

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 19, 2022

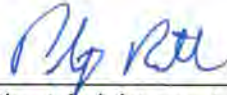
Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Ordinance No. 3198-2022: Proposed Ordinance to Repeal and Replace Chapter 7 of the City Code

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt the third and final reading of Ordinance No. 3198-2022

DISCUSSION: On January 18, 2022 the City Council held a public hearing to gather input from the community regarding a potential revision to the animal ordinance as requested by a previous petition calling for the end of breed specific legislation. Since that meeting staff and council members have continued to receive input and feedback from the community and the coalition. Although there is dissent regarding breed specific language in the revised ordinance, there is general consensus the revision improves the environment for animals. The first and second readings passed 4-1 and has been moved to the third and final reading.

Source of Funds:

Budgeted Item:

Budget Amendment Needed:

ORDINANCE NO. 3198-2022

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 7,
ANIMALS AND FOWL, OF THE MUNICIPAL CODE OF THE CITY OF
OTTUMWA.**

WHEREAS, the Ottumwa City Code defines pit bull terriers as dangerous animals and prohibits their keeping within the city limits; and

WHEREAS, the City of Ottumwa has not allowed pit bull terriers within the city limits since 2003; and

WHEREAS, petitions were presented to the City in 2010 and 2012 requesting removal of the ban on pit bull terriers from the City Code, and the City Council chose not to amend the ordinance at the time; and

WHEREAS, a petition was presented to the City in 2021 again requesting removal of the ban on pit bull terriers from the City Code; and

WHEREAS, the City Council has received public comment both in support and opposition of the pit bull terrier ban, the Council has held a work session on revisions to Chapter 7 of the City Code, and has carefully considered all information presented related to this item; and

WHEREAS, the City Council of the City of Ottumwa FINDS that the current ban on pit bull terriers within the City of Ottumwa should remain in place due to the following:

1. There are pit bull terriers being kept within the city limits in spite of the ban, and the City Council does not want to encourage or reward this unlawful behavior; and
2. The concerns and fears surrounding the danger that pit bull terriers pose to the community at large have not significantly changed since the ban was originally put in place; and
3. The community service officer has reported that there have been 16 pit bull terrier related charges issued in the first five months of 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA, THAT:

SECTION ONE. Chapter 7, Animals and Fowl, of the municipal code of the City of Ottumwa is hereby amended by repealing Chapter 7 in its entirety and enacting the following in lieu thereof:

Chapter 7 ANIMALS AND FOWL

ARTICLE I. IN GENERAL

Sec. 7-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means the voluntary relinquishment of possession of an animal by the owner, with the intention of terminating ownership without vesting it in any other person. To abandon shall include any of the following:

- (a) For the owner or keeper to leave any animal without demonstrated or apparent intent to recover or to resume custody.
- (b) To leave an animal for more than twelve (12) hours without providing adequate food, water, and shelter for the duration of the absence.
- (c) To turn out or release an animal.

Adequate food means fresh, nutritious food suitable for the species provided continuously or at suitable intervals in a sanitary manner in quantities sufficient to allow for normal growth or maintain good health and body weight in an animal considering its age and condition.

Adequate protection from the elements means a protected area, in addition to a doghouse or similar structure, that provides shade from the sun and protection from wind, rain, snow, and extremes of hot and cold.

Adequate shelter means a dog house or similar structure, for each animal chained, tethered, penned or otherwise restrained or confined outdoors, suitable for the species, age, condition and size of the animal; that has solid sides, floor and top that do not leak air or moisture and a cover over the doorway which keeps the doghouse or structure dry and allows the animal unlimited access and egress from the doghouse or structure; is clean, safe, enables the animal to be clean and dry and protects the animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is large enough for the animal to stand up, lie down and stretch comfortably and make all other normal bodily movements in a comfortable, normal position for the animal. A carrier or crate is not adequate shelter.

Animal means any live (or dead where applicable) domestic vertebrate creature, male or female, and including dogs and cats, fowl and reptiles kept as pets except wild or dangerous animals as hereinafter defined.

Animal control shelter means a facility which is used, but is not limited to, housing or containing dogs or cats, or both and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

At heel means under the voice control and within fifteen (15) feet of the owner or person in custody of the animal.

At-large means any licensed or unlicensed animal found off the premises of its owner and not under the control of a person physically capable of controlling the animal, and not on a leash sixteen (16) feet or less in length.

Behavior consultation means a consultation with a professional that has expertise in dog behavior with the intent to help the owner and the dog address the aggressive behavior displayed by the dog.

Bite means any puncture, laceration, abrasion, scratch or other break in the skin of a human being, or other animal where applicable.

Cat means any male or female animal of the family Felidae, genus Felis, species catus, whether neutered or not.

Chicken (Gallus domesticus) means a domesticated fowl.

City pound or dog pound means a facility for the prevention of cruelty to animals operated by the state, a municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

Community service officer means a person appointed by and under the direction of the chief of police to enforce the provisions of this chapter.

Dangerous animal means and includes any animal which is not naturally tamed or gentle; or which is of a wild nature or disposition; or which is capable of killing or inflicting serious injury upon human beings and having known tendencies, individually or as a species, to do so; or which, because of its size or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters, including, but not limited to, the following animals, which shall be deemed as dangerous per se:

Bears, wolves, wolf hybrid dogs, foxes, coyotes, lions, tigers, jaguars, leopards, cougars, panthers, lynxes, cheetahs, bobcats, elephants, bison, badgers, wolverines, weasels, skunks, raccoons, members of the primate family, scorpions, poisonous or venomous snakes, poisonous or venomous spiders, poisonous or venomous reptiles, and other poisonous or venomous animals, alligators, crocodiles, anacondas, pythons, boa constrictors, piranhas, sharks, pit bull terriers, any crossbreed of such animals which have similar characteristics to the animals specified herein.

Dart means the process whereby a drug of a sedative nature is delivered to and injected into an animal by means of a projectile shot from a rifle or gun, for the purpose of subduing or rendering an animal unconscious for capture.

Department shall mean the Administrative Services Department

Dog means any member of the canine species.

Domestic animal means any animal of a species that normally is bred, raised, and is accustomed to live in or about human habitation. Domesticated animals include, but are not limited to, pets such as dogs or cats. The term shall not include animals owned by the police department, animals in a zoo, or livestock.

Fowl means any of various birds of the order Galliformes, including but not limited to domesticated chickens, ducks, geese, turkeys, or pheasants.

Hearing Ear dog means any dog owned by a deaf or partially deaf person, and which has been properly trained to aid its owner.

High risk animal means any animal that satisfies one or more of the following:

- (a) Chases or approaches a person, domestic animal, fowl, or livestock in an apparent attitude of attack, or
- (b) Attacks a person, domestic animal, fowl, or livestock, or
- (c) Bites, harms, or attempts to bite or harm a person, domestic fowl, or livestock; and
- (d) Has been trained to fight other domestic animals; or
- (e) Has been trained as a guard dog for people or property.
- (f) This definition shall not apply to law enforcement canines.

