

ORDINANCE NO. 14,462

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,854, passed August 21, 2000, and Ordinance 14,155, passed October 21, 2002, by amending Sections 18-1, 18-11, 18-15, 18-16, 18-17, 18-43, 18-44, 18-45, 18-48, 18-51, 18-59, 18-60, 18-62, 18-64, 18-65, 18-93, 18-94, 18-95, 18-97, 18-99, 18-105, 18-107, 18-108, 18-139, 18-202, 18-203, thereof, relating to various regulations regarding animals.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 13,854, passed August 21, 2000, and Ordinance 14,155, passed October 21, 2002, is hereby amended by amending Sections 18-1, 18-11, 18-15, 18-16, 18-17, 18-43, 18-44, 18-45, 18-48, 18-51, 18-59, 18-60, 18-62, 18-64, 18-65, 18-93, 18-94, 18-95, 18-97, 18-99, 18-105, 18-107, 18-108, 18-139, 18-202, 18-203, thereof, relating to various regulations regarding animals, as follows:

Sec. 18-1. 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: *Acreage* means a plot of land within the city's corporate limits equal to or greater than an acre.

Adequate shelter means a protective covering which is impervious to moisture and other adverse weather conditions, and includes a door or flap allowing the animal constant access, and which is maintained in a sanitary manner.

Animal shelter means the facility owned by the City of Des

Moines used for animal control purposes.

Chief humane officer means the city employee designated by the city manager to administer the animal control unit.

Contractor means a nonprofit corporation that provides animal care, adoption and cremation services, and that has contracted with the City of Des Moines to provide animal shelter services.

Dead animal includes all dead animals, skinned or unskinned, undressed, unslaughtered hogs, cattle, and other animals which have died from disease, accident, or cause other than slaughter for use as food, in accordance with the sanitary laws regulating such act.

Sec. 18-11. Disposition upon owner's request -- Fee.

An animal may be humanely destroyed by the chief humane officer or other officer of the police department if the owner of the animal requests that such animal be destroyed and signs a release holding the city harmless and certifying ownership of the animal. A fee in the amount set in the Schedule of Fees adopted by the City Council by resolution shall be collected by the animal shelter for this service.

This section is not applicable when a contractor is operating the animal shelter.

Sec. 18-15. Microchip fee.

A fee in the amount set in the Schedule of Fees adopted by City Council by resolution shall be collected at the animal shelter for placing a microchip in any animal for identification purposes whether requested by the owner or as required by this chapter at sections 18-59 or 18-202.

If a contractor is operating the animal shelter, the microchip fee may be set by the contractor except where the animal is required to be microchipped by this Chapter, then the schedule of fees applies. The contractor shall retain all microchip fees scheduled or not.

Sec. 18-16. Repealed by Ord. No. 14,---

Sec. 18-17. Emergency care fee/reimbursement.

A fee which is reasonable and customary as determined by the Chief of Police or the Chief's designee shall be collected by the animal shelter staff for emergency care services if such services are performed on an animal by the city veterinarian. In the event emergency care services are performed on an animal through a private source and the City of Des Moines is charged

for such services, all expenses of such services shall be reimbursed to the City. Such fees and expenses shall be collected by the animal shelter staff prior to release of the animal from impoundment.

Sec. 18-43. License fee.

- (a) The annual license fee for each dog shall be in the amounts set in the Schedule of Fees adopted by the City Council by resolution. An applicant claiming that such dog is spayed or neutered shall present as evidence a certificate from a qualified veterinarian which contains the name and address of the owner and the name, color, sex and breed of the dog. The proper fee shall be presented or sent with the application. No license shall be issued until the fee is paid in full.
- (b) A dog owner who is 65 years of age or older may, upon application for a dog license, be issued a license for one dog per household for a reduced fee in the amount set in the Schedule of Fees adopted by City Council by resolution. The fee for additional dogs shall be at the full rate.

