. INSURANCES. The owner of a dangerous animal shall provide proof to the Monona City Administrator that the owner has procured public liability insurance of at least One Million and no/100ths dollars (\$1,000,000.00), insuring the owner for any damage or personal injury which may be caused by his or her dangerous animal within ten (10) calendar days after classification or a hearing determining said animal is dangerous.

H. NON-DOMESTICATED ANIMALS. No person shall keep or allow to be kept in the City, any non-domesticated animal or species, including, but not limited, to the following:

Skunks, lions, tigers, jaguars, leopards, ocelots, wolves, foxes, coyotes, dingoes, jackals, poisonous snakes, constrictors, raccoons, bears, badgers, primates and any other animal which is not listed above, but which can reasonably be defined by the definition of terms stated herein.

Subd 6. IMPOUNDMENT AND DESTRUCTION.

The Animal Control Board may order the impoundment and destruction of an animal if:

- A. The animal has attacked, bitten or injured a human or domestic animal; or
- B. The animal is a dangerous animal as defined in Subdivision 1. and the owner has failed to comply with the requirements and conditions for keeping a dangerous animal as defined in Subdivision 5.; or
- C. The animal poses a threat of serious harm to the public health and safety.

Subd 7. NOTICE OF IMPOUNDMENT.

Within three (3) calendar days of an impoundment, the City of Monona shall notify the animal's owner in writing of the impoundment.

Subd 8. HEARING ON IMPOUNDMENT/DESTRUCTION.

- A. The owner of an impounded animal shall have the right to file, within five (5) regular business days, after being sent notice by certified mail, return receipt

requested, a written request for a hearing before the City Council to contest the impoundment. The request for hearing shall be sent to the Monona City Administrator.

B. The hearing shall be informal and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence, and cross-examine witnesses.

C. The City Council shall issue its decision within three (3) calendar days after the close of the hearing and shall notify the owner in writing of the decision.

D. After considering all of the relevant evidence, the City Council may order the destruction of the impounded animal, or may release the animal to its owner conditional on the owner complying with the requirements for keeping a dangerous animal as set forth in Subdivision 5, or complying with any other requirements necessary to protect the public health or safety.

E. If the owner of an impounded animal fails to appear at a hearing or fails to request a hearing, the animal shall be, upon order of the Animal Control Board, either destroyed or, in the alternative, ownership transferred to a specific responsible person. The pet owner is responsible for any fees associated with impoundment.

Subd 9. EXEMPTIONS.

a. This Ordinance shall not apply to animals used by a police department or law enforcement agency.

b. No animal may be declared dangerous for injury or damage sustained by a person who was committing a willful trespass or other tort upon the premises of the animal's owner.

c. No animal may be declared dangerous for injury or damage sustained by a person who was teasing, tormenting, abusing, or assaulting the animal.

d. A traveling circus, zoological park, or show which keeps wild animals for a temporary exhibition may keep such animals within the city for a period not to exceed 30 days, provided the person, traveling circus, zoological park, or show has obtained a state permit or is exempt from such requirement.

Subd 10. CHANGE OF STATUS.

The owner of a dangerous animal, after being informed, shall notify the City of Monona Police Department or the Clayton County Dispatch immediately if either his or her dangerous animal is unconfined and running at large or has attacked a human or domestic animal.

Subd 11. ANIMAL FIGHTING.

No person shall possess, harbor, or maintain care or custody of any animal for the purpose of fighting, nor shall any person train, torment, badger, bait, or use any animal for the reason of causing or encouraging the animal to attack human beings or domestic animals.

Subd 12. PENALTIES.

Whoever violates any provision of this Ordinance (Chapter 55) shall be guilty of a simple misdemeanor and may be punished by a fine of not more than \$750 or 90 days in jail or both.

55.10 RABIES VACCINATION. Every owner of a dog or cat shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog or cat in said person's possession, six months of age or over, which has not been vaccinated against rabies.

(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 other animal or any person having knowledge of such bite or attack to report this act to the local Animal Control Board. It is the duty of physicians and veterinarians to report to the Animal Control Board the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

55.12 CONFINEMENT. If the Animal Control Board receives information that a vaccinated animal has bitten a person or animal or that a vaccinated 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 suspected animal has been unvaccinated, it is at the discretion of the victim whether to confine the animal or have the animal submitted for rabies testing. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such Board, and after eleven (11) 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.

(Ord. 307-01 – Mar. 03 Supp.)

(Code of Iowa. Sec. 351.39)

55.13 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded by 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. Whenever a dog or cat is impounded pursuant to this article or any other provisions of the law, the owner thereof shall pay an impounding fee of \$10 and any impoundment facility costs and required veterinary services, and furnish satisfactory evidence that the dog or cat is licensed before release.

