



**MUSCATINE CITY COUNCIL**

**Agenda Item Summary – Regular Meeting**

Date February 3, 2022

**STAFF**

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Carol Webb, City Administrator  
[Anthony Kies](#), Police Captain

**SUBJECT**

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First Reading of an Ordinance Revising Portions of Title 6, Chapter 8 of the City Code of Muscatine Regarding Animal Regulations

**EXECUTIVE SUMMARY**

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City Council directed City staff to prepare changes to portions of Title 6, Chapter 8 of Muscatine City Code related to animal regulations. The proposed ordinance includes revisions to definitions and requirements related to animal care, dangerous and vicious dogs, tethering, irresponsible ownership, right to appeal violations of this Code Section, and other minor modifications and revisions.

**STAFF RECOMMENDATION**

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Staff recommends approval of the ordinance on first reading.

**BACKGROUND/DISCUSSION**

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At its October 14, 2021 In-Depth meeting, City Council directed City staff to prepare changes to portions of Title 6, Chapter 8 of Muscatine City Code related to animal regulations. City staff presented proposed code changes to the City Council at its January 13 In-Depth meeting and the City Council provided feedback on City staff’s proposal.

**PROPOSED CITY CODE REVISIONS**

City staff are proposing a substantial modification to Title 6, Chapter 8 related to animal regulations. The proposed substantial modifications are summarized below and are noted in red, double-underlined text in the proposed ordinance (attached).

Definitions

- Definitions were added for adequate food, indoor shelter, outdoor shelter, sanitation, space, veterinary care, and water.

- A “dangerous dog” definition was added which means “any dog that, while on public or private property (including the owner’s property) behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or domestic animal, chasing or approaching a human upon the streets, sidewalks, or any public or private property in a menacing or threatening manner and in an apparent attitude of attack without provocation; causes injury to a domestic animal; or has caused a bite injury and is not a vicious dog.”
- An “Irresponsible Owner” definition was added which means “an owner that has violated this Chapter one (1) or more times on three (3) separate occasions within a rolling twelve-month period”.
- A “Tethering” definition was added which means “fastening an animal to a fixed object, including a trolley or pulley, so as to limit its range of movement using a rope, chain, or similar device”.
- A “Vicious Dog” definition was added which means “any dog that, while on public or private property (including the owner’s property), without provocation or justification bites or attacks a person and causes serious physical injury or death or is declared vicious under this Chapter”.

#### Registration and Licensing

- Language was added to allow activities related to registration and licensing to be completed by the “Department of Finance and Records or a designee”. Upon adoption, the City may implement additional options for registering and licensing pets (e.g. through an online portal, at other city buildings, etc.)
- Language was added to allow for the purchasing of a license based on the vaccination schedule of an animal (e.g. if the animal is on a 3-year vaccination schedule, the license may be purchased once every 3 years)

#### Animal Care

- Language was added to indicate that an owner is responsible for adequate care as defined in Code.
- Language was added to ensure animals are provided with adequate space in outdoor confinement areas.
- Restrictions related to tethering an animal were added including that no person shall tether an animal under the:
  - A tether that is less than ten feet (10’) in length and more than fifty (50’) feet;
  - A tether that does not have swivels on both ends as to prevent twisting and tangling;
  - A tether that contains chain links more than one-quarter of an inch thick or that has weights attached;
  - A tether that exceeds one-eighth (1/8) of the dog’s weight; or with a collar made of metal or chain, excluding the buckle, or using a collar, even if made of cloth, designed to continue to tighten, such as a slip lead or noose, when pulled tightly.

- No person shall allow an animal to be tethered and unattended continuously for more than four (4) hours in any given 24-hour period and not between the hours of 10 p.m. and 6 a.m.
- No person shall allow an animal to have access to a public sidewalk or street while tethered.
- No person shall allow an animal to be tethered to a utility pole, parking meter, building, structure, fence, sign, tree, bush, bench, newspaper or advertising rack or other object on public property.
- No person shall allow an animal to be tethered in extreme weather or in an unsafe location. An unsafe location includes, but is not limited to, near a fence whereby the animal could asphyxiate itself if it jumped over the fence or on a deck whereby the animal could asphyxiate itself if it jumped off of the deck.
- No person shall allow an animal to be tethered in a manner that allows it to become entangled with another tethered animal.