Sec. 18-44. License application; form.

- (a) The owner of a dog for which a license is required shall, on or before January 1 each year, apply to the city clerk, his or her designee, or any business in Des Moines approved by the City Clerk, for a license for each dog owned by him or her.
- (b) Such application for a license may be made after January 1 and at any time for a dog which has come into the possession or ownership of the applicant or which has reached the age of six months after January 1.
- (c) Any business in Des Moines that is approved by the City Clerk to sell animal licenses may charge an additional service fee in the amount set in the Schedule of Fees adopted by the City Council by resolution. This subsection does not apply to dogs defined as vicious under section 18-41 of this article, nor to applications for transfer of ownership of a dog under section 18-48 of this article, nor to applications for transfer of a license from one city or county to the City of Des Moines under section 18-49 of this article.

For purposes of determining whether a dog is vicious by breed as defined under section 18-41 of this article the opinion of the City Veterinarian or a veterinarian who is an agent or employee of a contractor will control.

- (d) The owner of any dog defined as vicious under section 18-41 of this article shall comply with section 18-56 of this article at the time an application for license is made under this section
- (e) Such application shall be in writing on blanks provided by the city clerk or his or her designee and shall state the breed, sex, age, color, and name of the dog and the address, phone number, and signature of the owner. Such application shall also state the date of the most recent rabies vaccination and the date the dog shall be revaccinated.
- (f) An application to license a vicious dog must include, in addition to the information required in subsection (d) of this section, presentation by the applicant of a certificate of insurance issued by an insurance company licensed to do business in this state, providing personal liability insurance coverage 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, in the keeping or owning of such vicious dog. 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 30 days subsequent to the determination that a dog is vicious; however, if after 30 days a certificate of insurance or a policy has not been submitted, the dog shall be deemed unlicensed and subject to sections 18-58 and 18-59, as applicable.

Sec. 18-45. Tag.

- (a) The city clerk or his or her designee shall, upon receipt of the application for a dog license, deliver or mail to the applicant a license which shall be in the form of a metal tag stamped with the following information:
 - (1) The year for which it is issued.
 - (2) The name of the city.
 - (3) The tag number as shown in the records in the office of the city clerk.
- (b) The size and shape of the tags shall be changed each year.
- (c) The tag shall be attached by the owner to a substantial

collar and, during the term of the license, shall be at all times kept on the dog for which the license is issued. Upon the expiration of the license the owner shall remove the tag from the dog.

- (d) Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment to the city clerk or his or her designee a fee in the amount set in the Schedule of Fees adopted by the City Council by resolution. The city clerk or his or her designee shall enter in the license record the new number assigned.

Sec. 18-48. Transfer of license on change of ownership.

- (a) When the ownership of a dog is transferred, the license may be transferred by the city clerk or his or her designee by notation on the license record, giving the name and address of the new owner. The city clerk or his or her designee, when making an ownership transfer, shall collect a fee in the amount set in the Schedule of fees adopted by the City Council by resolution .
- (b) A license tag issued for one dog shall not be transferred to any other dog.

Sec. 18-51. License fee delinquency.

- (a) Notwithstanding section 18-46 of this article, all fees for dog licenses shall become delinquent on April 1 of the year in which they are due and payable. A penalty in the amount set in the Schedule of Fees adopted by the City Council by resolution shall be added to each unpaid license on and after the delinquent date except where the dog has been newly acquired or is under 6 months of age.
- (b) The delinquent penalty will apply to a newly acquired dog and to a dog at least 6 months of age if a license is not obtained by the later of April 1 in the year in which the dog is acquired or reaches 6 months of age, or 30 days after the dog is acquired or reaches 6 months of age.
- (c) No license shall be issued without the payment of the applicable fees. This section shall not be deemed to relieve an owner from criminal liability under section 18-42 of this article.

Sec. 18-59. Seizure, impoundment and disposition of vicious dogs.