An animal provoked to an attitude of self-defense, or assumes a defensive attitude in protection of its owner's property shall not summarily be proposed to be a high risk animal. The city administrator or their designee may take various factors into consideration when determining whether an animal meets this definition. These factors include, but are not limited to, whether the animal was provoked, or whether the animal was acting to protect itself, its owner, or its owner's property.

Hybrid means any offspring produced by breeding a domestic cat or domestic dog to an animal listed as a dangerous animal per se.

Identification tag means a rabies vaccination tag for cats and dogs and a city license tag for dogs.

In heat means a female animal during the active state of estrus.

Injury means any visible or documented bodily injury not constituting "Serious Injury" as defined herein.

Irresponsible animal owner means any animal owner that has:

- (a) Been convicted or pled guilty three times or more for separate incidents that occurred in any twelve (12) month period concerning:
 - (1) An animal at large;
 - (2) An animal disturbing the peace;
 - (3) An unlicensed animal;
 - (4) An excessive number of animals; or
 - (5) Unsanitary premises due to animals.
- (b) Been convicted or pled guilty two times or more for separate incidents concerning:
 - (1) Animal neglect;
 - (2) Keeping animals covered by section 7-27 without obtaining a license; or

(3) An animal declared a vicious animal.

(c) Or, been convicted of or pled guilty to:

(1) Animal abuse; or

(2) Animal torture.

Kennel means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire or training of dogs or cats and which is required to be licensed by the state for such purpose.

Licensed kennel cat and/or dog means cats and/or dogs kept or raised in a state or federal licensed kennel solely for the purpose of show, breeding, boarding or sale and kept under constant restraint.

Livestock means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus, farm deer or poultry.

Neutered shall mean the same as “neutered,” “altered,” and “spayed,” and refers to a procedure that has been performed by a veterinarian on an animal, male or female, that renders it incapable of bearing offspring.

Owner means any person who owns, keeps, harbors, feeds or knowingly permits an animal to remain on or about any premises owned or occupied by that person. If such person is a minor, then “owner” means the parents or custodial parent or guardian of such person.

Pit bull terrier means (1) an American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Bull Terrier breed of dog; (2) any dog displaying the majority of physical traits of any one or more of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Bull Terrier (more so than any other breed), or (3) a dog which conforms to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the administrative authority.

Proper enclosure of a potentially dangerous animal means, while on the owner's property, a potentially dangerous animal is securely confined indoors, or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and secure top to prevent the animal from escaping over, under, or through the structure, and shall also provide adequate food, adequate water, adequate shelter and adequate protection from the elements.

Provocation; without provocation. See section 7-21(b) and (c).

Seeing Eye dog means any dog owned by a blind or partially blind person and which has been trained to aid its owner.

Serious injury means a bodily injury that does any of the following:

(a) Creates a substantial risk of death;

(b) Causes serious permanent disfigurement;

(c) Causes protracted loss or impairment of the function of any bodily member or organ.

Service animal means a dog that is a working animal, not a pet, which is individually trained to do work or perform tasks for people with disabilities. The work or tasks a dog has been trained to provide must be directly related to the person's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being or companionship do not constitute work or tasks for the purposes of this definition.

Stray means any animal at-large.

Threatened animal means an animal that is abused as provided in section 7-4.

Vicious animal means and includes any animal which bites or harms:

- (a) A person or persons and the bite or harm causes bleeding or noticeable and documented injury to the person; or
- (b) A domestic animal, fowl, or livestock such that the domestic animal, fowl, or livestock is significantly injured, requires medical attention, is maimed, or killed.

An animal provoked to an attitude of self-defense, or assumes a defensive attitude in protection of its owner's property shall not summarily be proposed to be a vicious animal. The city administrator or their designee may take various factors into consideration when determining whether an animal meets this definition. These factors include, but are not limited to, whether the animal was provoked, or whether the animal was acting to protect itself, its owner, or its owner's property.

Wild animal means any live (or dead where applicable) vertebrate creature, male or female, not defined as an "animal" above or "dangerous animal" above.

Sec. 7-2. Enforcement of chapter.

The chief of police shall be responsible for the enforcement of the provisions of this chapter. However:

- (a) The city council may contract with another governmental entity or a nonprofit or not for pecuniary profit organization to operate the city pound for the purpose of impounding animals as required by this chapter, which said contract may provide for the delegation of such of the powers and duties herein granted to the chief of police as the city council deems necessary to carry out the purposes of this chapter.
- (b) The chief of police may appoint community service officers who shall assist in enforcing the provisions of this chapter and perform such other duties as is required. A community service officer shall have police powers necessary to discharge the duties of this chapter and to enforce its provisions.

Sec. 7-3. Interference while performing duties.

No person shall knowingly interfere with, hinder or obstruct the chief of police, a peace officer, a community service officer, or any other person authorized to perform duties under this chapter while engaged in the performance of their duties under this chapter. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-4. Cruelty to animals.

The following acts shall constitute abuse of animals, and shall subject the owner or other person in control of the animal to the penalty provisions of state law and this Code:

- (a) Failure to provide the animal unlimited access to adequate food, adequate water and easy access to adequate shelter and adequate protection from the elements.
- (b) Beating, tormenting, overloading or overworking an animal.
- (c) Permitting or encouraging any combat between animals, or between animals and humans.
- (d) Abandoning any animal, unless to an animal control shelter as defined herein.
- (e) Exposing any known poisonous material, drug, legal or illegal, with the intent of allowing or encouraging the material to be eaten by any bird, fowl or domesticated animal.
- (f) Failure to maintain sanitary conditions where animals are kept.
- (g) Harboring or owning any sick, diseased or injured animal without procuring veterinary care for said animal.
- (h) Maintaining an animal in such conditions and hygiene that the animal is unable to walk or move normally, conduct routine bodily functions, or stay clean, and free of disease and parasites.
- (i) Leaving any animal in a standing or parked vehicle, on a vehicle, tethered or confined for a length of time that could result in danger to or death of an animal. If the community service officer determines that such an animal is in immediate danger, the community service officer or designee may remove the animal by whatever reasonable means is necessary without liability, for the purpose of taking the animal into protective custody.
- (j) Intentionally injuring, maiming, disfiguring, mutilating or destroying an animal by any means that causes pain or suffering.
- (k) Overload or overwork a domestic animal or fowl or any other animal under the person's care, custody, and/or control.

State law reference(s)—Livestock neglect, I.C.A. § 717.2; animal neglect, I.C.A. § 717B.3; animal torture, I.C.A. § 717B.3A.

Sec. 7-5. Sanitation of premises.

All structures, pens, coops or yards wherein animals, domestic or wild, are confined shall be maintained in a clean and sanitary condition at all times, devoid of vermin and free from offensive odors. The chief of police or designee may, at any time, inspect or cause to be inspected any structure or premises, and issue any such order as may be necessary to enforce the provisions of this section, and any other relevant or pertinent rule, regulation of the board of health of the city, or any health provisions of this Code. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-6. Animal traps.

No person may set traps in the city for the purpose of apprehending wild or domesticated animals. This section does not prohibit:

- (a) Trapping mice, rats or other household vermin;
- (b) The setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action; or
- (c) The setting of traps in the line of duty by a community service officer, or with written permission from and supervision by a community service officer, or licensed pest control operators.

Sec. 7-7. Abandonment of animals.

