

CHAPTER 47

ANIMAL CONTROL

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47.01 PURPOSE. This chapter provides for the regulation of the keeping of any domesticated animals, the conditions for the impoundment of such animals, and the providing of penalties. This chapter repeals Chapter 35 of the Marion County Code of Ordinances and provides not only for the regulation of household animals but also the regulation of livestock and breeding animals and vicious dogs and dangerous animals kept as pets.

47.02 DEFINITIONS. For use in this chapter, the following terms or words are interpreted or defined:

1. “Animal” means any nonhuman vertebrate.
2. “At Large” means any animal found off the premises of its owner and not under the control of a competent person, restrained within a motor vehicle, or fenced-in area, housed in a veterinary hospital or kennel, on a leash (electronic or otherwise) or “at heel” beside a competent person and obedient to that person’s command.
3. “Attack” means an act committed by an animal with the ability to execute such an act that either by threat of physical contact or actual physical contact causes fear, pain or injury to the human being or a domestic animal so long as the latter has not first committed such an act on the offending animal.
4. “Breeding Animal” means any animal kept for the purpose of breeding.
5. “Cats” means both male and female animals of the feline species, whether altered or not.
6. “Control” is established when an animal is secured by a leash or lead, confined in a fenced-in area or vehicle, or obedient to a competent person’s commands.

7. “County Agent” is a public or private entity either employed or under contract with the County to assist the County in regulating various sections of this chapter.

8. “Dangerous Animal” means (a) 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; (b) any animals declared to be dangerous by the Board of Health upon reasonable notice to the owner thereof who shall be entitled to a hearing before the Board; and, (c) the following animals which shall be deemed dangerous animals per se:

- A. Wolves, coyotes, and foxes;
- B. Badgers, wolverines, weasels, mink, and other Mustelids;
- C. Bats;
- D. Bears;
- E. Gila monsters, and lizards that are venomous or poisonous;
- F. All apes (including chimpanzees), baboons, and macaques;
- G. Monkeys, except the squirrel monkey;
- H. Elephants;
- I. Wild boar;
- J. Black widow and brown recluse spiders and scorpions;
- K. Snakes which are naturally venomous or poisonous;
- L. Snakes which are constricting and exceeding six (6) feet in length;
- M. All cats, except domestic cats (Carnivora of the family Felidae, including but not limited to lions, cougars, tigers, jaguars, leopards, lynx, ocelots, bobcats, etc.);
- N. Raccoons, opossums, and skunks;
- O. Any animal that while running at large has attacked or bitten any person without provocation, or any animal that has exhibited vicious propensities in present or past conduct by acting in the following manner: (a) by biting a person or persons on two separate occasions within a twelve (12) month period; or (b) did bite a person once causing injuries above the shoulders of the person.

9. “Disturbance” means the act of trespassing, chasing, maiming or killing domestic livestock or fowl; damaging or killing domestic livestock or fowl; damaging or destroying personal property; biting or attempting to bite a person.
10. “Dogs” means both male and female animals of the canine species, whether altered or not.
11. “Domestic Animal” means all livestock, household animals, breeding animals and kennel animals.
12. “Household Animal” means any companion animal normally kept by an owner anywhere on that owner’s property, whether indoors or outdoors, for the purposes of pleasure, protection, working or hunting.
13. “Kennel Animal” means any animal that under normal conditions is housed in a veterinary hospital or registered kennel.
14. “Livestock” means animals kept for use or pleasure, especially farm animals kept for use and profit including fowl.
15. “Neglected or Suffering Conditions” means any condition or situation in which the animal is in imminent danger.
16. “Owner” includes, in addition to its ordinary meaning, any person or persons, firm, association or corporation owning, keeping, sheltering or harboring an animal.
17. “Potentially dangerous dog” means any of the following:
 - A. Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off the property of the owner or keeper of the dog.
 - B. Any dog which, when unprovoked, inflicts injury upon a person less severe than as defined in Section 47.02(21).
 - C. Any dog which, when unprovoked, on two separate occasions, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.
18. “Proper enclosure” means any pen or kennel with sides attached to a secured top and a secured bottom, floor or foundation. In lieu of a top, a fence may be used that is at least six feet in height or six feet taller than any internal structure that the dog can jump from. In lieu of a bottom, a fence may be used that is imbedded into the ground at least two feet to prevent any digging under the fence.

19. "Provoked" means, but is not limited to:
 - A. Any willful trespass or other tort upon premises occupied by the owner or keeper of the dog.
 - B. Any act of teasing, tormenting, abusing, or assaulting or threat to act; being committed by a person or domestic animal against a dog or the owner or keeper of the dog.
20. "Sanitarian" means the Marion County Sanitarian.
21. "Severe injury" means any physical injury to a human being that results in muscle or tendon tears, joint injuries, disfiguring lacerations or requires multiple sutures.
22. "Stray" means any animal unlawfully running at large, the ownership of which cannot with reasonable investigation be ascertained or any animal which has been abandoned by its owner.
23. "Unincorporated Areas" means areas not within the confines of an incorporated city.
24. "Vicious dog" means any of the following:
 - A. Any dog, which, when unprovoked and in an aggressive manner, bites a human being above the waist (excluding the hands) or inflicts severe injury upon or kills a human being.
 - B. Any dog previously determined to be potentially dangerous by the Marion County Board of Health which, after its owner or keeper has been notified of the determination, continues the behavior described in Section 47.02(17) or is maintained in violation of Section 47.06.