### Dangerous and Vicious Dogs

A new code section was added related to dangerous and vicious dogs. The proposed code language outlines the following:

- Conditions under which a dog may be declared dangerous or vicious, how notice of such a declaration is provided to an animal owner;
- When a dog shall not be declared dangerous or vicious (e.g. if engaged in law enforcement work, if dog is attacking someone engaged in criminal activity, If the dog is defending/protecting a human, etc.);
- Requirements for an owner of a dangerous dog (e.g. confinement, signage, liability insurance, microchipping, etc.);
- The consequences for failure to comply with the outlined requirements;
- That keeping of a vicious dog is prohibited;
- The conditions under which a dangerous or vicious dog may be impounded

### Penalties

Language related to irresponsible ownership was added including under what conditions an animal owner may be found to be irresponsible, how notice is provided to the owner of an irresponsible owner declaration, and the penalties associated with irresponsible ownership (surrendering an animal, municipal fines, etc.)

### Right to Appeal

A right to appeal section was added that outlines the rights of an owner of an animal or dog that has been declared dangerous or vicious or an owner that has been declared irresponsible to appeal such a declaration to the City Council.

In general, the owner may file an appeal with the City Clerk and the appeal is scheduled for a hearing before the City Council.

## Seizure and Disposition

The code language related to seizure and disposition of an animal was revised to reflect additions to the Code related to dangerous and vicious dogs and irresponsible ownership, how an order to seize and dispose of an animal is issued, and the process by which such an order is enforced.

## **PENALTIES AND FEES**

Penalties and fees related to animal regulations are addressed in other sections of City Code. A revision to the standard penalty for violations of City Code (including animal regulations) will be proposed in a separate proposed ordinance. The current penalty (\$65 minimum not to exceed \$625.00) is out of date and will be revised to a \$105 minimum with an amount not to exceed \$855.00 (see Iowa Code Sec. 364.3[2] and Sec. 903.1[1a]). Specific penalties and fees are amended via resolution and will be brought to the City Council as a separate agenda item.

## **CITY FINANCIAL IMPACT**

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It is possible that additional resources are needed to effectively enforce the proposed code changes. City staff will seek to offset those costs to some degree through appropriate fees and penalties associated with animal control. Staff will assess needs for any additional resources following the implementation period of the new code language.

## **ATTACHMENTS**

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Ordinance

Exhibit A - Revised Code Language

**ORDINANCE NO. 2022-0046**

**AN ORDINANCE REVISING TITLE 6, CHAPTER 8 – ANIMAL REGULATIONS**

**WHEREAS**, The City of Muscatine’s current animal regulations can be found in Chapter 8 of Title 6 of the City Code of Muscatine; and

**WHEREAS**, Chapter 8 of Title 6 of the City Code of Muscatine regarding Animal Regulations has not been significantly updated in 20 or more years; and

**WHEREAS**, the City of Muscatine desires to ensure the safety and welfare of its residents and the humane treatment of animals; and

**WHEREAS**, on October 14, 2021 and January 13, 2022 City Staff provided an overview of the Animal Regulations for the City of Muscatine and proposed possible amendments to the City Code; and

**WHEREAS**, City Council directed City staff to prepare changes to portions of Chapter 8 of Title 6 of City Code related to the regulation of animal registration and licensing, animal care and welfare, animal tethering, dangerous and vicious dogs, irresponsible animal ownership, and other related changes; and

**WHEREAS**, a public hearing was conducted on February 3, 2022 by the City Council of Muscatine prior to the adoption of this ordinance.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSCATINE, IOWA:**

SECTION 1. The currently adopted versions of Chapter Eight of Title Six of the City Code are hereby deleted and Exhibit A as attached hereby to is adopted in lieu thereof.

SECTION 2. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. Any Ordinance or part thereof in conflict or inconsistent with the provisions of this Ordinance is repealed.

SECTION 4. This ordinance shall be in effect from and after the passage and approval and publication of this ordinance, as provided by law

**PASSED, APPROVED AND ADOPTED** this 3<sup>rd</sup> day of February 2022.

By the City Council of the City of Muscatine Iowa;

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Brad Bark, Mayor

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Carol Webb  
City Clerk

First Reading: 2-3-2022  
Second Reading: 2-10-2022  
Third Reading: 2-17-2022  
Publication:

## EXHIBIT A

### Title 6 – Police and Public Safety Chapter 8 – Animal Regulations

#### SECTIONS:

- 6-8-1 Definitions
- 6-8-2 Vaccination and Identification  
Required
- 6-8-3 Registration and License
- 6-8-4 Commercial Breeders
- 6-8-5 Actions Constituting a Nuisance
- 6-8-6 At Large Prohibited
- 6-8-7 Animal Care
- 6-8-8 Rabies Suspects and Animal Bites
- 6-8-9 Dangerous and Vicious Dogs
- 6-8-10 Dogs in Heat
- 6-8-11 Dangerous Animals
- 6-8-12 Penalties
- 6-8-13 Right to Appeal
- 6-8-14 Seizure and Disposition
- 6-8-15 Exemption for Police Service Dogs (K9s).