No owner of an animal shall abandon such animal, unless transferred to another person, entity, or surrendered to a licensed animal control shelter.

State law reference(s)—Abandonment of cats and dogs - penalties, I.C.A. § 717B.8.

Sec. 7-8. Injury to animals.

- (a) The operator of any vehicle which strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained or located, the report shall be made to the police department.
- (b) All employees within the departments of public works, building and code enforcement, water pollution control, parks, fire and police are responsible for picking up dead animals, whether domestic or wild, found by that employee on streets, on public rights-of-way, and found at large in parks or on other public property. The police department will be notified of any injured animals found and will be responsible for taking such action as deemed necessary to protect or dispose of said animal. In the event a dead animal found on city property is wearing any type of identifying tag, the police department will be notified to attempt contact with the owner. City employees are not responsible for picking up dead animals on private property.

Sec. 7-9. Domesticated farm animals prohibited.

- (a) No horse, jack, mule, donkey, burro, pony, cow, bull, calf, steer, goat, sheep, lama, swine, turkey, ducks, geese, roosters or other livestock shall be kept on any city lot or in any dwelling or part thereof, or pastured or enclosed on the same lot or premises with a dwelling. However, no more than six adult rabbits and six adult female chickens (hens) may be kept within the city limits pursuant to all permit rules and regulations which shall be approved by resolution of the city council and/or by city ordinance.
- (b) Subsection (a) of this section shall not apply to property annexed to the city, if said conditions contrary to subsection (a) of this section existed on said property at that time, except that said prohibited conditions may not be expanded and when they cease to exist

they shall not be renewed. Said subsection (a) of this section shall not apply to property meeting the definition of "farm" as set out in the city's zoning regulations.

- (c) Furthermore, if the conditions on the property as a result of animals being kept are declared a nuisance by a court, they shall cease to exist and be removed. Subsection (a) of this section shall also not apply to dogs, cats, and household pets.
- (d) Urban chicken and rabbit permits.
 - (1) No person shall raise, harbor or keep chickens or rabbits without an urban chicken or rabbit permit, issued by the city.
 - (2) The term "chicken" means a member of the subspecies of Gallus domesticus, a domesticated chicken.
 - (3) The term "rabbit" means a member of the subspecies of lagomorpha leporidae, a domesticated rabbit.
 - (4) To obtain an urban chicken or rabbit permit, an applicant must submit a completed application on a form provided by the city accompanied by the permit fee.
 - (5) Within 30 days of submission of the application, the police chief or designee shall issue the urban chicken or rabbit permit if the applicant meets the requirements of this provision and the policy adopted by city council resolution or deny the application. If the application is denied, the police chief or designee shall state the reasons in writing.
 - (6) The urban chicken or rabbit permit shall be valid for three years and may not be sold, transferred or assigned.
 - (7) The police chief or designee may revoke a chicken or rabbit permit as provided in the policy adopted by council resolution.
 - (8) Appeals of the decision to deny or revoke a permit under this section are to the city administrator or designee and must be filed within ten days of the decision.
 - (9) Additional requirements, including permit fees, shall be adopted by resolution.
 - (10) Violation of this subsection or the terms of the urban chicken or rabbit permit are punishable by a municipal infraction with a civil penalty of \$250.00 for first violation, \$500.00 for the second violation and \$750.00 for third and subsequent violations.

Sec. 7-10. Hogpens.

- (a) No person shall keep or maintain within the city any hogpen or enclosures wherein swine are kept and fed by the owner, lessee or occupant of any property therein, save and except such pens as may be used for the purpose of commerce only. All such pens shall be kept clean; and the owner, lessee, or manager thereof shall see that the same do not become a nuisance in any respect.
- (b) Subsection (a) of this section shall not apply to property annexed to the city on February 13, 1975, if said conditions contrary to subsection (a) of this section existed on said property at that time, except that said prohibited conditions may not be expanded and when they cease to exist they shall not be renewed. Furthermore, if said prohibited conditions are declared a nuisance by a court, they shall cease to exist and be removed.

Sec. 7-11. Restraint of animals.

All animals shall be kept at heel or restrained by the owners thereof from running at-large. Dogs shall be restrained in city park ground, in cemeteries, on city rights-of-way, city levee ground and on any public property.

Sec. 7-12. Enabling animals to leave premises of owner.

It shall be unlawful for any person, except the owner or his agent, employee or immediate family to open any gate or door on any premises or otherwise entice or enable any animal to leave said premises.

Sec. 7-13. Hitching animals.

(a) It shall be unlawful for any person, without the consent of the owner or occupant of the premises, to fasten any horse or other animal to any fence or tree or to any boxing placed around any tree or to any fire hydrant, lamppost, fence, parking meter or sign within the city.

(b) It shall be unlawful for any person to tether an animal in the following manner:

(1) Using a tether that is less than ten feet (10') or more than fifty (50') feet in length;

(2) Using a tether that does not have swivels on both ends as to prevent twisting and tangling;

(3) Using a tether that contains chain links more than one-quarter of an inch thick or that has weights attached;

(4) Using a tether that exceeds one-eighth (1/8) of the dog's weight; or with a collar made of metal or chain, excluding the buckle, or using a collar, even if made of cloth, designed to continue to tighten, such as a slip lead or noose, when pulled tightly.

(5) No person shall allow an animal to be tethered between the hours of 10 p.m. and 6 a.m.

(6) No person shall allow an animal to have access to a public sidewalk or street while tethered.

(7) No person shall allow an animal to be tethered to a utility pole, parking meter, building, structure, fence, sign, tree, bush, bench, newspaper or advertising rack or other object on public property.

(8) No person shall allow an animal to be tethered in extreme weather or in an unsafe location. An unsafe location includes, but is not limited to, near a fence whereby the animal could asphyxiate itself if it jumped over the fence or on a deck whereby the animal could asphyxiate itself if it jumped off of the deck.

(9) No person shall allow an animal to be tethered in a manner that allows it to become entangled with another tethered animal.

Sec. 7-14. Animals on sidewalks, grassed areas.

No person shall, while leading, riding or driving any animal, including but not limited to horses, any team or any beast of any kind through the city, permit the same to go upon private property without the owner or occupant's permission or upon any sidewalk or parked margin (commonly called "the parking") of any street or upon any public improved ground, park or grassplot, upon the city trail system, the city park pedestrian and bicycle trail system, the levee

system, city cemeteries or any pedestrian bridge without the express permission of the city. This section shall not apply to dogs and cats.

Sec. 7-15. Animals in food establishment.

No owner shall permit or allow his animal to be in any building, store, restaurant or tavern where food or food products are sold, prepared or dispensed to people other than the owners of said establishments.

Sec. 7-16. Exceptions to sections 7-14, and 7-15.

The provisions of sections 7-14 and 7-15 shall not apply to Seeing Eye dogs, Hearing Ear dogs or service animals as defined by section 7-1, and as required by state and federal law.

Sec. 7-17. Animals not permitted to damage or defile premises.

No owner shall allow or permit his animal to damage or defile public property or the private property of another. Solid waste deposited by an animal on the surfaced portion of public streets and on sidewalks, or other public grounds, and private property shall be immediately removed by the owner of the animal.