- (a) The chief humane officer or his or her designee, in his or

her discretion or upon receipt of a complaint alleging that a particular dog is a vicious dog as defined in this article, may declare such dog a vicious dog by delivering a written notice of declaration to the owner. The notice shall include a description of the dog and the basis for the declaration of viciousness. The notice shall also set forth that the owner shall be required to license and confine the dog as required by this article. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on those premises if no adult is present to accept service.

- (b) The person owning, keeping, sheltering, or harboring the dog in question may contest the declaration of viciousness by filing a written request with the city clerk within three business days of the receipt of the chief humane officer's declaration. If at this time the owner agrees to confine the dog pursuant to section 18-56 of this chapter and submits to the clerk proof of insurance as described in section 18-44, the dog shall not be impounded pending appeal. Failure to file a request for hearing shall constitute a waiver of any right to contest the declaration of the chief humane officer, and the chief humane officer or his or her designee shall be authorized to seize and impound the dog. A dog so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the owner has not licensed and shown ability to confine the dog as required by this article or has not declared an intent to remove the dog from the city, the chief humane officer or his or her designee shall cause the dog to be destroyed.
- (c) The person owning, keeping, sheltering, or harboring the dog in question shall be given not less than 72 hours' written notice of the time and place of the hearing. The notice shall set forth the description of the dog in question and the basis for the allegation of viciousness. The notice shall also set forth that, if the determination of the chief humane officer is upheld, the owner shall be required to license and confine the dog as required by this article. The notice shall be served in the same manner as the declaration notice.
- (d) If, after hearing, the city manager or his or her designee upholds the determination of the chief humane officer that the dog is a vicious dog or is a vicious dog held in violation of this article, as set out in the notice of hearing, the city manager or his or her designee shall order the person owning, sheltering, harboring or keeping the animal to permanently license and confine the dog as

required by this article or remove it from the city. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the order is not complied with within three days of its issuance, the city manager or his or her designee is authorized to seize and impound the dog. A dog so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the order of the city manager or his or her designee was issued has not appealed such order to the city council or has not complied with the order, the city manager or his or her designee shall cause the dog to be destroyed.

- (e) The order to license, confine or remove a vicious dog from the city issued by the city manager or his or her designee may be appealed to the city council. In order to appeal such order, written notice of appeal must be filed with the city clerk within three days after receipt of the order. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the city manager or his or her designee.
- (f) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled within 20 days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing the city council may affirm or reverse the order of the city manager or his or her designee. Such determination shall be contained in a written decision and shall be filed with the city clerk within three days after the hearing or any continued session thereof. The hearing shall be confined to the record made before the city manager or his or her designee, the arguments of the parties or their representatives, any additional evidence which was not available at the time of the hearing before the city manager or his or her designee, and any other information the city council deems necessary.
- (g) If the city council affirms the action of the city manager or his or her designee, the city council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such vicious dog shall license and confine the dog as required by this article or remove such animal from the city. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice set out in subsection (a) of this section. If the original order of the city manager or his or her designee is not appealed and

is not complied with within three days or the order of the city council after appeal is not complied with within three days of its issuance, the chief humane officer or his or her designee is authorized to seize and impound such vicious dog. A dog so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the decision and order of the city manager or his or her designee or the city council was issued has not petitioned the county district court for a review of the order or has not complied with the order, the city manager or his or her designee shall cause the dog to be destroyed in a humane manner.

- (h) Failure to comply with an order of the city manager or his or her designee issued pursuant to this section and not appealed or of the city council after appeal is a misdemeanor.
- (i) Any dog that is alleged to be vicious and that is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the dog is determined to be vicious. If the dog is not determined to be vicious, the owner shall only pay those costs attributable to initial confinement prior to notice or costs of any required quarantine.
- (j) All vicious dogs shall have an identification microchip implant placed under the dogs skin. Prior to the release of a vicious dog from the animal shelter the owner shall pay the fee in the amount set in the Schedule of Fees adopted by the City Council by resolution for the microchip identification procedure. If a contractor microchips a dog pursuant to this section, the contractor shall retain the fee.