**6-8-1 Definitions.** For use in this Ordinance, the following terms are defined:

- A. "Adequate Food" means providing, at suitable intervals of not more than twenty-four (24) hours, unless the dietary requirements of the animal so require, a quantity and quality of wholesome foodstuff, suitable for the physical condition and age of the animal, served in a clean receptacle or container, sufficient to maintain an adequate level of nutrition for such animal.
- B. "Adequate Indoor Shelter" means a properly ventilated and illuminated facility, sufficiently regulated by heating or cooling to protect the animal from extremes of temperature and sufficient to provide for the animal's health and comfort.
- C. "Adequate Outdoor Shelter" means a structurally sound and weatherproof shelter made up of three (3) solid sides, a roof and a floor off the ground, which provides adequate protection from exposure to weather conditions and is placed in an area free of debris, feces and standing water. An adequate outdoor shelter must meet the requirements of adequate space. An animal crate is not an adequate outdoor shelter.
- D. "Adequate Sanitation" means cleaning or sanitizing of enclosures and housing facilities to remove excreta and other waste materials and dirt so as to minimize health hazards, flies or odors.
- E. "Adequate Space" means primary enclosures and housing facilities constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate

freedom of movement to maintain physical condition.

- F. "Adequate Veterinary Care" means prompt reasonable care provided to a sick, diseased or injured animal by a licensed veterinarian, euthanized in a manner deemed appropriate by the City, or turned over to the City with approval of the Chief of Police, or designee.
- G. "Adequate Water" means reasonable access to a supply of clean, fresh, potable water, provided in a sanitary manner.
- H. "Altered" means a neutered male dog or cat which has been rendered sterile by a surgical procedure (orchietomy), or a spayed female dog or cat which has been rendered sterile by a surgical procedure (ovariohysterectomy).
- I. "Animal" means dogs, cats, all domestic animals, and any other animal owned by a person.
- J. "At large" means any animal found off the premises of his owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash, or "at heel" beside a competent person and obedient to that person's command.
- K. "Commercial ~~Breeder~~ Establishments" means an owner, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the owner. An owner who owns or harbors three or less breeding males or females is not a commercial ~~breeder~~ establishment.
- L. "Dangerous animal" means:
1. Any animal as defined in this Chapter and is not a dangerous dog which is not naturally tame or gentle; 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 animal declared to be dangerous by the City Council.
  3. The following animals which shall be deemed to be dangerous animals per se:
    - a. Lions, tigers, jaguars, leopards, cougars, lynxes, cheetahs, and bobcats;
    - b. Wolves, coyotes, and foxes;
    - c. Badgers, wolverines, weasels, and skunks;
    - d. Raccoons;
    - e. Bears;
    - f. Monkeys and chimpanzees;
    - g. Alligators and crocodiles;
    - h. Scorpions;
    - i. Snakes that are venomous or constrictors;
    - j. Gila monsters; and
    - k. Any crossbreed of such animals which have similar characteristics to the animals specified above.
- M. "Dangerous Dog" means any dog that, while on public or private property (including the owner's property)



1. Behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or domestic animal, chasing or approaching a human upon the streets, sidewalks, or any public or private property in a menacing or threatening manner and in an apparent attitude of attack without provocation;
  2. Causes injury to a domestic animal; or
  3. Has caused a bite injury and is not a vicious dog.
- N. "Dogs" means both male and female animals of the canine species whether altered or not.
- O. "Domestic Animal" means an animal that has been tamed and kept by humans as a work animal, food source, or pet.
- P. "Irresponsible Owner" means an owner that has violated this Chapter one (1) or more times on three (3) separate occasions within a rolling twelve-month period.
- Q. "Owner" means any person or persons, firm, association, or corporation owning, keeping, sheltering, or harboring an animal, including but not limited to feeding, watering, and providing veterinary care.
- R. "Serious injury" means any physical injury that results in one or more broken bones, multiple bites, or one or more lacerations requiring sutures, or an injury requiring reconstructive or plastic surgery.
- S. "Tethering" means fastening an animal to a fixed object, including a trolley or pulley, so as to limit its range of movement using a rope, chain, or similar device.
- T. "Unaltered" means a dog or cat that has not been altered as defined in this Section.
- U. "Vicious Dog" means any dog that, while on public or private property (including the owner's property), without provocation or justification bites or attacks a person and causes serious physical injury or death or is declared vicious under this Chapter.