Sec. 7-18. Noisy animals.

- (a) No owner shall permit or allow his animal to annoy or disturb reasonable persons by excessive or continuous barking, whining, howling, yelping, braying or the emitting of other loud noises. For purposes of this section, "continuous" shall mean a period of twenty minutes or longer.
- (b) The burden is upon the owner of such animal to maintain quiet.
- (c) Exceptions to this section are farm animals in permitted zones, commercial pet facilities, animal welfare facilities, veterinary hospitals, or grooming parlors otherwise in compliance with this Code, including, but not limited to those who can substantiate that such animal noise was caused by an injury or illness of the animal or by willful trespass, torment, or abuse of the animal on its property by others.

Sec. 7-19. Number of animals restricted.

No person shall keep dogs, cats or other animals in such numbers or in such a manner that their presence shall disturb the peace and comfort of any reasonable person or cause a nuisance, unsanitary premises, a menace or detriment to public health; or the owner is unable or unwilling to provide proper care for the animals as required by this chapter.

Sec. 7-20. Chasing of vehicles.

No owner shall allow or permit his animal to run after or chase persons, bicycles, automobiles or other vehicles.

Sec. 7-21. Animals which bite.

- (a) No animal shall attack, bite, attempt to bite or belligerently pursue any person or other animal without provocation.

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- (b) Provocation shall include the:
- (1) Defense of the property of the owner.
 - (2) Defense of the person of the owner or his immediate family.
 - (3) Defense of the animal itself where subjected to attacks, torture, torment, mishandling or other actions that could reasonably cause such a violent reaction by the animal.
- (c) Provocation shall not include:
- (1) The mere act of entering the premises or dwelling, other buildings or other property of the owner or occupant thereof with either actual or implied consent of the owner or occupant thereof to so enter.
 - (2) Any other action by a person or animal that would not be reasonably deemed to cause such a violent reaction.
- (d) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-22. Confining dogs.

- (a) *Shelter.*
- (1) All dogs shall have continuous access to a structurally sound, moisture-proof and windproof shelter large enough to keep the dog reasonably clean and dry.
 - (2) A shelter which does not protect the dog from temperature extremes or precipitation, or which does not provide adequate ventilation or drainage, shall not comply with this section.
 - (3) A dog's shelter and bedding and other accessible space shall be maintained in a manner which minimizes the risk of the dog contracting disease, being injured or becoming infested with parasites.
 - (4) No animal, excluding livestock, shall be kept or confined on property that does not have on it an occupied dwelling or structure, except a person may keep an animal on property contiguous to property having on it an occupied dwelling or structure if such properties are owned or controlled by the same person; however, a person may keep an animal on the premises of an unoccupied business for safety and security purposes.
 - (5) No animal shall be kept or confined in or at a placarded property as defined by section 20-3 of this Code.
- (b) *Nutrition.*
- (1) It shall be unlawful for any person keeping or harboring any dog to fail, refuse or neglect to provide such dog with clean, fresh, potable water adequate for the dog's size, age, and physical condition. This water supply shall be either free flowing or provided in a removable receptacle that is weighted or secured to prevent tipping.
 - (2) It shall be unlawful for any person keeping or harboring any dog to fail, refuse or neglect to provide such dog with wholesome foodstuff suitable for the dog's physical condition and age and in sufficient quantities to maintain an adequate level of nutrition for the dog.

(c) *Exercise.*

- (1) The enclosure or confinement area for dog shall encompass sufficient usable space to keep the animal in good condition.
- (2) When a dog is confined by means of a tether and cable run, the trolley system shall be configured to allow access to the maximum available exercise area; however, no tether and cable run shall be placed in such a location as will permit the dog to pass onto, over or across any of the public sidewalks, streets or alleys within the incorporated limits of the city.
- (3) When a dog is confined outside by means of an enclosure or an electronic containment device, the following minimum space requirement shall be met:
 - a. *Large dog.* For a dog that is larger than 20 inches at the withers or that weighs more than 50 pounds, the minimum confinement area per dog is 100 square feet.
 - b. *Medium dog.* For a dog that is larger than 12 inches at the withers and up to 20 inches at the withers or that weighs over 20 pounds and up to 50 pounds, the minimum confinement area per dog is 80 square feet.
 - c. *Small dog.* For a dog that is 12 inches or less at the withers or that weighs 20 pounds or less, the minimum confinement area is 50 square feet.

(d) *Penalty.*

- (1) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

ARTICLE II. IMPOUNDMENT AND DISTRAINT

Sec. 7-23. Persons finding animals at-large.

It shall be lawful for any person who finds an animal at-large on public or private property to seize and hold the animal. Any persons so seizing and holding an animal may restrain the animal on their premises by an adequate protective fence or by leash, cord or chain that does not allow the animal to go beyond their real property line. The person seizing and holding the animal shall immediately notify the police department and shall be responsible for the humane treatment of the animal while it is under that person's custody until picked up by the community service officer. If the animal is unclaimed by its owner after five days, the person who found the animal may claim the animal after paying the appropriate fees.

Sec. 7-24. Impoundment generally.

- (a) The chief of police or community service officer, in their stead, will impound animals found running at-large.
- (b) Any dog or cat or other animal at-large in the city shall be taken by the community service officer and impounded at the animal control shelter and there confined in a humane manner.

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- (c) Upon the impounding of any animal, the owner, if known, shall be notified of such impoundment by telephone or by a door tag or by a letter mailed to the known owner at his last known address. Registry of impounded dogs shall be available for inspection during reasonable hours by the public, which said registry shall show date and manner of notice, if any. Notice shall be deemed given upon telephone contact with owner or attaching a door tag to the owner's residence or by depositing the notice in the U.S. mail.
- (d) With proper identification, the owner, their agent, employee or member of their immediate family, of an impounded animal shall be entitled to resume possession of such animal, before the lapse of the five-day time limit set out in subsection (e) of this section unless the animal is required to be kept for the ten-day period as set out in section 7-25(e), on the following conditions:
- (1) The owner shall present proof of purchase of current city dog license tag if reclaiming a dog and show proof of current rabies vaccination if reclaiming a dog or cat, or the owner must obtain such vaccination; and
 - (2) The owner must pay the impoundment fee and all veterinary fees reasonably incurred by the city for the care of his animal. Fees for impoundment and care of an impounded animal shall be set by city council resolution and may be revised as necessary.
- (e) It shall be the duty of the animal control shelter to keep all such animals so impounded for a period of five days after the owner has been notified as provided in subsection (c) of this section unless the owner redeems and reclaims said animal before the lapse of five days. If after five days following notice to the owner of the impounding of the owner's animal, or if the owner is unknown, then five days after the impoundment of such animal, the animal has not been claimed and redeemed as provided in this section, the animal control shelter shall update the city of the status of the animal. Following this period, said unclaimed animal shall become the property of the city and may be given by the city to an organization or governmental entity operating an animal control shelter, if the city is not operating the shelter, and may be humanely destroyed or placed for adoption.
- (f) Any animal which appears to be suffering from rabies or other disease communicable to humans when impounded shall be confined in the animal control shelter or a veterinary hospital or clinic for a period of not less than ten days from impoundment, and said animal, or its carcass if it dies, shall be subject to such reasonable medical or pathological tests as the veterinarian or community service officer shall recommend, which tests, if any, shall be conducted at the expense of the owner. If an animal is determined to be infected with rabies, it shall be destroyed or disposed of as directed by the chief of police or the community service officer; if not so infected with rabies, it may be reclaimed by the owner and if not shall become city property and said organization or governmental entity operating the animal control shelter may place it for adoption, or it may be disposed of by humane means.
- (g) No person may claim or redeem any animal as provided in subsection (d) of this section or section 7-25 until the fees and charges as required by subsection (d)(2) of this section are paid and the animal is currently licensed and vaccinated as required herein.
- (h) From time to time there may be established by resolution of the city council, a schedule of fees to defray the costs of caring for impounded animals. Failure or refusal by the owner of an impounded animal to pay such fees shall constitute a violation of this section.

