


Date February 9, 2015

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, as heretofore amended, by amending Sections 18-15, 18-41, 18-44, 18-44.01, 18-48, 18-55, 18-56, 18-57, 18-58, 18-59, 18-64, 18-66, 18-91, 18-97, 18-107, 18-196, 18-202 and 18-203, and by adding and enacting new Sections 18-59.01, 18-106.01, relating to animals",

presented. **(Council Communication No. 15-063)**

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

FORM APPROVED:


Douglas P. Philip
Assistant City Attorney

(First of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MAHAFFEY				
MOORE				
TOTAL				

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.

MOTION CARRIED APPROVED

Mayor

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, as heretofore amended, by amending Sections 18-15, 18-41, 18-44, 18-44.01, 18-48, 18-55, 18-56, 18-57, 18-58, 18-59, 18-64, 18-66, 18-91, 18-97, 18-107, 18-196, 18-202 and 18-203, and by adding and enacting new Sections 18-59.01, 18-106.01, relating to 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, as heretofore amended, is hereby amended by amending Sections 18-15, 18-41, 18-44, 18-44.01, 18-48, 18-55, 18-56, 18-57, 18-58, 18-59, 18-64, 18-66, 18-91, 18-97, 18-107, 18-196, 18-202 and 18-203, and by adding and enacting new Sections 18-59.01, 18-106.01 relating to animals, as follows:

Chapter 18 ANIMALS

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 18-64202.

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.

ARTICLE II. DOGS

Sec. 18-41. Definitions.

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

Dog means and includes both male and female animals of the canine species.

Habitual offender means a person who has been convicted of any violation relating to dogs under Chapter 18 of the Des Moines Municipal Code three or more times in a five year period except that multiple convictions on violations occurring as a result of a single incident will count as one conviction for purposes of this definition.

Impound or impounded means a dog which is held at the animal shelter for any period of time.

Owner means any person owning, keeping or harboring a dog.

Service dog or service animal means a dog that is individually trained to do work or perform tasks for the benefit of a person with a disability, including a physical, sensory, psychiatric, intellectual, or other mental 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.

Vicious/High risk dog means:

- (1) Any dog which has bitten or attacked a human being or domestic animal one or more times, without provocation;
- (2) Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- (3) Any dog that snaps, bites, or manifests a disposition to snap or bite;
- (4) Any dog that has been trained for dog fighting, animal fighting or animal baiting or is owned or kept for such purposes;
- (5) Any dog trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the control of the police department, a law enforcement agency of the state or of the United States or a branch of the armed forces of the United States;
- (6) Staffordshire terrier breed of dog;
- (7) The American pit bull terrier breed of dog;
- (8) The American Staffordshire terrier breed of dog; or
- (9) Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier.

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~~high risk 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~~high risk 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~~high risk 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 vicioushigh risk 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 vicioushigh risk 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 vicioushigh risk; 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. 18-44.01. Insurance on vicioushigh risk dogs not licensed.

The owner of every dog which is defined as vicioushigh risk under section 18-41 of this article, or which is both vicioushigh risk and under six months of age, or is vicioushigh risk and not licensed shall maintain insurance as set forth in section 18-44(f) of this article.

Sec. 18-48. Transfer of license on change of ownership and void transfers.

- (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.
- (c) Any attempt to transfer ownership or possession of a dog intended to circumvent, or which has the effect of circumventing, the provisions of this Chapter shall be void for purposes of enforcement under this Chapter.

Sec. 18-55. Running at large.