## **6-8-2 Vaccination and Identification Required.**

- A. All dogs and cats six (6) months or older shall be vaccinated against rabies. The owner of any dog or cat shall cause to be placed upon the neck of such dog or cat so owned, kept, or harbored, a collar made of durable material having attached thereto a durable tag showing that the dog or cat has a current rabies vaccination and a durable tag indicating the name of the animal, if any, the owner's name, current address and telephone number, if any, and the license tag as provided in Section 6-8-3 of the City Code of Muscatine. The collar with the attached tag shall be kept on such dog or cat at all times.
- B. All licensed veterinarians shall monthly furnish to the City Department of Finance a list of those dogs and cats receiving rabies vaccinations or inoculations listing the name, address and telephone number of the owner securing the rabies vaccination or inoculation.

### 6-8-3 Registration and License.

- A. All dogs or cats six (6) months of age or older shall be registered by an owner who is 18 years of age or older and the owner, except owners of seeing-eye dogs or owners who are confined to a wheelchair who are exempt from paying the registration and licensing fee but shall register their dogs or cats, shall pay the fee to the City in the office of the Department of Finance and Records or designee. The fee required by this Section shall be set by resolution of the City Council and is listed in the Schedule of Permit and Licensing Requirements in Appendix B to this Code of Ordinances. The license will be in full force and effect until the anniversary date of the rabies vaccination or inoculation of the animal and thereafter shall be renewable as determined by the animals' vaccination schedule.
- B. It is the responsibility of the owner to furnish written proof that the dog or cat being registered is altered. Persons making a license renewal application received after thirty (30) calendar days of license expiration date shall pay as a penalty as listed in the Schedule of Permit and Licensing Requirements in Appendix B to this Code of Ordinances.
- C. The provisions of this Section shall not apply to dogs or cats in the custody of a veterinarian or animal shelter or animal rescuer or Animal Control Officer or Police Officer or whose owners are nonresidents temporarily within the City for a period not exceeding thirty (30) calendar days.
- D. It shall be a violation of this Section for any person to knowingly issue a check for which funds are insufficient or to stop payment on any check written in payment of fees contained in this Section. Any license(s) or penalties paid for with such checks are, in the case of the license, invalid, and in the case of the penalty, still outstanding.
- E. No dog or cat shall be registered or licensed under this Section unless a certificate of a licensed veterinarian certifying to the fact and date of rabies inoculation of such dog or cat shall have been filed with or exhibited to the authorized agent of the City in the Department of Finance and Records or designee, showing vaccination or inoculation as required by Section 6-8-2 of the City Code.
- F. Upon payment of the fee as provided in this Section and upon producing a certificate of inoculation or vaccination, the agent of the City in the Department of Finance or designee shall furnish to the person paying such fee a numbered license tag and memorandum of registry for each dog or cat for which such fee has been paid. It shall be a violation of this Section for any person to sell or transfer ownership of any dog or cat over six (6) months of age without a dog or cat license.
- G. The Department of Finance and Records or designee shall keep a complete registry of all licensed dogs and cats, their breed, color and sex, and shall also enter therein the name and address of the owner as given and the number of the license tag.

### 6-8-4 Commercial Establishments. An owner who is a commercial breeder and who

holds a commercial breeders license or certificate, if federally licensed, issued by the State of Iowa, and a State of Iowa Sales Tax Certificate, is exempt from the provisions of this Chapter with regard to identification, registration, and licensing, however, such owner shall register with and pay an annual Commercial Breeders fee to the City in the office of the Department of Finance and Records and shall have proof of valid rabies vaccination as required by this Chapter. The fee required by this Section shall be set by resolution of the City Council and is listed in the Schedule of Permit and Licensing Requirements in Appendix B to this Code of Ordinances.

**6-8-5 Actions Constituting a Nuisance.**

- A. It shall be unlawful for any person who possesses, harbors, or is in charge of any dog or other domestic animal not to immediately remove excrement deposited by said animal upon a common thoroughfare, street, sidewalk, play area, park, or upon any other public property, or upon any private property when permission of the owner or tenant of said property has not been obtained, and such is hereby deemed to be a public nuisance and prohibited. All excrements removed shall be placed in an airtight container until it is removed pursuant to refuse collection procedures or otherwise disposed of in a sanitary manner.
- B. It shall be unlawful for any owner of any animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.
- C. It shall be unlawful for an owner of any animal to allow or permit such animal to cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, meowing, or otherwise; or by running after or chasing persons, bicycles, automobiles, or other vehicles.