Sec. 18-60. Operation of animal shelter.

Any public or municipal animal shelter established and maintained by the city shall be conducted and operated by the police department, or a contractor, under the supervision, direction, and control of the city manager, or as specified by contract. It shall be the duty of the city manager, his or her designee, or a contractor to cause such shelter to be kept in a sanitary condition and free from offensive odors. It shall be the further duty of the city manager, his or her designee, or a contractor to provide for adequate and wholesome food for

animals impounded therein, to provide careful and humane treatment toward such animals, to isolate diseased animals, and to provide for humane destruction of animals when necessary.

Sec. 18-62. Notice of impoundment.

The police department, acting under the direction of the city manager, shall cause to be taken up and impounded any dog found to be at large within the city, as defined in this article. The city manager, his or her designee, or a contractor shall give notice thereof in not less than two days to the owner, if such owner's name and address appear on the dog's collar or is otherwise known.

Sec. 18-64. Redemption of impounded dog.

- (a) *Licensed dog.* The owner of an impounded licensed dog which is not required to be held for observation as provided by section 18-167 may claim and redeem such animal upon payment of the impounding and daily boarding fees in the amounts set in the Schedule of Fees adopted by the City Council by resolution. If, within a year's time, the same dog is impounded a second or more times, the impounding fee shall be increased incrementally to the amounts set in the Schedule of Fees adopted by the City Council by resolution in addition to the daily boarding fee.
- (b) *Unlicensed dog.* The owner of an impounded unlicensed dog which is not required to be held for observation as provided by section 18-167 may claim and redeem such animal upon payment of the impounding and boarding fees in the amounts set in the Schedule of Fees adopted by the City Council by resolution if redeemed within 48 hours and upon a showing of the appropriate license for such dog. However, if the owner has fulfilled all requirements to have an impounded dog licensed except the animal has not received the required vaccination, upon such showing the chief humane officer or other police department official may, after payment of the required fees, release such dog upon the condition that the dog is vaccinated by a licensed veterinarian, or other person authorized by state statute, within 24 hours of such release and that a certificate of such vaccination is furnished to the chief humane officer or other police department official to entitle the owner to the issuance of the license tag for such dog. It shall be the duty of the chief humane officer or other police department official to ascertain the name and address of the veterinarian to which such dog will be taken by the

owner for vaccination and to make it known to the police department if proof of such vaccination is not furnished within three days after the conditional release of the dog to the owner. If proof of vaccination is not provided within three days, the police department may immediately pick up and impound such dog and the owner shall be guilty of a simple misdemeanor.

- (c) A contractor may collect and retain a processing fee for each dog redeemed in an amount not greater than set in the schedule of fees adopted by the City Council by resolution.

Sec. 18-65. Disposition of unredeemed dogs.

- (a) *Chief humane officer's discretion.* After the expiration of the appropriate impoundment period, as provided in this article, unless the animal shelter is operated by a contractor, the chief humane officer may do any of the following:
 - (1) Allow adoption pursuant to subsection (b) of this section;
 - (2) Sell the dog for an amount set in the Schedule of Fees adopted by the City Council by resolution to any nonprofit corporation which provides for care and adoption of dogs and offers animal cremation services;
 - (3) Humanely destroy the dog; or
 - (4) Sell the dog for an amount as allowed by I.C. § 145B.4 for scientific research pursuant to section 18-61 of this article.
- (b) *Adoption.* A person seeking to adopt a dog shall:
 - (1) File a form as prescribed by the chief of police, which shall identify the dog desired for adoption; if the same dog is identified for adoption by more than one person, the form filed first in time with the chief humane officer shall be honored.
 - (2) Pay an adoption fee in the amounts set in the Schedule of Fees adopted by the City Council by resolution which fee shall include the cost of a city dog license and vaccinations as required by this article and surgical sterilization.
 - (3) If a dog is too young to submit to vaccinations or to surgical sterilization, the person shall agree in writing to surgical sterilization of the adopted dog within a designated time period. Upon submission of written proof of compliance from a veterinarian, the amount set in the Schedule of Fees adopted by the City Council by resolution shall be refunded to the person adopting the dog. Any person who fails to comply with such an agreement shall be guilty of a simple