- (a) A dog, properly licensed as required by law, shall not be deemed at large if:
 - (1) The dog is on the premises of the owner or a person given charge of the dog by the owner and is either:

- a. Restrained on those premises by an adequate protective fence or by leash, cord, chain or other similar restraint that does not allow a dog to go beyond the owner's real property line; or
 - b. At all times within the actual physical presence of and immediately obedient to the commands of the owner or person given charge of the dog by the owner. At no time shall the dog be more than six feet from such person.
- (2) The dog is off the premises of the owner and is:
- a. On a leash, cord, or chain or other similar restraint not more than six feet in length and under the control of a person competent to restrain and control the dog; or
 - b. Properly restrained within a motor vehicle.
- (3) The dog is properly housed in a veterinary hospital or registered kennel.
- (4) The owner and the dog are participating in a regularly scheduled competitive or exhibition event sanctioned or sponsored by a nationally recognized organization, local chapter thereof, or other generally recognized local organization.
- (5) The dog and the owner are actively engaged in a generally recognized dog obedience training program or training for a generally recognized kennel club event, provided:
- a. The dog is in the actual physical presence of the owner or trainer at all times;
 - b. The owner or trainer is at no time more than 50 feet from the dog;
 - c. The dog is immediately obedient to the commands of the owner or trainer; and
 - d. The owner or trainer has, at all times, on his or her person a leash of sufficient strength to restrain the dog.
- (6) The dog and owner, or a person given charge of the dog by the owner, are in a designated off leash area of a city park or other city property, or in other non-city park property, provided:
- a. The owner or person in charge of the dog and dog are at all times abiding by all the rules and regulations of such designated off leash area; and
 - b. The dog is in the actual physical presence of the owner or person given charge of the dog.
 - c. The dog has a current:
 1. dog park permit which is visible on the owner or person given charge of the dog; and
 2. City of Des Moines or other valid government issued dog license from the dog owner's place of residence; and
 3. rabies vaccination.The license and rabies vaccination tags must be visible on the dog or the owner or person given charge of the dog has such license and proof of rabies vaccination in their possession.
 - d. In addition to the requirements in subsection 6(a) – (c) of this section, ~~vicious~~high risk dogs must be on a leash in compliance with section 18-56(d) of this chapter and the owner or person given charge of a ~~vicious~~high risk dog must have a certificate of insurance in their possession which meets the requirements of section 18-44 of this chapter.

- (7) The annual license fee for a dog park permit shall be in the amounts set in the Schedule of Fees adopted by the city council by resolution.
- (b) A dog shall be deemed to be at large if it is not properly licensed or if it is not housed, restrained or controlled in one of the methods set forth in subsection (a) of this section.
- (c) Notwithstanding any other section of this article, any dog shall be deemed at large at any time when attacking persons, domestic animals, destroying property, or on a public school ground except when under restraint as set out in subsection (a)(2) or when in a designated off leash area in compliance with subsection (a)(6) of this section. Furthermore, any female dog in heat shall be deemed at large at any time except:
- (1) When housed in a building which is completely enclosed;
 - (2) When housed in a veterinary hospital or registered kennel; or
 - (3) When on the premises of the owner, provided the area on which such dog is located is:
 - a. Completely enclosed in a locked, enclosed fence, pen or other structure having a height of at least six feet; such fence, pen or structure must have secure sides which are imbedded into the ground, if the bottom of the structure is not integrally connected to the structure; or
 - b. If the fence, pen or structure is less than six feet in height, it must have a secure top in addition to securely imbedded sides as described in subsection (c)(3)a of this section.

Nothing in this subsection, however, shall be construed as prohibiting any owner of a female dog in heat from walking such dog with a leash, cord, chain or other similar restraint not more than six feet in length or from transporting such dog within a motor vehicle.

- (d) No owner of any dog shall permit such dog to be at large at any time.

Sec. 18-56. Confinement of vicious high risk dogs.

- (a) All vicious high risk dogs shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides or, in lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure.
- (b) All pens or other structures designed, constructed or used to confine vicious high risk dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined dog.
- (c) All structures erected to house vicious high risk dogs must comply with all city zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No vicious high risk dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.
- (d) No person shall permit a vicious high risk dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six feet in length. No person shall permit a

~~vicious~~high risk dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless both the dog and the leash are under the actual physical control of a person 18 years of age or older.

- (e) Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.
- (f) Violation of this section is a misdemeanor.

Sec. 18-57. ~~Vicious~~High risk dogs not properly confined/leashed.

