

TITLE III

CHAPTER 3: ANIMAL CONTROL AND PROTECTION

ARTICLE 11 - GENERAL PROVISIONS

11.01 DEFINITIONS. For use in this chapter, the following terms are defined:

1. "ANIMAL" shall mean all living creatures not human.
2. "AT LARGE" shall mean any animal in a motor vehicle open to the extent escape is permitted, or an animal off the premises of its owner, and in either case, not under the control of a competent person, either by leash, cord, chain, wire, rope, cage or other physical restraint of a length not to exceed six feet and of sufficient strength to restrain the animal.
3. "OWNER" shall mean any person owning, keeping, sheltering, or harboring an animal.
(Code of Iowa, Sec. 351.2)
4. "Dangerous Animal": shall mean
 - (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 city council or its designee; or
 - (c) the following animals which shall be deemed to be dangerous animals per se:
 - a. wolves and coyotes;
 - b. badgers, wolverines, weasels, mink and other Mustelids (except ferrets);
 - c. bears;
 - d. all apes (including chimpanzees), baboons and macaques;
 - e. monkeys, except the squirrel monkey;
 - f. elephants;
 - g. wild boars;
 - h. black widow spiders and scorpions;
 - i. snakes which are naturally venomous or poisonous;
 - j. all cats, except domestic cats (Carnivora of the family Felidae including, but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, et al.);
 - k. raccoons, opossums and skunks; and
 - l. alligators and crocodiles.

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5. "Dog" shall mean and include members of the canine species, male or female, whether neutered or not.
6. "Kennel" shall mean any premises on which four (4) or more dogs or four (4) or more cats, six (6) months old or older are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint.
7. "Person" shall mean any individual, association, partnership, or corporation and includes any officer, employee or agency thereof.
8. "Licensed Dog" shall mean any individual, association, partnership, or corporation and includes any officer, employee or agency thereof.
9. "Vicious Animal" shall mean any animal, except for a dangerous animal per se as defined above, while running at large that has attacked or bitten any person without provocation, or any animal that has exhibited vicious propensities in present or past conduct either by:
 - (a) biting a person or persons on two separate occasions within a twelve (12) month period; or
 - (b) biting once within a twelve (12) month period causing injuries above the shoulders of the person; or
 - (c) being uncontrollable by the owner at the time of the bite to prevent the occurrence; or
 - (d) attacking or biting any domestic animal or fowl on two separate occasions within a twelve (12) month period; or
 - (e) having been found to possess such a propensity by the city council after hearing.

11.02 CRUELTY TO ANIMALS. No person shall impound or confine or cause to be impounded or confined, in any place, any domestic animal, or fowl, or any dog or cat, and fail to supply such animal during confinement with a sufficient quantity of food or water, or who fails to provide a dog or cat with adequate shelter, or who shall torture, torment, deprive or necessary sustenance, mutilate, overdrive, overload, drive when overloaded, beat or kill any such animal by any means which shall cause unjustified pain, distress or suffering, whether intentionally or negligently.

(Code of Iowa, Sec. 717.2 & 717.3)

11.03 EXHIBITIONS AND FIGHTS. No person shall arrange, promote, or stage an exhibition at which any animal is tormented, or any fight between animals or between a person and an animal, or shall keep a place where such exhibitions and fights are staged for the entertainment of spectators.

(Code of Iowa, Sec. 717.3)

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- 11.04 ANIMALS RUNNING AT LARGE. It shall be unlawful for any owner to allow dogs, cattle, horses, swine, sheep or other similar animals or fowl to run at large within the corporate limits of the city.
- 11.05 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the city such bothersome animals as barking dogs, bees, cattle, horses, swine and sheep, or other animals which tend to disrupt the peace and good order of the community.
- 11.06 DAMAGE OR INTERFERENCE. It shall be unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another if it thereby causes damage to, or interference with, the premises.
- 11.07 ANNOYANCE OR DISTURBANCE. It shall be unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance 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, to molest or kill wildlife, birds or domestic animals on public or private property.
- 11.08 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the city a vicious animal so defined herein, except as provided in Section 11.09 of this Article.
- 11.09 VICIOUS ANIMAL EXCEPTIONS. The prohibition contained in Section 11.08 of this Article shall not apply to the keeping of vicious animals in the following circumstances:
1. Animals under control of a law enforcement or military agency.
 2. The keeping of guard dogs. However, guard dogs must be kept within a structure of fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 11.10 of this Article. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog", "Vicious Dog", or words of similar import, and the owner of such premises shall inform the O'Brien County Sheriff's Department that a guard dog is on duty at such premises.
- 11.10 IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.
1. Any peace officer or designee, hereinafter officer, in his discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal as defined herein, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the city council. The person, firm or corporation owning, keeping, sheltering or harboring the animal in question shall be given not less than 72 hours written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the animal is determined to be vicious, the owner