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- (i) This section shall not apply to high risk, dangerous, or vicious animals as provided in this chapter.

Sec. 7-25. Impoundment of infected animals.

- (a) It shall be the duty of the owner of any animal or any person having knowledge of such animal having rabies or attacking, belligerently pursuing, or biting any person in the city to promptly report such fact to the community service officer.
- (b) It shall be the duty of every veterinarian in the city to report to the community service officer any diagnosis of rabies in an animal made by the community service officer or under their supervision.
- (c) It shall be the duty of every physician or nurse to immediately inform the community service officer of the name and address of any person treated for bites inflicted by an animal, together with such other information as will assist in the prevention of rabies or other disease, and the identification and apprehension of the biting animal.
- (d) The community service officer shall report all instances reported to them pursuant to the requirements of subsections (a) and (b) of this section to the chief of police of the city.
- (e) Upon demand by a peace officer or the community service officer, the owner shall forthwith surrender any animal which has bitten, attacked or belligerently pursued any person for supervised quarantine in the animal control shelter or veterinary hospital or clinic at the expense of the owner. The animal shall remain confined for a minimum period of ten days under the observation of a licensed veterinarian.
- (f) When evidence is presented that such animal is currently inoculated against rabies, the community service officer, at their discretion, may give written order to confine the animal in the home of its owner, or in such a manner so as to prohibit the animal from coming into contact with or biting any other person or animal, for a minimum of ten days; provided, however, that the owner is willing to comply with the terms of the order, and the owner has the means to adequately confine said animal. The owner shall comply with said order until written release from the required quarantine is obtained from the community service officer.
- (g) Any animal which has bitten, attacked or belligerently pursued any person if deemed necessary by a peace officer or the community service officer shall be examined by a licensed veterinarian, and a written report of the animal's clinical condition shall be forwarded to the community service officer within 24 hours.
- (h) At the end of the confinement period, the veterinarian shall reexamine the animal and submit to the community service officer a written report of the animal's final clinical condition, recommending whether or not the quarantine should be terminated.
- (i) No owner of any animal known to have bitten or caused a skin abrasion upon any person shall euthanize, sell, give away, or transport from this city or otherwise dispose of such animal, until written release from the required quarantine for such animal is obtained from the community service officer.

Sec. 7-26. Control of disease outbreak.

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia or rabies, the mayor, if they deem it necessary, shall issue a proclamation ordering every owner of an animal to confine the same securely on the owner's premises at all times, for such period as deemed necessary.

State law reference(s)—City may provide additional measures for restriction of dogs for control of rabies, I.C.A. § 351.41.

ARTICLE III. LICENSING AND VACCINATION

Sec. 7-27. License required.

The owner of any dog four months old or over, except dogs kept in kennels for the purpose of breeding and sale or in shelter care facilities licensed by the state, shall be responsible for applying for and acquiring a license for such dog as of January 1 of each year.

Sec. 7-28. Application.

- (a) The owner of any dog for which a license is required shall, on or before January 31 of each year, apply in writing on forms provided by the city clerk for a license for each dog owned by the applicant, which application form shall be signed by the owner. The application shall show the breed, sex, age, color, approximate weight, markings, whether the dog is spayed or neutered, and name of the dog and the address and telephone number of the owner.
- (b) Applications for a license for dogs over which ownership is acquired after January 31 or which dog has reached the age of four months shall be made within one month from the date of acquisition, or within one month after the dog reaches the age of four months.
- (c) No dog shall be licensed hereunder unless there is submitted by the owner evidence that the dog has a current rabies vaccination certificate as required by section 7-34 and the certificate of vaccination has been signed by a licensed veterinarian.

Sec. 7-29. Exemptions.

- (a) The license fees hereinafter provided shall not apply to dogs owned by nonresidents temporarily within the city for a period of not more than 30 days, but shall apply to the dogs of any owner becoming a resident of the city within 30 days after establishing such residence.

Sec. 7-30. License fee.

An individual dog license fee per calendar year or fraction thereof shall be adopted by council resolution. The head of the family shall be liable for payment of the license fee on any dog owned, harbored or kept by any member of the family. A penalty, as set by council resolution, shall be added to the license fee if not paid prior to February.

Sec. 7-31. Issuance of tags.

When a dog is registered for licensing, a record of the breed, color, name of dog and name of owner, together with the number of the license issued, shall be made of record in the city clerk's office. The city clerk, police department, animal control shelter, or veterinarians shall issue a license tag for each dog licensed, and such license tag shall be securely fixed to a suitable collar or harness on each dog licensed and worn by such dog at all times. A list of issued licenses shall be turned into the city clerk monthly to be compiled into an inclusive list of licensed dogs.

Sec. 7-32. Tag not transferable.

The dog tags required by this article shall not be transferable from one dog to another, and no refund shall be made on any dog license fee because of the death of the dog or by reason of the owner leaving the city before the expiration of the license period.

Sec. 7-33. Duplicate tag.

Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of \$1.00. The city clerk shall keep a proper record of the issuance of duplicate tags.

Sec. 7-34. Rabies vaccination required for dogs and cats.

The owner of all dogs and cats four months old or older shall obtain a current rabies vaccination for such animal from a licensed veterinarian and obtain a tag evidencing the same. Said vaccination tag shall be attached to a substantial collar or harness on the animal by the owner and shall at all times be kept on the animal for which the vaccination was given.

Sec. 7-35. Revocation of License.

Every license shall be subject to revocation for any violation of the provisions of this chapter or of any other pertinent ordinance of the city, or of any statute or regulation of the state of Iowa pertaining hereto. Notice of such revocation shall be given in writing, delivered personally or by regular mail to the holder of such permit.

Sec. 7-36. Appeal.

The city administrator may hear and determine any matter pertaining to the issuance or revocation of a license, as herein provided, upon application or request to so do by the applicant or license holder. An appeal under this article shall be filed with the city clerk in writing within twenty days of the denial or revocation of a license.

Sec. 7-37. Removal of Animals.

If animals or fowl are found being kept without a permit or license having been issued, the community service officer shall be authorized to immediately impound the animals or fowl. The owner of the impounded animals or fowl shall be responsible for all impound and boarding fees. In the event of the revocation of any permit or license, as herein provided, the holder of

such permit shall remove all animals or fowl from the premises concerned within fifteen days after receipt of notice or revocation, as by this chapter provided; subject to the condition, however; that in the event application shall be made to the city administrator for determination as to the matter of revocation of any such permit, the period of time for removal of such animals or fowl shall be extended until ten days after affirmation of the revocation by the city administrator if such affirmation be granted.