A ~~vicious~~high risk 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~~high risk dogs.

All unlicensed ~~vicious~~high risk dogs shall be deemed illegal 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~~high risk 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~~high risk, properly license and confine the dog.

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

- (a) Upon complaint or reasonable suspicion that a particular dog is a ~~vicious~~high risk dog, the chief humane officer may cause the matter to be investigated. If after investigation, the chief humane officer determines that a particular dog is a ~~vicious~~high risk dog as defined in this chapter, the chief humane officer shall declare such dog to be a ~~vicious~~high risk dog.
- (b) Notice that a dog has been declared a ~~vicious~~high risk dog shall be promptly served upon an owner of the dog, if known, in one of the following ways:
 - (1) By personal service upon an owner of the dog, if known.
 - (2) If notice cannot be conveniently served on an owner of the dog within the city boundaries, then notice may be served by service upon any adult residing at the premises where the dog is regularly kept or by posting on those premises if no resident adult is present to accept service.
 - (3) If notice cannot be conveniently served on an owner of the dog within the city boundaries and the dog is not regularly kept at known location within the city, then service may be made upon the owner by any reasonable means. Such notice, if mailed, shall not be considered served until received or rejected by the owner.

The notice shall include the following: a description of the dog and the basis for the declaration that the dog is ~~vicious~~high risk, notice that the owner is required to license, insure and confine the dog at all times as required by this article, and notice that the declaration that the dog is ~~vicious~~high risk may be appealed by filing a written notice of appeal with the city clerk within three business days of the date the notice is served.

- (c) Any person owning or having a right to possession of the dog in question may appeal the declaration that the dog is ~~vicious~~high risk pursuant to the administrative appeal process set forth in chapter 3 of this Code by filing a written notice of appeal with the city clerk within three business days of service of the notice of such declaration. Failure to timely file a written notice of appeal shall constitute a waiver of any right to contest the declaration that the dog is ~~vicious~~high risk.
- (d) The chief humane officer may seize and impound any dog which has been declared to be a ~~vicious~~high risk dog pursuant to this section unless the dog is licensed and insured in conformance with this article and the owner has demonstrated to the reasonable satisfaction of the chief humane officer a willingness and ability to keep the dog confined. A dog so seized and not redeemed shall be impounded for a period of seven days, or until seven days after service of the decision on appeal if the declaration that the dog is ~~vicious~~high risk is appealed and upheld. If the declaration that the dog is ~~vicious~~high risk is reversed on appeal, the dog shall be immediately released to the owner or the owner's representative. However, if at the end of the impoundment period the declaration that the dog is ~~vicious~~high risk remains in effect and the owner has not redeemed the dog or petitioned the district court for a review of the declaration that the dog is ~~vicious~~high risk, the chief humane officer shall cause the dog to be destroyed except as provided in section 18-66 of this chapter.
- (e) Any dog that has been declared to be ~~vicious~~high risk and that is under impoundment may be redeemed by the owner only if the dog is not under quarantine, and the owner has licensed, insured and demonstrated to the reasonable satisfaction of the chief humane officer a willingness and ability to confine the dog as required by this article for a ~~vicious~~high risk dog. All costs of such impoundment or quarantine shall be paid by the owner if the dog is determined to be ~~vicious~~high risk. If the dog is not determined to be ~~vicious~~high risk, the owner shall only pay those costs attributable to initial confinement prior to notice or costs of any required quarantine.
- (f) All dogs declared to be ~~vicious~~high risk shall have an electronic identification device placed under the dog's skin prior to release from impound or quarantine. Prior to the release of a ~~vicious~~high risk dog from any impoundment or quarantine, the owner shall pay the fee in the amount set in the schedule of fees adopted by the city council by resolution for the installation of the electronic identification device. If a contractor implants an electronic identification device in a dog pursuant to this section, the contractor shall retain the fee.
- (g) Failure to comply with an order of the chief humane officer issued pursuant to this section and not appealed or if affirmed on appeal shall constitute a misdemeanor.