(Ord. 315-02 – Mar. 03 Supp.)
(Code of Iowa, Sec. 351.37, 351.41)

55.14 ANIMAL WASTE CLEAN-UP AND DISPOSAL. Any person who walks or takes an animal upon public property, public right-of-way, parks, walking trails, school grounds, playgrounds or the private property of another person shall clean up, remove and dispose of solid waste excreted or deposited upon such public or private property by such animal. This section does not apply to an animal under the direct control of a person with disabilities, which animal is specially trained for the purpose of assisting such a person. Any violation of this Chapter would be considered a Municipal Infraction under Monona City Code Chapter 4.01 and punishable by civil penalty as noted therein.

55.15 ANIMAL COMPLAINTS AND TRAPS. If the Police Department receives a complaint from a citizen that a cat or other small animal is running at large or trespassing on private property, a member of the Police Department may furnish a trap to be placed on or in the property of the complainant under the supervision of the officer. Such trap shall be furnished in compliance with the policy procedures of the Police Department. The complainant shall notify the Police Department when an animal is trapped and an officer shall pick up the trap and animal. The trapped animal will be impounded or humanely destroyed.

55.16 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven days from the date that the notice is mailed, or if the owner cannot be located within seven (7) days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

55.17 DOG/CAT LICENSE REQUIRED.

1. Every owner of a dog or cat over the age of six (6) months shall procure a dog/cat license from the City. Exceptions to this requirement include a thirty-day residency grace period and dogs/cats under the age of six (6) months on the required licensing date.

2. Each license issued is effective for a 1- to 3-year period, based on the rabies vaccination schedule or certificate of that dog/cat.

A. LICENSE REQUIREMENTS.

1. Every owner of any dog or cat over six (6) months of age, being maintained or harbored, at any time in the corporate limits of the City of Monona, Iowa shall be vaccinated against rabies with an approved vaccine administered by a veterinarian who shall maintain a record of vaccination for a period of at least three (3) years, and who

shall issue the owner of such animal a Vaccination Certificate (which shall be retained by said owner until it expires and is renewed) and a vaccination tag. The failure to procure such Certificate when so requested by the Police Department or its representative shall be prima facie evidence that such animal has not been vaccinated.

(Chapter 55.10) (Code of Iowa, Sec. 351.33)

B. LICENSE RECORDS.

1. The Clerk or Police Department representative shall maintain a public record of each license issued containing the name of the dog/cat's owner, address and description of the animal.

C. ISSUANCE OF LICENSE.

1. No license shall be issued by the city administrative office until the owner of the dog/cat has provided proof of current rabies immunization, proof of spay or neuter, if applicable, and has paid the appropriate licensing fee.

2. Upon payment of the license fee, the clerk or police department representative shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the dog/cat and such other reasonable information as said city clerk or police representative may request for which the license is issued.

D. LICENSE TAGS.

1. The veterinarian shall issue a metal rabies vaccination tag showing the name of the veterinarian, the tag number, and the year of issuance, as required by Iowa State Law, which will duplicate as the required tag for the city.

2. The license tag issued by the veterinarian shall be securely fastened by the owner to a collar or harness which shall be worn at all times by the dog/cat for which it was issued unless the animal is kept inside. It shall be unlawful for any person other than the owner to remove the collar from the dog or cat.

3. A license issued for one dog/cat shall not be transferable to another dog/cat. Upon the expiration of the license the owner shall remove said tag from the dog/cat.

4. Any dog/cat found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

5. The Monona Police Department shall be notified immediately of all lost or reissued tags.

E. ENFORCEMENT.

1. Veterinarians shall in no way be responsible for the enforcement of the required licensing within the city of Monona. Enforcement of this chapter shall be the responsibility of the Monona Police Department or its representative.

2. Law enforcement officials shall enforce the provisions of this chapter relating to vaccination and impoundment of dogs/cats. Such public officials shall not be responsible

for any accident or disease of a dog/cat resulting from the enforcement of the provisions of said chapter.

3. A dog or cat shall be apprehended and impounded by law enforcement officials if the dog/cat is running at large and/or the dog/cat is not wearing a valid rabies vaccination tag or a rabies vaccination certificate is not presented to law enforcement officials.

(Chapter 55.13) (code of Iowa, Sec. 351.37).

4. Disposition of impounded animal.

(Chapter 55.16) (code of Iowa Sec 351.41).

5. Any owner of any unlicensed dog or cat is guilty of a misdemeanor and may be punished by a fine up to \$750 or by imprisonment up to 30 days.

55.18 SEVERABILITY.

If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court, such a decision shall not affect the validity of the remaining portions of this Ordinance.

Passed by the Council the 7th day of November, 2011, and approved this 7th day of November, 2011.

Fran Passmore, Mayor

ATTEST:

Dan Canton, City Admin./Clerk

First Reading: September 19, 2011

Second Reading: November 7, 2011

Third Reading: Waived

Final Passage: November 7, 2011

I certify that the forgoing was published as Ordinance No. 355-11 on the ____th day of November, 2011.

Dan Canton, City Admin./Clerk