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will be required to remove it from the city or allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If, after hearing, the city council determines that an animal is vicious, the council shall order the person, firm or corporation owning, sheltering, harboring or keeping the animal to remove it from the city, or to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the officer is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the order of the city council was issued has not petitioned the O'Brien County District Court for a review of said order, the officer shall cause the animal to be destroyed.
3. Failure to comply with an order of the council issued pursuant hereto shall constitute a misdemeanor offense.
4. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the officer may immediately destroy it or unless its ownership is not ascertainable, in which case the animal control officer may destroy it after three (3) days impoundment.
5. Any animal which is alleged to be vicious 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 vicious. If the animal is not determined to be vicious, all costs of such impoundment or quarantine shall be paid by the city.

11.11 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.

1. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, in the discretion of the peace officer or other designated official, hereinafter officer, or the O'Brien County Sheriff's Department, be destroyed if it cannot be confined or captured. The City of Primghar shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the signed written complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal on premises located in the City of Primghar, the officer shall cause the matter to be investigated, and if after

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investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal in the City, the officer shall order the person named in the complaint to safely remove such animal from the City of Primghar, and permanently place the animal with an organization or group allowed under Section 11.13 of this Article to possess dangerous animals, or destroy the animal, within three days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person in which case the officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal issued by the officer may be appealed to the city council. In order to appeal such order, written notice of appeal must be filed with the city clerk within three (3) days after receipt of the order contained in the notice to remove dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the officer.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the city clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. After such hearing, the city council may affirm or reverse the order of the officer. Such determination shall be continued in a written decision and shall be filed with the city clerk within three (3) days after the hearing, or any continued session thereof.
5. If the city council affirms the action of the officer, the council shall order in its written decision that the individual or entity owning, sheltering, harboring or keeping such dangerous animal, remove such animal from the city, permanently place such animal with an organization or group allowed under Section 11.13 of this Article to possess dangerous animals or destroy it. 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 officer is not appealed and is not complied with within three (3) days or the order of the city council after appeal is not complied with within three (3) days of its issuance, the officer is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the city council was issued has not petitioned the O'Brien County District Court for a review of said order, the city shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under section 11.13 of this Article to possess dangerous animals, or destroy such animal in a humane manner. Failure to comply with an order of the city issued pursuant hereto shall constitute a misdemeanor offense, punishable pursuant to Title I, Section 1.06 of this Code.

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11.12 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a custodian, temporary or otherwise, for such animal, or keep such animal for any other purpose or in any other capacity within the City of Primghar except as provided in Section 11.13 of this Article.

While the following animals are not declared by this ordinance to be dangerous per se, (a) constricting snakes exceeding six feet in length, and (b) lizards exceeding two feet in length, the owners of such animals shall, within two hours of knowledge of the possibility of such an animal being "at large" within the community, so notify the City Clerk of the City of Primghar.

11.13 DANGEROUS ANIMAL EXCEPTIONS. The prohibition contained in Section 11.12 of this Article shall not apply to the keeping of dangerous animals in the following circumstances:

1. The keeping of dangerous 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 dangerous animals for exhibition to the public by a circus, carnival, exhibit or show where such circus carnival exhibit or show is of a traveling nature, is displayed before large assemblages of people, and maintenance any and all required federal or state licenses.
3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
4. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the Iowa Conservation Commission.
5. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Conservation Commission, pursuant to Chapters 109 and 109A of the Iowa Code.

11.14 ESCAPE FROM CONFINEMENT. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door or window, by making an opening in any fence, enclosure or structure, or by unleashing such animal.

11.15 DUTY OF RESTRAINT. It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or

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from coming in contact with public right-of-way or the property of another. Failure to restrain an animal pursuant to the foregoing shall constitute a misdemeanor.