misdemeanor, and the chief humane officer or his or her designee shall be authorized to seize and impound the dog for the purpose of administering vaccinations and surgical sterilization as necessary.

- (4) The chief of police is authorized to promulgate further rules to effect such an adoption process.
- (5) The provisions of this section relating to the adoption of unredeemed dogs shall also apply to adoption agencies not qualified under subsection (a)(2) of this section.
- (6) The city shall reserve the right to reject any and all adoptions for any purpose the city deems necessary, including but not limited to health concerns.
- (7) No dog shall be put up for adoption if a request has been made for that dog for scientific research by an institution authorized by the state department of public health pursuant to I.C. § 145B.1 et seq.
- (8) The city takes no responsibility nor makes any warranties or assumes any liability for the condition of the dog adopted.
- (c) *Disposition when contractor operates the animal shelter.* Upon a written release of any dog by the chief humane officer or his or her designee, a contractor shall take possession and ownership of any unredeemed dog.

Sec. 18-93. Amount of license fee.

- (a) The annual license fee for each cat shall be in the amounts set in the Schedule of Fees adopted by the City Council by resolution. An applicant claiming that such cat is spayed or neutered shall present as evidence a certificate from a licensed veterinarian which contains the name, address and phone number of the owner and the name, color, sex and breed of the cat. The proper fee shall be presented or sent with the application. No license shall be issued until the fee is paid in full.
- (b) A cat owner who is 65 years of age or older may, upon application for a cat license, be issued a license for one cat per household for a reduced fee in the amount set in the Schedule of Fees adopted by the City Council by resolution. The fee for additional cats shall be at the full rate.

Sec. 18-94. License application; form.

- (a) The owner of a cat for which a license is required shall, on or before January 1 each year, apply to the city clerk, his or her designee, or any business in Des Moines approved

by the City clerk, for a license for each cat owned by him or her.

- (b) Such application for a license may be made after January 1 and at any time for a cat which has come into the possession or ownership of the applicant or which has reached the age of six months after January 1.
- (c) Any business in Des Moines that is approved by the City Clerk to sell animal licenses may charge an additional service fee in the amount set in the Schedule of Fees adopted by the City Council by resolution. This subsection does not apply to applications for transfer of ownership under section 18-97 of this article.
- (d) Such application shall be in writing on a form provided by the city clerk or his or her designee and shall state the breed, sex, age, color, and name of the cat and the name, address, phone number and signature of the owner. Such application shall also state the date of the most recent rabies vaccination and the date the cat will be revaccinated.

Sec. 18-95. Tag.

- (a) The city clerk or his or her designee shall, upon receipt of the application for a cat license, deliver or mail to the applicant a license which shall be in the form of a metal tag stamped with the following information:
 - (1) The year for which it is issued.
 - (2) The name of the city.
 - (3) The tag number as shown in the records in the office of the city clerk.
- (b) The size and shape of the tags shall be changed each year.
- (c) A permanent spay/neuter tag shall also be issued to every applicant who has provided sufficient proof of spaying or neutering.
- (d) The tags shall be attached by the owner to a substantial collar or harness and, during the term of the license, shall be at all times kept on the cat for which the license is issued. Upon the expiration of the license, the owner shall remove the tag from the cat, except for the spay/neuter tag which shall be displayed for the life of the cat.
- (e) Upon the filing of an affidavit that the license tag or spay/neuter tag has been lost or destroyed, the owner may obtain another license or a spay/neuter tag on the payment of a fee in the amount set in the Schedule of fees adopted by the City Council by resolution to the city clerk or his or her designee. The city clerk or his or her designee

shall enter in the license record the new number assigned.