47.03 RESPONSIBILITIES OF OWNERS. It shall be the responsibility of an owner of any animal, through the use of methods deemed reasonable and proper and in accordance with all other laws, to comply with the following conditions:

1. It is unlawful for an owner of any animal to permit such animal to run at large within the County.
2. It is unlawful for an owner of any animal to permit such animal to pass upon the premises of another person, thereby causing damage to, or interference with, the premises.
3. It is unlawful for an owner of any animal to permit such animal to cause serious noise or disorder to any person or persons by frequent and habitual howling, yelping, barking, or otherwise; or by running after or

chasing persons, bicycles, automobiles or other vehicles; or in any way posing a public hazard, a public nuisance, or a disturbance.

4. 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 a local health or law enforcement official. It shall be the duty of physicians and veterinarians to report to the Board of Health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

47.04 CONDITIONS FOR IMPOUNDMENT.

1. All strays and any dog found at large.
2. Any dog, licensed or not, which is causing a disturbance is subject to seizure and impoundment.
3. Citations may be issued to the owner of an animal in lieu of impoundment. Impoundment may be required when no owner can be identified after a reasonable amount of investigation.
4. Any vicious dog or dangerous animal believed to pose a risk or threat of harm to any person or domestic animal may be seized and impounded.
5. Any animal against which multiple complaints for running at large and causing a disturbance have been made is subject to restraint on the property of the owner. This is to include all animals within the County.

47.05 CONFINEMENT. When the Board of Health, Public Safety Officer or any County Agent (Humane Society) receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, the Board of Health, Public Safety Officer or County Agent shall order the owner to confine such animal in the manner provided herein.

1. An animal must be quarantined by a licensed veterinarian at the owner's expense, if:
 - A. The animal, over four (4) months of age, has no record of current rabies vaccination. Unvaccinated animals cannot be vaccinated until the end of the quarantine period, at which time the animal must be vaccinated at the owner's expense.
 - B. The events leading to the incident are such that rabies is suspected. There was no due cause for the incident or the animal has suspicious recent history. This will be utilized even if the animal has a record of being currently vaccinated for rabies.

2. Home quarantine may be permissible if:
 - A. Conditions listed in Subsection 47.05(1) are not applicable and the owner can provide proper confinement of the animal, complete with the posting of a sign in a conspicuous place, warning of possible rabies infection. Confinement will be done by the penning of the animal so that there is a metal barrier as to prevent the intimate approach of any other animal or person.
 - B. The owner of the animal shall sign an agreement to adhere to the rules of confinement for the designated length of time, and also agrees to notify the County immediately if the animal sickens, dies, or escapes.
 - C. The animal must be examined by a licensed veterinarian at the end of the quarantine period, and revaccinated if the bite occurred within two months of the expiration date of the current vaccination.

The quarantine period shall be ten (10) days for all animals. With the approval of a licensed veterinarian, said animal may be euthanized and the brain sent for examination at the owner's expense, if it is not practical to confine the animal for reasons of health and safety. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded and after ten (10) days the animal may be humanely destroyed. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

(Code of Iowa, Sec. 351.39)

47.06 KEEPING OF POTENTIALLY DANGEROUS DOGS. A potentially dangerous dog shall at all times be kept confined within a residence or in a secured proper enclosure. The enclosure shall be locked with a key or combination lock to prevent the entry of children. When off the premises, the dog must be kept on a substantial leash of no more than six feet in length and under the control of a responsible adult. If there are no additional instances of the behavior described in Section 47.02(17) within a 36-month period from the date of designation as a potentially dangerous dog, the dog may removed from the list of potentially dangerous dogs.

47.07 RIGHT TO KILL. The County reserves the right to euthanize any animal not under observation for rabies or under rabies quarantine for which no reasonable veterinary care would prove to be practical to sustain said animal, when said animal is afflicted with a contagious disease which would endanger the welfare of the other animals in the shelter, or any dog declared as vicious by the Marion County Board of Health..

47.08 KEEPING OF VICIOUS DOGS AND DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor any animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any other purpose or in any other capacity within the County except as provided in Section 47.09 of this chapter. No dog declared as vicious shall be allowed to be taken out of or brought into Marion County.

47.09 VICIOUS DOG AND DANGEROUS ANIMAL EXCEPTIONS. The prohibition contained in Section 47.08 of this chapter shall not apply to the keeping of illegal animals in the following circumstances:

1. The keeping of illegal animals in a public zoo, 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.
2. The keeping of illegal animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.
3. The keeping of illegal animals in a bona fide, licensed veterinary hospital for treatment.
4. The keeping of illegal animals by a wildlife rescue organization with appropriate permit from the Iowa Department of Natural Resources.
5. Dogs while utilized by any law enforcement officer in the performance of enforcement work.

