

ORDINANCE NO. 14,951

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 No. 14,415 passed February 28, 2005, and Ordinance No. 14,462 passed June 6, 2005, and Ordinance No. 14,677 passed July 23, 2007, by amending Sections 18-57, 18-58 and 18-59 and by adding and enacting a new Section 18-66 thereto, relating to vicious dog adoption exceptions.

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 No. 14,415 passed February 28, 2005, and Ordinance No. 14,462 passed June 6, 2005, and Ordinance No. 14,677 passed July 23, 2007, is hereby amended by amending Sections 18-57, 18-58 and 18-59, and by adding and enacting a new Section 18-66 thereto, relating to vicious dog adoption exceptions, as follows:

**Sec. 18-57. Vicious dogs not properly confined/leashed.**

A vicious dog which is found more than twice not to be confined or leashed as required by this article shall be required to be destroyed except as provided in section 18-66 of this chapter.

**Sec. 18-58. Unlicensed vicious dogs.**

All unlicensed vicious dogs shall be deemed illegal animals and shall be destroyed except as provided in section 18-66 of this chapter. This section shall not apply to a dog which, upon initial notice to its owner, the owner agrees to properly license and confine or to a dog for which a hearing has been requested under this article to determine if it is vicious until there has been a final decision on the question raised at hearing at which time the owner may, if the dog is found vicious, properly license and confine the dog.

**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 the chief humane officer or his or her designee shall cause the dog to be destroyed except as provided in section 18-66 of this chapter.
- (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. 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 except as provided in section 18-66 of this chapter.

- (e) The order to license and confine a vicious dog 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. 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 except as provided in section 18-66 of this chapter.
- (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. 18-66. Vicious dogs by breed evaluated for adoption.**

Notwithstanding sections 18-57, 18-58 and 18-59 a vicious dog by breed as defined in this chapter shall not be destroyed until after it is evaluated for adoption by the contractor. If contractor determines the dog is not fit for adoption it shall be destroyed. If contractor determines the dog is fit for adoption then the dog shall be released to the contractor for adoption to a person who does not reside with the owner at the time of impoundment. If the owner at the time of impoundment or someone residing with the owner is found to have custody, control, or is otherwise harboring the dog after its adoption pursuant to this section, the dog shall be immediately impounded and destroyed.

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. Philiph, Assistant City Attorney

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. 10-1236), passed by the City Council of said City at a meeting held July 26, 2010 signed by the Mayor on July 26, 2010 and published as provided by law in the Business Record on August 2, 2010. Authorized by Publication Order No.7162.

Diane Rauh, City Clerk