ARTICLE IV. ANIMAL CONTROL

Sec. 7-38. Disposition of Vicious or High Risk Animals.

- (a) Any animal suspected of being or previously determined to be vicious or high risk shall be seized by a community service officer and impounded in the animal shelter. In the event the animal cannot be caught by a community service officer without exposing the officer or citizens to danger or personal injury, a peace officer or community service officer is authorized to humanely destroy the animal. This section shall not apply to a vicious animal which is housed or otherwise kept outside the limits of the city, which is brought into the city for the sole purpose of receiving medical care in a bona fide, licensed veterinarian hospital or clinic for treatment.
- (b) An animal suspected of being high risk may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presentation of proof to the chief of police or their designee of compliance with the requirements of this article, with the exception of the spay and neuter requirement.
- (c) An animal suspected of being vicious may be reclaimed by the owner of the animal upon:
 - (1) Payment of impounding fees,
 - (2) Presenting proof to the chief of police that the animal shall be relocated outside the corporate limits of Ottumwa, and
 - (3) Signing an agreement with the city that authorizes seizure and immediate disposition of the animal in accordance with law and without further notice, in the event the animal, while considered vicious, is subsequently returned to any place within the corporate limits of Ottumwa.
- (d) If an owner refuses the community service officer entry upon property to view or seize an animal suspected of being vicious or high risk, the officer may request a search warrant through the city attorney or their designee from a judge or magistrate. Such requests shall detail the reason why the warrant is necessary and why the community service officer has reason to believe a violation of this article exists.
- (e) Any animal previously determined to be a vicious animal which is seized or impounded within the city shall be disposed of in accordance with law without any further notice to the owner, if any.

Sec. 7-39. Determination of a High Risk or Vicious Animal.

The determination of a high risk or vicious animal shall be in accordance with the following procedures:

- (a) The community service officer or peace officer, upon investigation of an incident alleging a bite or attack in violation of Section 7-21 may deem the animal(s) involved in the violation high risk or vicious. The chief of police or their designee shall issue a written notice to the owner that the owner's animal has been deemed high risk or vicious, as applicable. The owner of the animal deemed high risk or vicious may appeal the decision within ten days, as provided below.
- (b) The owner of the animal may redeem the animal as provided in this chapter, as applicable. The animal shall be considered high risk or vicious (as applicable), pending the outcome of an administrative appeal as provided herein.
- (c) Appeal. The owner whose animal is deemed to be high risk or vicious may appeal the determination to the city administrator within ten days from the date of the decision. The city administrator shall schedule a hearing within seven days from the receipt of the notice. The appeal shall stay the decision of the chief of police or their designee unless the city administrator directs otherwise. At the public hearing, the city administrator or their designee shall serve as hearing officer. The applicant shall have the opportunity to present evidence or arguments the applicant may have as to why the decision of chief of police or their designee appealed from should not be approved by the city administrator. The city administrator shall render a written decision on the appeal within seven days after the hearing. The findings of the city administrator or the city administrator's designee as hearing officer shall be conclusive. The parties may extend the time limits set forth herein by mutual agreement.
- (d) The determination of an animal to be high risk or vicious shall become permanent if no administrative appeal is sought, or if administrative appeal proceeding results in affirming the high risk or viscous determination.

Sec. 7-40. High Risk Animals.

It shall be unlawful for any person to own, keep, or harbor a high risk animal within the city limits unless the high risk animal is kept in accordance with this article. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-41. Regulation of Keeping High Risk Animals.

- (a) All owners of high risk animals, as defined in subsection 7-1, whether licensed or unlicensed, are required to keep such animal:
 - (1) From running at large;
 - (2) From going into the streets and other public or private place within the city unless muzzled, on a leash six (6) feet or less in length, and under the control of an individual eighteen (18) years of age or older;
 - (3) From being leashed to an inanimate object such as trees, posts, and buildings;

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- (4) Under control as to prevent such animal from attacking or injuring persons, domestic animals, fowl, or livestock lawfully on the premises of the owner.
- (b) While on the owner's property a high risk animal must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the high risk animal from escaping. Such pen or structure must have minimum dimensions of five feet by ten feet (5' x 10') with height of six feet (6'), and must have secure sides and be capped if need be. The enclosure must also provide the high risk animal protection from the elements. Warning signs must be placed on all sides of the property and at least two feet (2') from any entrance to the property. The warning signs must say "Dangerous Dog" or similar language adequate to warn those approaching.
- (c) If the high risk animal owner lives in rental property, the high risk animal owner must obtain the landlord's written permission to keep a high risk animal on the premises.
- (d) A community service officer or peace officer may, in his or her discretion, prior to the high risk animal's authorized use, inspect the securely enclosed locked pens, signage, and structures.
- (e) A high risk animal's owner must receive an annual certificate of registration or license from the Police Department of the City of Ottumwa. The certificate or license will be issued upon the owner establishing to the satisfaction of the Department that it has met the following criteria:
- (1) The owner or caretaker of the high risk animal must be eighteen (18) years of age or older and has the physical ability to control the animal.
 - (2) The owner presents a certificate of insurance issued by an insurance company licensed to do business in the State of Iowa providing personal liability insurance as in a homeowner's policy, with a minimum liability amount of \$100,000.00 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or his or her agents. The certificate shall require notice to the city, in conformity with general city standards for certificates of insurance, if the underlying policy of insurance is cancelled for any reason. In lieu of such a certificate, a copy of a current homeowner's policy designating these requirements shall be sufficient proof of insurance for purposes of this subsection. If a certificate of insurance or policy is not immediately available, a binder indicating the coverage may be accepted for up to thirty (30) days subsequent to the determination that a dog is high risk; however, if after thirty (30) days a certificate of insurance or a policy has not been submitted or the insurance coverage is cancelled, the animal shall be deemed unregistered or unlicensed and subject to immediate impoundment or removal from the corporate limits of the city.
 - (3) The high risk animal has a current rabies vaccination at the owner's expense.
 - (4) The high risk animal has been spayed or neutered by a veterinarian at the owner's expense.
 - (5) The high risk animal has been microchipped by a veterinarian at the owner's expense. The data attached to the microchip must be kept current.

