

★ **Roll Call Number**

Agenda Item Number

55

Date July 13, 2009

An Ordinance entitled, "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, by repealing Section 18-4 thereof, and enacting a new Section 18-4, regarding the keeping and care of agricultural nondomestic animals and exotic animals",

presented.

MOVED by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

Roger K. Brown

Roger K. Brown

Assistant City Attorney

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(First of three required readings)

(Council Communication No. **09-463**)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED

APPROVED

.....
Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

ORDINANCE NO. _____

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, by repealing Section 18-4 thereof, and enacting a new Section 18-4, regarding the keeping and care of agricultural nondomestic animals and exotic 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, be and is hereby amended by repealing Section 18-4 thereof, and enacting a new Section 18-4, regarding the keeping and care of agricultural nondomestic animals and exotic animals, 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 ~~June 30, 1989~~, provided no additional animals to those legally kept upon such date shall be placed upon any land on or after June 26, 2009 ~~July 1, 1989~~, 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 ~~environmental health division~~ community development department on or before June 30, 2010, upon forms to be provided by the ~~department~~ division on or before June 30, 1990. To establish that animals were legally kept on land on June 25, 2009 ~~June 30, 1989~~, the ~~planning~~ community development director 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, ~~June 30, 1989~~ 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 ~~environmental health division~~ community development department on or before June 30, 2010, upon forms to be provided by the ~~department~~ division on or before June 30, 1990. To establish that animals were legally kept for agricultural or commercial purposes on June 25, 2009, ~~June 30, 1989~~, the ~~planning~~ community development director 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.
- (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, ~~on or after October 7, 1991,~~ 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; 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 ~~his or her~~ the manager's designee for a variance, provided such application is ~~filed before February 1, 1992~~ and meets the following conditions:
 - (1) The keeping of such animals has been of long-standing duration, that is, in excess of three years, or is presently under commercial contract.
 - (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 variance is granted~~ 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, of it is determined that due to changed

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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.

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

FORM APPROVED:

Roger K. Brown

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Assistant City Attorney

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