

ORDINANCE NO. 16,402

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, as heretofore amended, is hereby amended, by amending Sections 18-4 and 18-136 and adding Sections 18-19 and 18-20, relating to agricultural nondomestic animals and exotic animals and the types permitted.

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, as heretofore amended, is hereby amended, by amending Sections 18-4 and 18-136 and adding Sections 18-19 and 18-20, as follows:

Sec. 18-4. Agricultural nondomestic animals and exotic animals.

- (a) No horse, cow, calf, swine, sheep, goat, llama, camel, ostrich, peacock, chicken, goose, duck or other agricultural animal or any nondomestic animal shall be kept within the city's corporate limits on any lot or parcel of land unless such parcel of land shall be an acreage, except as provided under subsections (f), (g) and (h) of this section and article IV of this chapter. The area where any such animal is kept on the acreage shall be 75 feet from any neighboring residential dwelling and not located in a front yard area. The keeping of bees in hives is exempted from this section.
- (b) No such animal shall be kept on the same lot or premises with any multiple dwelling.
- (c) Not more than two such animals may be kept on an acreage, except that one additional animal may be added for each additional acre over one acre. An exception is made for fowl, which may be 25 in number per acre and 50 for each additional acre.
- (d) Any animal kept on an acreage shall be kept for personal use only and not for commercial use except as provided in subsections (f) and (g) of this section.
- (e) No person having the care of any cow or cattle of any kind, horse, swine, goat or other animal, domestic or nondomestic, shall permit the animal to run at large as defined in subsection 18-55(a) of this chapter within the corporate limits.
- (f) Subsections (a), (b), and (d) of this section shall not be deemed to prohibit the keeping or maintaining of any animal which was legally kept upon any land on June 25, 2009, provided no additional animals to those legally kept upon such date shall be placed upon any land on or after June 26, 2009, and any animal which dies, is removed or ceases to be kept or maintained under this section may not be replaced as long as the total number of animals kept exceeds the number allowable under this Code. In order to establish a right to keep animals under this subsection, a person having control over land must make application to the community development department on or before June 30, 2010, upon forms to be provided by the department. To establish that animals were legally kept on land on June 25, 2009, the community development director or the director's designee may make reasonable requests, including a request to inspect land, to verify any claim of exemption.
- (g) Subsection (f) of this section notwithstanding, the keeping of animals for commercial or agricultural purposes which was lawful on June 25, 2009, may continue so long as the commercial or agricultural use is not discontinued. In order to establish a right to keep animals for agricultural or commercial purposes under this subsection, a person having control of the land must make application to the community development department on or before June 30, 2010, upon forms to be provided by the department. To establish that animals were legally

kept for agricultural or commercial purposes on June 25, 2009, the community development director or the director's designee may make reasonable requests, including a request to inspect land, to verify the claim of exemption.

- (h) Small caged animals and fowl such as falcons, pigeons, pheasants, quail, chickens, ducks, geese, rabbits, ferrets and other small animals and fowl which are of such type and nature that state and national associations exist establishing norms for breeding, confining and rearing shall be allowed, provided that:
 - (1) Cages, hutches, coops, cotes, lofts or other confinement shall be at least 25 feet away from any neighboring residence; such enclosures shall be of sufficient size to house the number of animals or fowl permitted by state or national standards.
 - (2) The area is maintained free of odors, insects and rodents, and disturbing noises such as crowing, cackling and gobbling, causing no safety or health hazards to the general public or interfering with the enjoyment of life and property by any neighboring resident.
 - (3) Animals and fowl included in this subsection shall be fed in the confines of their enclosures; all grains and food shall be stored in rodentproof containers.
 - (4) On any parcel of land less than an acre, such animals shall be limited to two species and 30 in total number, unless by state and national standards more are permitted.
 - (5) On any parcel of land of one acre or more, such animals shall be limited to six species and 50 in total number for the first acre and 50 for each additional acre, unless by state and national standards more are permitted.
 - (6) No animal or fowl under this subsection may be maintained, enclosed or fenced in the front yard of a dwelling or within a dwelling.
 - (7) The young produced by any animals or fowl of this nature may be maintained with the parent animals for a period of approximately eight weeks but in no case more than ten weeks, unless by state and national standards a longer period is required.
 - (8) Roosters shall not be permitted under subsection (h) unless written consent to the keeping of roosters is first obtained from each lawful occupant (if not owner occupied) or owner of abutting residences, unless the abutting property is an apartment building consisting of more than four (4) units, in which case written consent of the owner of such apartment building shall be sufficient for the purposes of this subsection.
 - (9) For purposes of this section, "abutting" means an area of land or a building immediately adjacent to or sharing a common boundary with the rooster owner's property.
 - (10) A rooster owner who has not received written consent under subsection (h) shall be permitted to maintain only currently owned rooster(s) on their property until December 31, 2026. Upon said date, any rooster(s) on the property or in their possession shall be removed from City of Des Moines corporate limits.
- (i) Nothing in subsection (f), (g) or (h) of this section shall be construed as abrogating any requirement in this Code which requires the licensing or permitting of any animal or the keeping thereof.
- (j) Except as provided in subsection (f), (g) or (h) of this section, this article shall apply to all persons harboring, any animal in a manner not consistent with this article.
- (k) Animals inclusive of fowl maintained for educational purposes by schools, day care centers, vocational agricultural programs and for other public education programs; animals inclusive of fowl maintained for display at Blank Park Zoo, state and county fairs, science center, circuses; primates maintained for research or educational programs by the Iowa Primate Learning Sanctuary; and the bringing in of such animals and fowl on a temporary basis for

exhibits or shows are exempt from this section, provided all other requirements under this Code are met.