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- (6) The high risk animal has been photographed for identification purposes.
 - (7) If the high risk animal is a dog, a current license issued through the city.
 - (8) The owner has a proper enclosure to prevent the entry of any person or animal and the escape of said high risk animal.
- (f) The owner of a high risk animal, as defined in subsection 7-1, shall have ten (10) days to comply with the provisions of this section once said animal satisfies the elements of subsection 7-1.
 - (g) The owner or caretaker of a high risk dog shall immediately notify the Police Department if the dog is on the loose, is unconfined, has attacked another animal, has attacked a human being, has died or has been sold or given away. If a high risk dog has been sold or given away, the former owner or caretaker shall immediately notify the Police Department of the identity and address of the new owner or caretaker.
 - (h) The owner of the high risk dog shall be required to successfully complete a Behavior Consultation at the owner's expense within sixty (60) days after receiving notification declaring the dog "high risk." The owner shall be required to provide written documentation proving successful completion of the Behavior Consultation to the Police Department including a certification or receipt bearing the name of the consultant and the dates of the consultation.
 - (i) An owner or caretaker of any dog declared high risk found to be in violation of this code, is willfully in violation or is unable to meet the requirements of this chapter, shall be automatically escalated to a classification of a dangerous dog and ordered to confine the animal according to the provisions of 7-43. Failure to abide by this section shall result in an additional order in writing to safely remove the dog from the city or humanely destroy the animal within ten (10) days.
 - (j) The owner of a high risk dog shall be denied a permit for the dog to enter any public park or park designated as a dog park in the City of Ottumwa.
 - (k) The owner of a high risk dog may request to have the declaration reconsidered by the city administrator and police chief after a minimum of one year. If it is determined that there have been no further violations of this chapter, confinement precautions have been taken, and proper training has occurred, the declaration of high risk may be removed.

Sec. 7-42. Impoundment of High Risk Animals.

- (a) The community service officer or their designee shall immediately seize and impound any high risk animal if:
 - (1) The animal is not licensed as required by section 7-41; or
 - (2) The owner does not secure the animal in a proper enclosure; or
 - (3) The animal is outside the proper enclosure and not under physical restraint of a responsible person eighteen (18) years or older by a leash no longer than six (6) feet or not muzzled.
- (b) Impoundment and Disposition

First Offense: The first time a high risk animal is seized under this section it may be reclaimed by the owner of the animal upon payment of impoundment and boarding fees, and presentation of proof to the community service officer that the requirements of this chapter have been met. An animal not reclaimed within five (5) days may be disposed of as provided under section 7-24, and the owner is liable to the city for costs incurred in confining and disposing of the animal.

Second Offense: The second time a high risk animal is seized under this section it may be reclaimed by the owner upon payment of impounding and boarding fees, and presentation of proof, which shall include a signed affidavit from the person taking custody of the animal, to the community service officer that the animal will be removed from the City. An animal not reclaimed within five (5) days may be disposed of as provided under section 7-24, and the owner is liable to the city for costs incurred in confining and disposing of the animal.

Third Offense: The third time a high risk animal is seized under this section it shall be euthanized and the owner shall be liable to the city for the costs incurred in confining and disposing of the animal.

- (c) Any animal believed by the police chief, the chief's designee, or the community service officer to be a high risk animal shall be impounded, at the owner's expense, until such time as a final resolution is reached or until such time the animal is reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presentation of proof to the community service officer that the requirements of this chapter will have been met.

Sec. 7-43. Keeping of Dangerous Animals Prohibited – Exceptions and Regulations.

- (a) It shall be unlawful for any person to keep, shelter, or harbor for any purpose within the city a dangerous animal or dangerous animal hybrid, as defined in section 7-1, except for the following:
- (1) Service animals as defined by section 7-1, and as required by state and federal law.
 - (2) in a public zoo, bona fide educational or medical institution, museum, or other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
 - (3) for exhibition to the public by circus, carnival, exhibit, show or pet shop;
 - (4) in a bona fide, licensed veterinarian hospital for treatment;
 - (5) at an animal control center where such animals have been impounded and until such animals may be removed from the city limits in a safe manner or humanely disposed of in accordance with any applicable law.
- (b) Every person, firm, or corporation owning, keeping, sheltering, or harboring a dangerous animal in accordance with this section shall report such fact to the Ottumwa Police Department and to the community service officer, along with the following information:
- (1) The name of the species of any such animal;

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- (2) The number of any such animals kept on the premises.
 - (3) A physical description of any such animal, including any pet name to which it might respond;
 - (4) The location of any such animal or animals within the city, including the location of the cage or place of confinement upon in said premises wherein said animal or animals are kept;
 - (5) In the case of dangerous animals that are poisonous or venomous, the location of the nearest source of anti-venom for that species.
- (c) Every person, firm, or corporation owning, keeping, sheltering, or harboring a dangerous animal shall at all times keep such animals securely confined within a cage or other enclosure as defined in Section 7-41(b).
 - (d) No person, firm, or corporation owning, keeping, sheltering, or harboring a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way, or the property of another, except when such animal is being transported while caged or confined.
 - (e) In the event that a dangerous 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, such animal may, in the discretion of the city administrator or the city administrator's designee, or the chief of police, be destroyed if it cannot be confined or captured, thereby creating a hazard to life or property. The City, its officers and employees shall be under no duty to attempt to confine or capture a dangerous animal found at large, no shall it have the duty to notify the owner of such animal prior to its destruction.
 - (f) Any animal believed by the police chief, their designee, or the community service officer to be a dangerous animal shall be impounded, at the owner's expense, until the dangerous determination becomes final resulting from administrative procedures as provided herein or until the animal is reclaimed by the owner of the animal in accordance with the provisions of this chapter.
 - (g) Appeal. The owner whose animal is deemed to be dangerous may appeal the determination to the city administrator within ten days from the date of the decision. The city administrator shall schedule a hearing within seven days from the receipt of the notice. The appeal shall stay the decision of the city employee unless the city administrator directs otherwise. At the public hearing, the applicant shall have the opportunity to present evidence or arguments the applicant may have as to why the action of employee appealed from should not be approved by the city administrator. The city administrator shall render a written decision on the appeal within seven days after the hearing. The findings of the city administrator or the city administrator's designee as hearing officer shall be conclusive. The parties may extend the time limits set forth herein by mutual agreement.
 - (h) The determination of an animal to be dangerous shall become permanent if no administrative appeal is sought, or if administrative appeal proceeding results in affirming the dangerous determination.

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- (i) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-44. Vicious Animals - Duty of Owner.

- (a) It shall be unlawful for any person to own, keep, or harbor a vicious animal within the city. All owners of vicious animals, whether licensed or unlicensed, as defined in subsection 7-1 are required to microchip and remove the animal from the city limits within ten (10) days of the determination of the community service officer or community service officer's designee that the animal is vicious. Alternatively, the owner may authorize the euthanasia of the animal. If the owner refuses to remove the animal from the city or authorize the euthanasia of the animal, the City shall euthanize the animal at the owner's expense. This chapter shall not apply to dogs owned by a law enforcement agency or other federal, state, or local government agencies.
- (b) The police chief, their designee, or the community service officer, may cause the animal to be impounded and destroyed without notice to the owner if the animal has previously been removed from the city as a vicious animal and is found within the city. If the animal has actually bitten or attacked a person, a domestic animal, fowl, or livestock the community service officer may send the head of the animal to an appropriate facility for the purpose of determining if it was rabid. The cost of the transportation and the report shall become an obligation of the owner and the City may seek reimbursement in any lawful manner.
- (c) Subsequent to the summary destruction of any animal, the community service officer shall make a reasonable effort to determine whether persons have had any contact with the destroyed animal and, where appropriate, advise them of any unfavorable report concerning the animal's condition.
- (d) Any animal believed by the police chief, their designee, or the community service officer to be a vicious animal shall be impounded, at the owner's expense, until the vicious determination becomes the final resulting from administrative procedures as provided herein or until the animal is reclaimed by the owner of the animal in accordance with the provisions of this chapter.
- (e) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-45. Community Service Officer Notification.