Sec. 18-59.01. Meeting with Chief Humane Officer prior to release of impounded dog that has bitten.

After a dog has bitten a second time where any provision of this chapter has been violated, an owner may be required to meet with the Chief Humane Officer to review the incident and the applicable city ordinances. Failure to meet as required by the Chief Humane Officer pursuant to this section shall result in the dog being unredeemed and the Chief Humane Officer may proceed to disposition of the unredeemed dog pursuant to sections 18-59 or 18-65 of this chapter as applicable.

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) *Processing fee.* 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.
- (d) *Habitual offender fee.* A habitual offender may claim and redeem their dog upon payment of the impound and boarding fees as required under this section plus an additional habitual offender impound fee in the amount set in the Schedule of Fees adopted by the City Council by resolution.
- (e) *Microchip required and fee.* All dogs impounded shall have an electronic identification device, otherwise known as a microchip, placed under the dog's skin prior to release from impound and the owner shall pay the fee in the amount set in the schedule of fees adopted by the city council by resolution for the installation of the electronic identification device. If a contractor implants an electronic identification device in a dog pursuant to this section, the contractor shall retain the fee.

Sec. 18-66. ~~Vicious~~High risk dogs by breed evaluated for adoption.

Notwithstanding sections 18-57, 18-58 and 18-59 a ~~vicious~~high risk 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.

ARTICLE III. CATS

Sec. 18-91. Definitions.

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

Cat means and includes both male and female animals of the species *Felis catus*, altered or not.

Chief of police means the legally designated chief of the police department or a designated representative.

Habitual offender means a person who has been convicted of any violation relating to cats under Chapter 18 of the Des Moines Municipal Code three or more times in a five year period except that multiple convictions on violations occurring as a result of a single incident will count as one conviction for purposes of this definition.

Impound or impounded means a cat which is held at the animal shelter for any period of time.

Owner means any person owning, keeping or feeding a cat.

Sec. 18-97. Transfer of license on change of ownership and void transfers.

- (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.
- (c) Any attempt to transfer ownership or possession of a cat intended to circumvent, or which has the effect of circumventing, the provisions of this Chapter shall be void for purposes of enforcement under this Chapter.

Sec. 18-106.01. Meeting with Chief Humane Officer prior to release of impounded cat.

After a cat has been impounded a second time where any provision of this chapter has been violated, an owner may be required to meet with the Chief Humane Officer to review the incident and the applicable city ordinances. Failure to meet as required by the Chief Humane Officer pursuant to this section shall result in the cat being unredeemed and the Chief Humane Officer may proceed to disposition of the unredeemed cat pursuant to section 18-108 of this chapter.

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.
- (bc) *Processing fee.* 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.
- (d) *Habitual offender fee.* A habitual offender may claim and redeem their cat upon payment of the impound and boarding fees as required under this section plus an additional habitual offender impound fee in the amount set in the Schedule of Fees adopted by the City Council by resolution.

ARTICLE VI. ILLEGAL AND DANGEROUS ANIMALS

Sec. 18-196. Definitions.

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

Bite, bitten, claw and clawed, mean the breaking of skin.

Dangerous animal means any animal, including a dog, except for an illegal animal per se, as listed in the definition of illegal animal, that has bitten or clawed a person while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that the animal:

- (1) Has bitten or clawed a person on two separate occasions within a 12-month period;
- (2) Did bite or claw once causing injuries above the shoulders of a person;
- (3) Could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or
- (4) Has attacked any domestic animal or fowl on three or more separate occasions within the lifetime of the attacking animal.
- (5) Has killed any domestic animal while off of the property where the attacking animal is kept by its owner.
- (6) Has bitten another animal or human that causes a fracture, muscle tear, disfiguring lacerations or injury requiring corrective or cosmetic surgery; or
- (7) Any animal that was required to be removed from another city or county because of behavior that would also meet the definition of "dangerous animal" as set out in this section.