Sec. 18-97. Transfer of license on change of ownership.

- (a) When the ownership of a cat is transferred, the license may be transferred by the city clerk or his or her designee by notation on the license record, giving the name, address and phone number of the new owner. The city clerk or his or her designee, when making an ownership transfer, shall collect a fee in the amount set in the Schedule of Fees adopted by the City Council by resolution.
- (b) A license tag issued for one cat shall not be transferred to any other cat.

Sec. 18-99. License fee delinquency.

- (a) A penalty in the amount set in the Schedule of Fees adopted by the City Council by resolution shall be added to each unpaid cat license on April 1 of the year in which it is due and payable except where the cat has been newly acquired or is under 6 months of age on April 1 of the same year. Nothing in this section shall preclude the issuance of a criminal charge for failure to comply with any applicable section of this chapter.
- (b) The penalty will apply to a newly acquired cat and to a cat at least 6 months of age if a license is not obtained by the later of April 1 in the year in which the cat is acquired or reaches 6 months of age, or 30 days after the cat is acquired or reaches 6 months of age.

Sec. 18-105. Notice of impoundment.

The police department, acting under the direction of the city manager, shall cause to be taken up and impounded any cat found to be at large within the city, as defined in this article. The city manager, his or her designee, or a contractor shall give notice thereof in not less than two days to the owner if such owner's name and address appear on the cat's collar or harness or is otherwise known.

Sec. 18-107. Redemption of impounded cat.

- (a) *Licensed cat.* The owner of an impounded licensed cat which is not required to be held for observation, as provided by section 18-167 of this chapter, may claim and redeem such animal upon payment of the impounding and daily boarding fees in the amounts set in the Schedule of Fees adopted by

the City Council by resolution. If, within a year's time, the same cat is impounded a second or more times, the impounding fee shall be increased incrementally to the amounts set in the Schedule of fees adopted by the City Council by resolution in addition to the daily boarding fee, and the owner shall agree in writing to surgical sterilization of the cat within a designated time period; any person who fails to comply with such an agreement shall be guilty of a simple misdemeanor.

- (b) *Unlicensed cat.* The owner of an impounded unlicensed cat which is not required to be held for observation, as provided by section 18-167 of this chapter, may claim and redeem such animal upon payment of the impounding and boarding fees in the amounts set in the Schedule of Fees adopted by City Council by resolution and, if applicable, signing a sterilization agreement, as provided in subsection (a) of this section, if redeemed within 48 hours and upon a showing of the appropriate license for such cat. If the owner has fulfilled all requirements to have an impounded cat licensed except the animal has not received the required vaccination, upon such showing the chief humane officer or other police department official may, after payment of the required fees, release such cat upon the condition that the cat is vaccinated by a licensed veterinarian, or other person authorized by state statute, within 24 hours of such release and that a certificate of such vaccination is furnished to the chief humane officer or other police department official to entitle the owner to the issuance of the license tag for such cat. It shall be the duty of the chief humane officer or other police department official to ascertain the name and address of the veterinarian to which such cat will be taken by the owner for vaccination and to make it known to the police department if proof of such vaccination is not furnished within three days after the conditional release of the cat to the owner. If proof of vaccination for the cat is not provided within three days after the conditional release as stated in this subsection, the cat may be impounded and the owner shall be guilty of a simple misdemeanor.
- (c) A contractor may collect and retain a processing fee for each cat redeemed in an amount not greater than set in the schedule of fees adopted by the City Council by resolution.

Sec. 18-108. Disposition of unredeemed cats.