**6-8-6 At Large Prohibited.** It shall be unlawful for any owner or person having the care, custody, or control of any animal to allow such animal to run at large within the City.

- A. Any animal found running at large shall be taken by the Animal Control Officer or any Police Officer and impounded in the local animal shelter and there confined in a humane manner for a period of not less than seven (7) days, and thereafter disposed of in a humane manner as authorized.
- B. When animals are found running at large and their ownership is known to the Animal Control Officer or Police Officer, such animal need not be impounded, but such officer may cite the owners of such animal to appear in court to answer charges of the violation of this Chapter.
- C. Immediately upon impounding animals, the Animal Control Officer or Police Officer shall make every possible reasonable effort to notify the owners of such animal so impounded and inform such owners of the conditions whereby they may regain custody of such animal.

**6-8-7 Animal Care.**

- A. An owner is responsible for the care of their animal as defined in this

Chapter, including adequate food and water, indoor and outdoor shelter and protection from the weather, adequate sanitation and space, and veterinary care needed to prevent suffering, and with humane care and treatment.

- B. Outdoor Confinement Areas: No owner shall fail to provide their animal with an outdoor confinement area that does not allow for adequate space as defined in this Chapter.
- C. No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal.
- D. No owner of an animal shall abandon such animal.
- E. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.
- F. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by a domestic animal, provided that it shall not be unlawful for a person to expose on his own property common rat poison mixed only with vegetable substance.
- G. Owners of animals shall notify the U.S. Postal Service and utility companies when an "invisible fence" is in place to advise them of animals being kept on the premises of such owners and shall post a sign on the premises visible to the public indicating the presence of an "invisible fence". Proof of notification to the U.S. Postal Service and utility companies shall be filed with the City Clerk.
- H. Tethering.
  - 1. No person shall tether an animal as defined in this Chapter under any of the following conditions:
    - a. A tether that is less than ten feet (10') in length and more than fifty (50') feet;
    - b. A tether that does not have swivels on both ends as to prevent twisting and tangling;
    - c. A tether that contains chain links more than one-quarter of an inch thick or that has weights attached;
    - d. A tether that exceeds one-eighth (1/8) of the dog's weight; or
    - e. With a collar made of metal or chain, excluding the buckle, or using a collar, even if made of cloth, designed to continue to tighten, such as a slip lead or noose, when pulled tightly.
  - 2. No person shall allow an animal to be tethered and unattended continuously for more than four (4) hours in any given 24-hour period and not between the hours of 10 p.m. and 6 a.m.
  - 3. No person shall allow an animal to have access to a public sidewalk or street while tethered.

4. No person shall allow an animal to be tethered to a utility pole, parking meter, building, structure, fence, sign, tree, bush, bench, newspaper or advertising rack or other object on public property.
5. No person shall allow an animal to be tethered in extreme weather or in an unsafe location. An unsafe location includes, but is not limited to, near a fence whereby the animal could asphyxiate itself if it jumped over the fence or on a deck whereby the animal could asphyxiate itself if it jumped off of the deck.
6. No person shall allow an animal to be tethered in a manner that allows it to become entangled with another tethered animal.

**6-8-8** **Rabies Suspects and Animal Bites.** Any dog or cat which is suspected of having rabies, or which has bitten a person or other animal, shall be impounded and confined, either at the residence of the owner of said animal, or under the supervision of a licensed veterinarian, for observation. All fees for such impoundment and observation shall be the sole responsibility of the owner of such animal. Owners choosing to impound or confine animals at their residence shall complete a "Voluntary Animal Confinement Form" which shall be provided to them by the Animal Control Officer. At the completion of the fourteen (14) day confinement period, the owner shall present the confined animal along with the Animal Confinement Form to a licensed veterinarian. The veterinarian shall then examine the animal and complete the appropriate section of the Voluntary Animal Confinement Form. The owner of the animal shall then return this form to the Animal Control Officer.

- A. Any dog or cat impounded under the provisions of this Section shall be placed in a suitable facility and quarantined for a period of not less than fourteen (14) days at the sole expense of the owner.
- B. Any such animal impounded under the provisions of this Section shall be destroyed upon determination that such animal is infected with rabies.
- C. It shall be the duty of the owner of any dog, cat, or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to the Animal Control Officer. It shall be the duty of physicians and veterinarians to report to the Animal Control Officer the existence of any animal known or suspected to be suffering from rabies.