Illegal animal means:

- (1) Any animal which is not naturally tame or gentle and which is of a wild nature or disposition and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so.
- (2) Any dangerous wild animal as defined in I.C. ch. 717F.
- (3) Any nondomesticated member of the order Carnivora which as an adult exceeds the weight of 20 pounds.
- (4) The following animals, which shall be deemed to be illegal animals per se:
 - a. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats.
 - b. Wolves, coyotes and foxes.
 - c. Badgers, wolverines, weasels, skunks and mink.
 - d. Raccoons.
 - e. Bears.
 - f. Monkeys and chimpanzees.
 - g. Bats.
 - h. Alligators, crocodiles and caimans.
 - i. Scorpions.
 - j. Snakes and reptiles that are venomous.
 - k. Snakes that are constrictors over six feet in length.
 - l. Gila monsters.
 - m. Opossums.
 - n. All apes, baboons and macaques.
 - o. Piranhas.

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

- (a) Upon complaint or reasonable suspicion that a dangerous animal is being kept, sheltered or harbored in the city, the chief humane officer may cause the matter to be investigated. If after investigation, the chief humane officer determines that a dangerous animal is being kept, sheltered or harbored in the city by any person, the chief humane officer shall declare such animal to be a dangerous animal and shall order the person owning, sheltering, harboring or keeping the animal to cause it to be destroyed in a humane manner within 3 days of service of the notice of the order, and keep the animal securely confined or leased under the actual control of a person 18 years of age or older until so destroyed.
- (b) Notice that an animal has been declared a dangerous animal shall be promptly served by personal service upon an owner of the animal, if known. If notice cannot be promptly served on an owner of the animal within the city boundaries, then notice may be served by service upon any adult residing at the premises where the animal was regularly kept or by posting on those premises if no resident adult is present to accept service. The notice shall include: a description of the animal; a declaration that such animal is a dangerous animal; the basis for such declaration; an order that the owner cause the animal to be destroyed in a humane manner within 3 days of service of the notice; notice that such animal will be subject to seizure if not destroyed within 3 days of service of the notice; and notice that the decision to declare the animal a dangerous animal may be appealed by filing a written notice of appeal with the city clerk within three business days of the date the notice is served. A notice that a dog is a dangerous animal may include as an alternative an allegation that a dog is a ~~vicious~~high risk dog under section 18-59 of this chapter.
- (c) If the animal is ordered to be destroyed by the owner, such order must be complied with within three days of its issuance, otherwise the chief humane officer is authorized to seize and impound the animal. Such an animal may also be seized at any time if it is not actually kept securely confined or leased under the actual control of a person 18 years of age or older until so destroyed. An animal so seized shall be impounded for a period of seven days, or until seven days after service of the decision on appeal if the decision to declare the animal a dangerous animal is appealed and upheld. If the decision to declare the animal a dangerous animal is reversed on appeal, the animal shall be immediately released to the owner or the owner's representative. However, if at the end of the impoundment period the decision to declare the animal a dangerous animal remains in effect and the owner has not petitioned the district court for a review of such decision, the chief humane officer shall cause the animal to be destroyed in a humane manner.
- (d) The orders and declarations concerning a dangerous animal issued by the chief humane officer pursuant to this section may be appealed pursuant to the administrative appeal process set forth in chapter 3 of this Code. In order to appeal such order or declaration, written notice of appeal must be filed with the city clerk within three days after receipt of the order or declaration. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the chief humane officer.
- (e) Any animal which is alleged to be dangerous and which is under impoundment or quarantine 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.

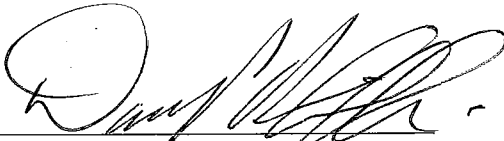
- (f) Failure to comply with an order of the chief humane officer issued pursuant to this section and not appealed, or after such order has been affirmed on appeal, shall constitute a misdemeanor offense.

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~~high risk or is ~~vicious~~high risk 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~~high risk 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.

Section 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