- (a) Owners or caretakers of high risk or vicious animals shall notify the Ottumwa Police Department, and the community service officer of the following:
 - (1) Immediate notification upon the escape of a high-risk or vicious animal, if the animal is on the loose, or if the animal is unconfined;
 - (2) Immediate notification if a high risk or vicious animal has attacked a human being, domestic animal, fowl, or livestock.

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- (3) Notification within twenty-four (24) hours if the animal has been sold or has been given away and the owner or caretaker shall also provide the community service officer of the community service officer's designee with the name, address, and telephone number of the new owner or caretaker of the high risk or vicious animal;
 - (4) Notification within five (5) business days if the animal has died or been euthanized.
- (b) Failure to comply with the provisions of this section shall be unlawful. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-46. Irresponsible Animal Owners.

- (a) The determination of an "irresponsible animal owner" shall be in accordance with the following procedures:
- (1) The police chief, their designee, or the community service officer, upon being satisfied that an owner is an irresponsible animal owner, shall cause to be served upon the owner a written notice of said determination.
 - (2) The written notice shall contain:
 - a. A finding that the owner is an irresponsible animal owner;
 - b. A description of the acts relied upon in determining the owner is an irresponsible animal owner;
 - c. A copy of this section of the municipal code and the definition of "irresponsible animal owner" under section 7-1; and
 - d. A statement advising the owner of the right to request a hearing as provided by subsection (4) within a stated time which shall be reasonable under the circumstances.
 - (3) Notice. Notice shall be by personal service or by certified mail to the owner.
 - (4) Request for hearing and appeal. Any owner advised that the owner is declared an irresponsible animal owner may have, upon request, a hearing before the city administrator and with the officials making said determination as to whether the owner is an irresponsible animal owner. A request for a hearing must be made in writing and delivered to the office of the city administrator or the city administrator's designee within the time stated in the notice or it will be conclusively presumed that the owner is an irresponsible animal owner.
- (b) The city administrator or the city administrator's designee will act as the hearing officer. At the conclusion of the hearing or within three (3) days thereafter, the hearing officer shall render a written decision as to whether the owner is an irresponsible animal owner. An appeal from this decision may be had by filing a written notice with the hearing officer. This appeal will be heard before the city council at a time and place fixed by the council. The findings of the council shall be conclusive.

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- (c) If an owner is declared to be an irresponsible animal owner the owner shall be banned from having animals within the city limits of the City of Ottumwa. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.
 - (d) The police chief, their designee, or the community service officer shall cause any animal to be impounded if an owner has been declared an irresponsible animal owner and is found to have an animal within the city.
 - (e) The police chief or the community service officer may order the destruction or adoption of any animals impounded under this section.
 - (f) A person who has been declared to be an irresponsible animal owner may request to have the declaration reconsidered by the city administrator and police chief after a minimum of five years. If the person can demonstrate that they are able to appropriately care for an animal, the declaration of irresponsible animal owner may be removed.

ARTICLE V. ENFORCEMENT

Sec. 7-47. Failure to license or vaccinate.

Any person who fails to license or vaccinate any animal as required by this chapter shall be guilty of a municipal infraction and shall be subject to a fine not to exceed that amount allowed by section 1-53.

Sec. 7-48. Penalties.

Except where hereinabove provided otherwise, the violation of any provision of this chapter shall be charged as a municipal infraction with a civil penalty of \$250.00 for first violation, \$500.00 for the second violation and \$750.00 for third and subsequent violations. Each day any violation of any provision of this chapter shall continue shall be considered a separate offense.

Sec. 7-49. Duty to Investigate.

The community service officer or their designee shall promptly investigate all reported cases of neglect, injury, or cruelty and shall take action as necessary, provided a violation of the Ottumwa City Municipal Code or state law is present.

Sec. 7-50. Entry onto Property.

The following steps may be taken to make entry onto or gain entry into private property for the purposes of enforcement of this code:

- (a) If the animal is located outside the residence, the animal shall be removed and impounded if the animal is in imminent danger or further injury may occur. A search warrant shall be obtained pursuant to 7-38 unless exigent circumstances exist including but not limited to the degree of imminent danger to the animal, i.e. whether in the opinion of the veterinarian the animal will suffer serious injury or death if care or

treatment are delayed and there is insufficient time to secure consent from the owner or caretaker or to obtain a search warrant. Notification of impoundment shall be given to the owner or caretaker in person or in writing upon removal of the animal.

- (b) If the animal is located outside the residence, but is not in imminent danger or further injury will not occur to the animal, corrective measures may be placed upon the owner or caretaker. Failure to comply with the corrective measures shall result in the animal being removed from the residence and impounded at the animal shelter or veterinarian. Notification of impoundment shall be given to the caretaker in person or in writing upon removing the animal.
- (c) If the animal is located within the residence, a search warrant shall be obtained to gain legal entry into the residence and the animal shall be removed and impounded at the animal shelter or veterinarian if the animal is in imminent danger or further injury may occur. Notification of impoundment shall be given to the owner or caretaker in person or in writing upon removal of the animal.
- (d) If the animal is located within the residence, a search warrant shall be obtained to gain legal entry into the residence. If said animal is found not to be in imminent danger or further injury will not occur to the animal, corrective measures may be placed upon the owner or caretaker. Failure to comply with said corrective measures shall result in the animal being removed from the residence and impounded at the animal shelter or veterinarian upon service of an additional search warrant. Notification or impoundment shall be given to the owner or caretaker in person or in writing upon removing said animal.

SECTION TWO. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion hereof.

SECTION THREE. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION FOUR. Effective. This Ordinance shall be in full force and effect, from and after its passage, adoption, and approval and publication as required by law, unless a subsequent effective date is set out hereinabove.

SECTION FIVE. When this ordinance is in effect, it shall automatically supplement, amend, and become a part of the said Code of Ordinance (Municipal Code) of the City of Ottumwa, Iowa.

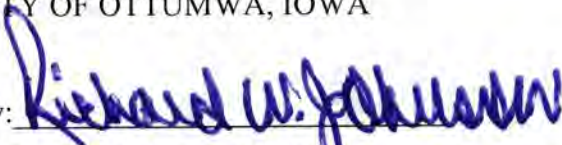
PASSED on its first consideration the 21 day of June, 2022.

PASSED on its second consideration the 5th day of July, 2022.

Requirement of consideration and vote at two (2) prior Council meetings suspended the _____ day of _____, 2022.

APPROVED this 19 day of July, 2022.

CITY OF OTTUMWA, IOWA

By: 
Richard W. Johnson, Mayor

_____ No action taken by Mayor.

_____ Vetoed this _____ day of _____, 2022

Richard W. Johnson, Mayor

_____ Repassed and adopted over the veto this _____ day of _____, 2022.

_____ Veto affirmed this _____ day of _____, 2022 by failure of vote taken to repass.

_____ Veto affirmed no timely vote taken to repass over veto.

ATTEST:



Chris Reinhard

Chris Reinhard, City Clerk