*(Code of Iowa, Sec. 351.38)*

**6-8-9** **Dangerous and Vicious Dogs.**

- A. Determination of Status.
  1. A dog may be declared dangerous or vicious based upon any of the following:
    - a. A complaint in writing of person willing to testify; or
    - b. Dog bite report filed with an animal control officer; or
    - c. Actions witnessed by an animal control officer or law enforcement;

or

- d. Other substantial evidence.
2. The declaration shall be in writing and shall be served by an animal control officer or law enforcement on the owner in person, by regular mail or certified mail, or if the owner is not known by publication in a newspaper of general circulation and posting a notice on the property of the owner.
3. The declaration shall contain the following information:
  - a. The name and address of the owner if known and if not known that fact.
  - b. A description of the dog.
  - c. The whereabouts of the dog.
  - d. Facts upon which the declaration is based.
  - e. Restrictions placed upon the dog and when the owner is not known the intended disposition.
  - f. Penalties for violation of the restrictions, including possibility of destruction of the dog and fine and imprisonment of the owner.
  - g. The right to appeal the declaration as described in this Chapter.
4. Dogs shall not be declared dangerous or vicious under any of the following conditions:
  - a. The dog is engaged in the performance of duties while under the supervision and control of law enforcement officials performing law enforcement work.
  - b. The dog attacks or bites a human who is engaged in or attempting to engage in criminal activity at the time of the attack.
  - c. The dog attacks or bites a human who, at the time, is willfully trespassing on the property of the owner, or is tormenting, abusing or assaulting, the dog or its owner or a family member.
  - d. The dog is protecting or defending a human within the immediate vicinity of the dog from an unjustified attack or assault.
  - e. The dog attacks or bites another dog or domesticated animal that, at the time, is on the property of the attacking dog's owner without the owner's consent, is at large, or was tormenting or attacking the dog.
  - f. The dog is engaged in any legal hunt or training procedure, including training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials; however, such dogs at all other times and in all other respects shall be subject to this Chapter. Dogs already classified as dangerous shall not be used for hunting purposes.

B. Dangerous Dogs.

1. Keeping of a Dangerous Dog. Once a dog has been declared

dangerous, it shall be kept in a secure enclosure subject to the following requirements:

- a. *Leash.* No person having charge, custody, control or possession of a dangerous dog shall allow the dog to exit its enclosure unless such dog is securely attached to a leash not more than four (4) feet in length and walked by a person who is both over the age of eighteen and who has the physical ability to restrain the dog at all times. No owner shall keep or permit a dangerous dog to be kept on a chain, rope or other type of leash outside its enclosure unless a person capable of controlling the dog is in physical control of the leash.
- b. *Confinement.* Except when leashed as provided in this Section, a dangerous dog shall be securely confined in a residence or confined in a locked pen or other secure enclosure that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The enclosure shall include shelter and protection from the elements and shall provide adequate exercise room, light, and ventilation, and shall be kept in a clean and sanitary condition. The enclosed structure shall have secure sides and a secure top or all sides must be at least six (6) feet high and shall have a bottom permanently attached to the sides or the sides must be embedded not less than one (1) foot into the ground. The structure must be of such material and closed in such a manner that the dog cannot exit the enclosure on its own.
- c. *Indoor Confinement.* No dangerous dog shall 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. In addition, no such dog shall be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dog from exiting the structure.
- d. *Signs.* All owners, keepers or harborers of dangerous dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog."
- e. *Liability Insurance, Surety Bond.* The owner of a dangerous dog shall be required to present to the Animal Control Officer proof that he has procured liability insurance in the amount of not less than one hundred thousand dollars (\$100,000) covering any damage or injury that may be caused by such dangerous dog. The policy shall contain a provision requiring that the City be notified immediately by the agent issuing it if the insurance policy is canceled, terminated or expires.
- f. *Identification Photographs.* All owners, keepers, or harborers of dangerous dogs must within ten (10) days of determination provide to the Animal Control two color photographs of the registered dog clearly showing the color and approximate size of the dog.