- 11.16 INTERFERENCE WITH OFFICIAL ACTS. It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the city, so as to hinder, delay, or prevent his executing his duties in relation to the matters and things contained in this chapter.
- 11.17 SANITARY CONDITIONS OF CONFINEMENT. It is unlawful for any person owning, controlling or caring for any animal to fail to keep in a clean and sanitary condition the premises and any pen, kennel, shelter, house of person's dwelling or other structure where the animal is at any time kept. At least once every twenty-four hours or more often if odors or health problems arise, such person shall pick up any and all feces so as to prevent its accumulation and same shall be properly disposed of. Feces shall be held in watertight and fly-tight containers pending disposal and shall be disposed of at least once weekly. The animal and place where the animal is maintained shall also be kept free of obnoxious odors and shall be maintained so as not to attract or permit the harborage or breeding of flies and other insects or rodents or other vermin. All animal food consumption in such a manner so that it will not become food for rodents and other vermin.
- 11.18 ABANDONMENT. It is unlawful for any owner or other person to abandon, turn loose or leave any animal within the corporate limits of the city or so that the animal may find its way into the corporate limits of the city, or to abandon or leave any animal upon or in any premises unattended for a period in excess of three (3) days.
- 11.19 SUMMONS ISSUED. Penalties for violation of this article shall be as follows:
1. \$10.00 if there has been no other violation of this ordinance in the one-year period prior to the date of this violation.
 2. \$20.00 if there has been one other violation of this ordinance in the one-year period prior to the date of this violation.
 3. A simple misdemeanor if there have been two other violations of this ordinance in the one-year period prior to the date of this violation.
- 11.20 DISPOSITION OF UNLICENSED DOGS. It shall be lawful for any person, and the duty of all peace officers within their jurisdiction, to kill any dog for which a license is required when such dog is not wearing a collar with license tag attached.
(Code of Iowa, Sec. 351.26)
- 11.21 DISPOSAL OF OTHER ANIMALS. If the owner of any animal apprehended, other than a dog, cannot be located after a reasonable effort by local authorities, such animal may be humanely destroyed or otherwise disposed of in accordance with the law.

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11.22 DOGS HABITUALLY AT LARGE. It shall be unlawful for any person to keep within the City any dog for which the owner has been fined three times within a twelve (12) month period under Title III, Chapter 3, Article 11 and/or Article 12.

11.23 REMOVAL OF WASTE. Any person who shall permit a pet animal to be on public or private property shall provide for the disposal of the solid waste material excreted by the animal by immediate removal of the waste.

The provisions of this Section shall not apply to dogs used to guide the visually impaired while such dogs are acting in such capacity.

11.24 IMPOUNDMENT. Whenever impoundment or quarantine of an animal is required under this chapter, such impoundment or quarantine shall be with an organization or group as defined in Section 11.13 which may also specifically include any clinic, shelter, pound, or office however designated which is operated by or under the direction of any licensed veterinarian.

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CHAPTER 3: ANIMAL CONTROL AND PROTECTION

ARTICLE 12 - REGULATION AND LICENSING OF DOGS

12.01 DEFINITIONS. For use in this article the following terms are defined:

1. "DOG" shall mean both male and female animals of the canine species whether altered or not.
2. "OWNER" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring a dog.

12.02 LICENSE. A city council may provide for the issuance of licenses for dogs. If the council should require licenses for dogs, then such licenses shall be obtained from the city clerk. The council may set a license fee to be paid to the city clerk. Any license issued by the city clerk shall be in the form of a license tag bearing a license number and the year issued, and shall be fastened to a collar or harness which shall be worn by the dog for which the license was issued.

12.03 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

12.04 KENNEL DOGS. Kennel dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this article if the kennel is licensed under chapter 162, Code of Iowa.

12.05 AT LARGE PROHIBITED. No owner of any dog shall permit such dog to run at large, whether the dog be licensed or unlicensed.

12.06 ACTIONS OF DOGS CONSTITUTING A NUISANCE. It shall be unlawful for an owner of a dog to allow or permit such dog to perform the following:

1. OTHER PREMISES. To pass upon the premises of another thereby causing damage to, or interference with, the premises.
2. CAUSE ANNOYANCE. To cause serious annoyance or disturbance 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.

12.07 IMPOUNDING. Any licensed, unlicensed, or unvaccinated dog found at large shall be seized and impounded, or the owner may be served a summons to appear before a proper court to answer charges made.

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12.08 DOGS NOT CLAIMED. Any impounded dogs, whether licensed or unlicensed, not claimed within seven (7) days after notice shall be disposed of in a humane manner in accordance with the law.

(Code of Iowa, Sec. 351.37)

12.09 MAXIMUM NUMBER OF DOGS. A dog or canine is considered full-grown at the age of twelve (12) weeks of age. The numerical number of dogs kept on any residential premise shall be limited to two (2) full grown domesticated dogs. Once a dog reaches twelve (12) weeks of age, it is considered full grown and the dog counts toward the maximum number of dogs that can be kept on a residential premise.

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ARTICLE 13 - (Reserved for Future Use)