- (a) *Chief humane officer's discretion.* After the expiration of the appropriate impoundment period, as provided in this

article, unless the animal shelter is operated by a contractor, the chief humane officer may do any of the following:

- (1) Allow adoption pursuant to subsection (b) of this section;
 - (2) Sell the cat for an amount set in the Schedule of Fees adopted by the City Council by resolution to any nonprofit corporation which provides for care and adoption of cats and offers animal cremation services;
 - (3) Humanely destroy the cat; or
 - (4) Sell the cat for purposes of scientific research for an amount set in the Schedule of Fees adopted by the City Council by resolution to an institution duly approved and authorized by the state to conduct such research.
- (b) *Adoption.* A person seeking to adopt a cat shall:
- (1) File a form as prescribed by the chief of police, which shall identify the cat desired for adoption; if the same cat is identified for adoption by more than one person, the form filed first in time with the chief humane officer shall be honored.
 - (2) Pay an adoption fee in the amounts set in the Schedule of Fees adopted by the City Council by resolution which fee shall include the cost of a city cat license and any vaccinations as required by this article and surgical sterilization.
 - (3) If a cat which is too young to submit to vaccinations or to surgical sterilization, the person shall agree in writing to surgical sterilization of the adopted cat within a designated time period; upon submission of written proof of compliance from a veterinarian, the amount set in the Schedule of Fees adopted by the City Council by resolution shall be refunded to the person adopting the cat. Any person who fails to comply with such an agreement shall be guilty of a simple misdemeanor, and the chief humane officer or his or her designee shall be authorized to seize and impound the cat for the purpose of administering vaccinations and surgical sterilization as necessary.
 - (4) The chief of police is authorized to promulgate further rules to effect such an adoption process.
 - (5) The city shall reserve the right to reject any and all adoptions for any purpose the city deems necessary, including but not limited to health concerns.
 - (6) The city takes no responsibility nor makes any warranties or assumes any liability for the condition of the cat adopted.
 - (7) The subsections of this section relating to adoption of unredeemed cats shall also apply to adoption agencies

- not qualified under subsection (a) (2) of this section.
- (c) *Disposition when contractor operates the animal shelter.* Upon a written release of any cat by the chief humane officer or his or her designee, a contractor shall take possession and ownership of any unredeemed cat.

Sec. 18-139. Adoptions.

- (a) Unless a contractor is operating the animal shelter, animals other than dogs and cats which are unredeemed may be eligible for adoption to any person who:
- (1) Files a form as established by the chief of police identifying the animal desired for adoption.
 - (2) Pays a fee established by the chief of police based upon the amount of care and treatment provided by the city to the animal prior to release by adoption.
- (b) The chief of police is authorized to promulgate further rules to effect such an adoption process.
- (c) The subsections of this section relating to the adoption of unredeemed animals other than dogs and cats shall also apply to any adoption agencies seeking to obtain unredeemed animals other than dogs and cats from the city.
- (d) The city shall reserve the right to reject any and all adoptions for any purpose the city deems necessary, including but not limited to health concerns.
- (e) The city takes no responsibility nor makes any warranties or assumes any liability for the condition of the animal adopted.
- (f) If a contractor is operating the animal shelter, the contractor shall take possession and ownership of animals other than dogs and cats upon a written release by the chief humane officer, or his or her designee.

Sec. 18-202. Seizure, impoundment and disposition of dangerous animals.

- (a) The chief humane officer or his or her designee, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a dangerous animal as defined in this article, may initiate proceedings to declare such animal a dangerous animal. A hearing on the matter shall be conducted by the city manager or his or her designee. The person owning, keeping, sheltering, or harboring the animal in question shall be given not less than 72 hours' written notice of the time and place of the hearing. The notice shall set forth the description of the animal in question and the basis for the allegation of dangerousness. The

notice shall also set forth that if the animal is determined to be dangerous it may be ordered destroyed or the owner may be given the option to remove it from the city or cause it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on those premises if no adult is present to accept service. A notice that a dog is a dangerous animal may include as an alternative an allegation that a dog is a vicious dog under sections 18-41 and 18-59 of this chapter, and the hearings shall proceed together under this section.