- (l) Any person presently owning or maintaining animals that are not in compliance with this chapter may make application to the city manager or the manager's designee for a variance, provided such application meets the following conditions:
 - (1) The keeping of such animals has been of long-standing lawful duration, that is, in excess of three years, or is presently under commercial contract if legal non-conforming prior to 2009.
 - (2) The area where such animals are maintained is so located as to cause no safety or health hazards to the general public or interferes with the enjoyment of life and property by any neighboring resident.
 - (3) The keeping of roosters must meet the current code requirements of abutting neighbor consent as outlined in section 18-19 of this chapter.

Any such variance is conditioned upon all circumstances for the granting of the variance remaining constant. The city manager or the manager's designee may revoke the variance at any time after notice and opportunity for comment by the applicant, or it is determined that due to changed circumstances, the presence of the animals is causing a safety or health hazard to the general public or interferes with the enjoyment of life and property by any neighboring resident.

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Sec. 18-19. Written consent; revocation.

(a) Written consent as provided in Section 18-4, subsection (h) shall be signed by the abutting occupant or owner so consenting, and is effective when it is filed with the City Clerk.

(b) Except as otherwise provided in subsection (c), written consent is irrevocable by the occupant or owner so consenting.

(c) Written consent is revoked for the purpose of complying with the exceptions of Section 18-4, subsection (h) under any of the following circumstances:

1. A lawful occupant who has given written consent gives up legal possession of the residence or property covered under section 18-4, subsection (h).

2. A lawful owner of property who has given written consent is divested of all interest in the property by the recordation with the Polk or Warren County Recorder of transfer of legal ownership.

3. A lawful owner or lawful occupant of property who has given written consent files a signed revocation of written consent with the City Clerk prior to the filing of the written consent.\

Sec. 18-20. Nuisance animals.

(a) It shall be unlawful for the owner, or any person having temporary custody or control, of an animal or animals to allow or fail to restrain the animal(s) from barking, meowing, whining, crowing, or making other sounds common to the species, persistently or continuously for a period of ten (10) consecutive minutes or longer when every such animal is not contained within an enclosure sufficient to baffle such sounds. Sounds described herein that continue for more than ten minutes shall constitute a nuisance under this code.

(b) For the purposes of this section, persistently or continuously shall mean nonstop utterances for ten (10) consecutive minutes with individual interruptions of less than twenty (20) seconds at a time during the ten-minute utterances.

(c) The prohibitions contained in this section shall not apply to any facility operated by or under contract for the state, Polk or Warren Counties, or the City of Des Moines for the purpose of impounding or harboring seized, stray, homeless, abandoned, or unwanted dogs, cats, and other animals; to any veterinary hospital or clinic operated by a veterinarian or veterinarians which operates for such purpose in addition to its customary purposes; or to any facility operated, owned, or maintained by a duly incorporated humane society, animal welfare society, or other nonprofit organization for the purpose of providing for and promoting the welfare, protection, and humane treatment of animals.

(d) Each separate occasion is considered a separate violation. The owner or person having temporary custody or control of the animal(s) may be charged with a violation of this section when either the animal control officer or sworn law enforcement has received, from at least two unrelated adult witnesses from different addresses, or from one adult witness with a recorded video showing the alleged violation, a sworn affidavit attesting to the commission of a nuisance pursuant to this section, or the animal control officer or law enforcement officer has witnessed the commission of such offense or has other probable cause to believe an offense has occurred. Affidavit(s) attesting to the nuisance must come from residents or business owners/operators within a 1,000-foot radius of the property where the violation occurred. Witness testimony will be required in addition to sworn affidavits if a hearing is required.

Secs. 18-21—18-40. Reserved.

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Sec. 18-136. Types permitted.

The following animals may be owned per property as pets under the following conditions:

- (1) A total of six cats and dogs, not more than three of which may be dogs, and which are owned and maintained in compliance with the sections of this chapter relating to such animals.
- (2) Rabbits not to exceed three in number, maintained in a hutch or other type of enclosure.
- (3) Domestic poultry and fowl, that is poultry and fowl ordinarily raised for production of eggs or meat, not to exceed two in number considered together, maintained at all times in a pen and/or coop. Except as allowed under section 18-4 of this chapter, roosters shall be prohibited.
- (4) Vietnamese potbellied pigs, Asian potbellied pigs or potbellied pigs not to exceed three in number of the types considered together.
- (5) Pygmy goats, not to exceed three in number.
- (6) The young produced by any pets permitted herein may be maintained with the parent animals for a period of approximately eight weeks but in no case longer than ten weeks.
- (7) A waiver of the three dog limit set in subsection (1) of this section may be granted by the city clerk, or his/her designee, to allow for one additional dog under the following conditions:
 - a. The dog's full grown weight is no more than 20 pounds as certified to by a veterinarian,
 - b. The owner provides a current rabies vaccination certificate for the dog,

- c. The owner provides proof the dog has been spayed or neutered, and
- d. No more than two cats are owned on the property subject to the waiver.

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

FORM APPROVED: Reagan Peterson, Assistant City Attorney

Connie Boesen, Mayor

Attest: I, Laura Baumgartner, 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. 24-1602), passed by the City Council of said City at the meeting held on November 18, 2024 and signed by the Mayor on November 18, 2024 and published and provided by law in the Business Record on December 6, 2024. Authorized by Publication Order No. 12851.

Laura Baumgartner, City Clerk