47.10 ABATEMENT PROCEDURES PERTAINING TO VICIOUS DOGS AND DANGEROUS ANIMALS. In the event that the County Agent has probable cause to believe that a dog is vicious, or a dangerous animal is in violation of this chapter, the County Agent shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious or the dangerous animal is in violation and constitutes a hazard. The County Agent shall conduct or cause to be conducted an investigation and shall notify the owner or keeper of the vicious dog or dangerous animal that a hearing will be held at which said owner or keeper may have the opportunity to present evidence why the dog or dangerous animal shall not be declared a hazard. The hearing shall be held promptly within no less

than five (5) days or more than ten (10) days after the service of notice upon the owner or keeper of the dog or dangerous animal. The hearing shall be informal and shall be open to the public. After the hearing, the owner or keeper of the dog or dangerous animal shall be notified in writing of the determination. If a determination is made that the dog is vicious or the dangerous animal is a hazard, the owner or keeper shall comply with the provisions of this chapter in accordance with a time schedule established by the County Agent, but in no case more than thirty (30) days subsequent to the date of determination. If the owner or keeper of the dog or dangerous animal contests the determination, he or she may bring a petition in the district court within the judicial district wherein the dog or dangerous animal is kept, praying that the court conduct its own hearing on whether or not the dog be declared vicious or the dangerous animal be found to be in violation and a threat to the public safety. After service of notice upon the County Agent, the court shall conduct a hearing anew and make its determination as to alleged viciousness or endangerment. The issue shall be decided upon the preponderance of the evidence. If the court rules the dog to be vicious, or the dangerous animal to be a threat to the public safety, the court may establish a time schedule to insure compliance with this chapter. The court may decide all issues for or against the owner or keeper of the dog or dangerous animal regardless of the fact that said owner or keeper fails to appear at said hearing. The determination of the district court shall be final and conclusive upon all parties thereto. However, the County Agent shall have the right to declare a dog vicious or an animal dangerous for any subsequent actions of the dog or animal. In the event that the County Agent has probable cause to believe that the dog in question is vicious or the animal is dangerous, and poses a threat of serious harm to human beings or domestic animals, the County Agent may seize and impound the dog or dangerous animal pending the aforesaid hearings. The owner or keeper of the dog or dangerous animal shall be liable to the County when the dog or dangerous animal is impounded for costs and expenses of keeping such dog or dangerous animal.

47.11 ANIMAL WELFARE AND CARE. All animals shall be maintained with a “minimum level of care.” This shall mean the care sufficient to reasonably preserve the physical health and condition of the animal(s), and except for emergencies or circumstances beyond the reasonable control of the owner includes but is not limited to the following requirements:

1. A quantity of wholesome feed suitable for the animal’s species and age, sufficient to maintain reasonable levels of nutrition, at intervals of not more than twenty-four (24) hours or longer if the dietary requirements of the animal require.

2. Reasonable access to a supply of clean, fresh water provided for drinking in amounts and at intervals suitable for the species, not to exceed twenty-four (24) hours at any interval.
3. If the animal is a pet, adequate access to a shelter sufficient to ensure that the pet does not suffer unreasonable distress due to natural elements, including but not limited to wind, rain, snow, sun, cold, or dampness.
4. If the animal is livestock, adequate access to a natural or constructed barrier sufficient to offer reasonable protection against temperature extremes, wind, rain, or snow.
5. If the animal is restricted in a confinement area for an extended period, the area shall be kept reasonably clean and free from contaminates, including animal waste, which may threaten the health of the animal.
6. Veterinary or farrier care, if a reasonably prudent person would advise such care to relieve distress from injury, disease or neglect.
7. If the animal is a pet, a confinement area with adequate space for the exercise necessary to preserve the health of the animal and which provides a dry area for the animal to rest. The air temperature or ventilation in the confinement area shall be suitable to preserve the health of a normal animal of the same species.
8. If an animal is fastened by a leash, including a rope or chain, which restricts the movement of the animal, a leash shall be attached to the animal by a well-fitting collar or harness that is fastened to the animal in a manner designed to prevent injury or entanglement. A leash shall not restrict an animal from access to adequate shelter or sufficient food or water.

In the event that the County Agent finds animals in neglected or suffering conditions, the County Agent shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense, providing that the owner is notified by certified mail or by personal service by the County Agent before removal. If it is determined by the County Agent that the animal is of critical nature, the County Agent make take immediate steps to protect the animal, to include having the animal checked by a veterinarian. Return of the animal to the owner shall not be permitted until the owner shall have made full payment for all expenses so incurred by the County Agent. Said payment shall not be considered in lieu of any charges which may be filed.

47.12 COUNTY INFRACTIONS. The provisions of Chapter 1.11 of the Marion County Code of Ordinances shall be applicable for enforcement of any or all violations to this chapter and ordinance.

(Ch. 47 – Ord. 8 – Jul. 09 Supp.)