- (b) If, after hearing, the city manager or his or her designee determines that an animal is dangerous, the city manager or his or her designee shall either order the animal destroyed in a humane manner by the chief humane officer, or order the person owning, sheltering, harboring or keeping the animal to remove it from the city or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the animal is ordered to be destroyed by the chief humane officer such order shall be carried out after the appeal period in subsection (c) of this section has expired. If the animal is ordered to be removed from the city or destroyed by the owner, such order must be complied with within three days of its issuance, otherwise the city manager or his or her designee is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the order of the city manager or his or her designee was issued has not appealed such order to the city council, the city manager or his or her designee shall cause the animal to be destroyed in a humane manner.
- (c) The order to remove or destroy a dangerous animal issued by the city manager or his or her designee may be appealed to the city council. In order to appeal such order, written notice of appeal must be filed with the city clerk within three days after receipt of the order to remove or destroy the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the city manager or his or her designee.
- (d) The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of notice of appeal. The hearing may be continued for good cause. The

hearing shall be confined to the record made before the city manager or his or her designee and the arguments of the parties or their representatives, but no additional evidence shall be taken. After such hearing the city council may affirm or reverse the order of the city manager or his or her designee. Such determination shall be contained in a written decision and shall be filed with the city clerk within three days after the hearing or any continued session thereof.

- (e) If the city council affirms the action of the city manager or his or her designee, the city council shall either order the animal destroyed by the chief humane officer, or order that the individual or entity owning, sheltering, harboring, or keeping such dangerous animal shall remove such animal from the city or cause it to be destroyed in a humane manner. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the order to remove or destroy. If the animal is ordered to be destroyed by the chief humane officer the order shall be effective on the fourth day after receipt of the order by the owner unless the county district court has been petitioned to review the order within the first three days after receipt. If the animal is ordered to be removed from the city or to be destroyed by the owner and such order is not appealed to the county district court and is not complied with within three days after receipt of the order by the owner, the chief humane officer or his or her designee is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the individual or entity against whom the decision and order of the city council was issued has not petitioned the county district court for a review of the order, the city manager or his or her designee shall cause the animal to be destroyed in a humane manner.
- (f) Failure to comply with an order of the city manager or his or her designee issued pursuant to this section and not appealed or of the city council after appeal shall constitute a misdemeanor offense.
- (g) Any animal which is alleged to be dangerous and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be dangerous. If the animal is not determined to be dangerous and was found at large, the owner shall only pay those

costs attributable to the initial confinement and any required quarantine. If the animal is not determined to be dangerous and was not at large at the time of confinement, the owner shall only pay those costs attributable to any required quarantine.

- (h) All dangerous animals shall have an identification microchip implant placed under the animals skin. Prior to the release of a dangerous animal from the animal shelter the owner shall pay the fee specified at section 18-15 of this chapter for the microchip identification procedure.

Sec. 18-203. Immediate seizure or destruction of animals.

Any animal found at large which displays dangerous tendencies, or which is an illegal animal, or which has been previously declared vicious or is vicious by breed according to Article II, Section 18(41)(6), (7), (8), or (9) of this Chapter and has bitten without provocation a person or a domestic animal while such vicious dog was not properly confined or leashed may be processed as a dangerous animal under section 18-202 of this article, and the animal may be immediately seized anywhere within the city unless the animal is so dangerous that it cannot safely be apprehended, in which case the chief humane officer, his or her designee, or any police officer is authorized to destroy it immediately.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Douglas P. Philip, Assistant City Attorney

T.M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 05-1452), passed by the City Council of said City at a meeting held June 6, 2005 signed by the Mayor on June 6, 2005 and published as provided by law in the Business Record on June 20, 2005 Authorized by Publication Order No.4820.

Diane Rauh, City Clerk