- g. Microchip. All owners, keepers or harborers of dangerous dogs must within ten (10) days of determination microchip the dog and provide microchip information to the Animal Control Officer to register the dog as dangerous.
  - h. Spaying/Neutering. All owners, keepers or harborers of dangerous dogs must within ten (10) days of determination spay or neuter the dog and provide proof of sterilization to the Animal Control Officer.
  - i. Sale or Transfer of Ownership Prohibited. Sale - No person shall sell, barter or in any other way dispose of a dangerous dog registered with the City to any person within the city unless the owner discloses the dog's status as a dangerous dog to anyone to whom the owner transfers custody or care of the dog. If a dangerous dog is transferred to another owner, the Animal Control Officer must be notified in writing and the animal's microchip must be updated with any new information. All provisions of this Chapter apply to the dog regardless of ownership.
  - j. Notification of Escape. The owner or keeper of a dangerous dog shall notify the Animal Control Officer immediately if such dog escapes from its enclosure or restraint and is at large. Such immediate notification shall also be required if the dog bites or attacks a person or domestic animal.
2. Failure to Comply. It shall be a separate offense to fail to comply with the restrictions in this Section. Any dog found to be in violation of this Section shall be subject to immediate seizure and impoundment pursuant to this Chapter. In addition, failure to comply with the requirements and conditions set forth in this Chapter shall result in the revocation of the dog's license and the keeping of such dog.
3. Waiver of Designation. A dangerous dog owner may apply to the Police Chief or designee to have the declaration waived after three (3) years upon meeting the following conditions:
- a. The owner and offending dog have no subsequent violations of this Chapter of the Code; and
  - b. The owner of the dog has complied with all the provisions of this act for a period of three (3) years; and
  - c. The owner provides proof to the Animal Control Officer of successful completion of a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), or Veterinary Behaviorist, certified through the American College of Veterinary Behaviorists (ACVB) or equivalent training.

If the Animal Control Officer finds sufficient evidence that the dog has



complied with all conditions in this subsection, and has sufficient evidence that the dog's behavior has changed, the application shall be forwarded to the Police Chief or designee to rescind the dangerous dog declaration.

C. Vicious Dogs

1. Keeping of a Vicious Dog. It shall be unlawful to keep, possess, or harbor a vicious dog within the city limits.
2. The Police Chief or designee may order a dog euthanized that has been declared vicious.
3. The owner of a dog that the Police Chief or designee declares to be vicious may be appealed to the City Council as described in this Chapter. If a timely appeal is filed, the order to euthanize the dog is suspended pending the final determination of the City Council except when the Police Chief declares that public health and safety require the immediate destruction of the dog.
4. The owner of a vicious dog shall be liable for and shall pay all costs associated with impoundment, removal, or euthanasia of said animal. The owner shall pay any other associated costs incurred.

D. Impoundment

1. A dog suspected of being dangerous or vicious may be immediately impounded when the Police Chief, Animal Control Officer, or designee determines such immediate impoundment is necessary for the protection of public health and safety.
2. The owner must pay all of the cost of the impoundment and upon request must post sufficient funds to cover the anticipated costs for continued impoundment.
3. If the Police Chief determines that the dog does not pose a risk to public health and safety, the Police Chief may refund to the owner any costs paid for the impoundment.

E. Continuation of Dangerous Dog Declaration

1. Any dog that has been declared dangerous or vicious by any agency or department of this City, another municipality, county, or state shall be subject to the provisions of this Ordinance. The person owning or having custody of any dog designated as dangerous by any municipality, county, or state government shall notify the Animal Control Officer of the dog's address and conditions of maintenance within ten (10) days of moving the animal into the City. The restrictions and conditions of maintenance of any dog declared dangerous by this City, another municipality, county, or state may remain in force while the dog remains in the City.

**6-8-10** **Dogs in Heat.** Every female dog in heat shall be confined in a building or secure enclosure in such a manner that such female dog cannot come into contact with another animal except for planned breeding.

**6-8-11** **Dangerous Animals.**

- A. No person shall keep or permit to be kept any dangerous animal as defined in this Chapter as a pet nor for display or for exhibition purposes, whether gratuitously or for a fee, except that this prohibition shall not apply to the keeping of dangerous animals in a public zoo, public aquarium, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view or for the purpose of instruction, research, or study; or for exhibition to the public by a bona fide traveling circus, carnival, exhibit, or show licensed to perform in the City; or in a bona fide licensed veterinary hospital for treatment. It shall be the duty of the persons permitted to keep dangerous animals under this Section to immediately report to the Police Department when any dangerous animal is found missing.
- B. The Police Chief or designee may order an animal euthanized that has been declared dangerous.
- C. The owner of a dangerous animal shall be liable for and shall pay all costs associated with impoundment, removal, or euthanasia of said animal. The owner shall pay any other associated costs incurred.
- D. The owner of an animal that has been declared dangerous may be appealed to the City Council as described in this Chapter. If a timely appeal is filed, the order to euthanize the animal may be suspended pending the final determination of the City Council except when the Police Chief declares that public health and safety require the immediate destruction of the animal.

**6-8-12** **Penalties.**

- A. Any person or owner of property who violates the provisions of this Chapter shall be guilty of a misdemeanor and subject to a penalty as set out in Section 1-2-14 of this Code of Ordinances.
- B. Any owner or person charged with a first or second violation of this Chapter may present such summons at the Public Safety Building in the City of Muscatine and pay such fine without appearance in court, and upon payment of the fine, shall be deemed to have pleaded guilty to the offense charged. Nothing herein contained shall be construed to prohibit any person charged with a violation of this Chapter from contesting such charge. The provisions of this Subsection shall not be applicable upon the filing of a complaint and summons for the third or subsequent violations of this Chapter.

C. Irresponsible Owner.

- 1. Any owner found to be an irresponsible owner as defined in this

Chapter shall be revoked of the right to reside with or maintain any animal at any premises owned, leased, or controlled by the irresponsible owner for a period of twelve (12) months.

2. Notice that an owner has been declared an irresponsible owner shall be in writing and promptly served by an animal control officer or law enforcement on the owner in person, by regular mail or certified mail, or by publication in a newspaper of general circulation and posting a notice on the property of the owner."
3. The notice shall contain the following information:
  - a. The name and address of the owner declared to be an irresponsible owner;
  - b. Facts upon which the declaration is based;
  - c. Requirements for the irresponsible owner not to reside with or maintain any animal at any premises owned, leased, or controlled by the irresponsible owner;
  - d. Penalties for noncompliance, including possibility of fine and imprisonment of the irresponsible owner;
  - e. The right to appeal the declaration as described in this Chapter.
4. An irresponsible owner who maintains any animal at any premises owned, leased, or controlled by the irresponsible owner in violation of this Chapter shall within 48 hours but not more than 72 hours upon receipt of notice:
  - a. Surrender the animal(s) to the Chief of Police or designee; or
  - b. Certify in writing to the Chief of Police that the animal(s) have been surrendered to an animal welfare or animal rescue organization, including the name and contact information of the organization, or that the animal(s) have been surrendered to another person over the age of eighteen and include that person's name and contact information."
5. The City may issue a municipal infraction against an irresponsible owner for violations of this provision and request a court order that the animal(s) become the property of the City.

## **6-8-13 Right to Appeal**

- A. The owner of an animal or dog that the Police Chief or designee declares to be dangerous or vicious, or an owner that has been declared an irresponsible owner as defined in this Chapter, may appeal the declaration to the City Council. In order to appeal such a declaration, a written notice of appeal must be filed with the City Clerk within three (3) days after receipt and shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City

Clerk. If a timely appeal is filed, the declaration is suspended pending the final determination of the City Council except when the Police Chief declares that public health and safety require the immediate impoundment or destruction of an animal or dog. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order.

- B. The hearing of such appeal shall be scheduled for the next regular Council meeting after 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 Police Chief or designee. Such determination shall be contained in a written decision provided to the owner.

#### **6-8-14 Seizure and Disposition**

- A. If the City Council affirms the action of the Police Chief or designee, the City Council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping a dangerous animal or vicious dog to remove such animal or dog from the City; permanently place such animal or dog with an organization or group allowed to possess dangerous animals or dogs; or destroy it.
- B. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the original order of the Police Chief or designee is not appealed or is not complied with within 48 hours of the order of the City Council after appeal has been served, the Police Chief, or his or her designee, is authorized to seize and impound such dangerous animal or vicious dog. An animal so seized shall be impounded for a period of seven (7) days. If, at the end of the impoundment period, the person against whom the decision and order of the Police Chief or designee, or City Council was issued has not petitioned the Muscatine County District Court for a review of said order, the Police Chief or designee, shall cause the animal or dog to be disposed of by sale, permanently placing such animal with an organization or group allowed to possess dangerous animals, or destroy such animal in a humane manner. All impoundment fees shall be at the expense of the owner of the animal or dog, which said fee shall be the actual cost of the feeding and care of the animal.

#### **6-8-15 Exemption for Police Service Dogs (K9s).** This Chapter shall not apply to police service dogs (K9s) used by a law enforcement agency that is acting in the performance of its duties.