

**CHAPTER 33****ILLEGAL OR DANGEROUS ANIMALS**

**33.01 DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this Chapter, have the meanings in this section:

1. "Illegal 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, maiming, or causing disease among, human beings or domestic animals and having known tendencies as a species to do so; (b) any animal declared to be illegal by the board of health or the Mayor or Mayor's designee; (c) 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 and crocodiles;
- I. Elephants;
- J. Tarantula spiders and scorpions;
- K. Snakes that are venomous or constrictors;
- L. Gila monsters;
- M. Apes, baboons and macaques;
- N. Opossums

"Dangerous animal" means any animal, except for an illegal animal per se, as listed above, that has bitten or clawed a person or persons without provocation while running at large, or any animal that has exhibited vicious propensities in present or past conduct, including any animal which: (a) has bitten a person or persons on two separate occasions within a 12-month period; (b) did bite once causing injuries above the shoulders of a person; (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; (d) has attacked or bitten any domestic animal or fowl on two separate occasions within a 12-month period; or (e) which has been found to possess such a propensity by a majority of the City Council, after notice and hearing.

33.02 KEEPING OF ILLEGAL ANIMALS PROHIBITED. No person shall own, keep, shelter, or harbor any illegal animal or act as a temporary custodian for such animal, or keep for any other purpose or in any other capacity within the City any illegal animal, except as provided in Section 33.03 of this Chapter.

33.03 ILLEGAL ANIMAL EXCEPTIONS. The prohibition contained in Section 32.02 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 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. Any illegal animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Iowa Code.
6. Any illegal animal exempted pursuant to Section 33.05 of this Chapter.

33.04 SEIZURE, IMPOUNDMENT AND DISPOSITION OF ILLEGAL ANIMALS.

1. In the event that an illegal animal is found at large and unattended upon public property, 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 Chief of Police or the Chief's designee, be destroyed. The City shall be under no duty to attempt the confinement or capture of an illegal animal found at large, nor shall it

have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering, or harboring an illegal animal on premises in the City, the Chief of Police shall cause the matter to be investigated, and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring an illegal animal in the City, the Chief of Police shall order the person named in the complaint safely to remove such animal from the City, permanently place the animal with an organization or group allowed under Section 33.03 of this Chapter to possess illegal 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 illegal animal, which notice shall be given in writing to the person keeping, sheltering or harboring the animal and shall be served personally or by certified mail. Such order and notice to remove the illegal animal shall not be required where such animal has previously caused serious physical harm or death to any person in which case the Chief of Police shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical injury or death to any person.

3. The order to remove an illegal animal issued by the Chief of Police may be appealed to the City Administrator. In order to appeal such order, written notice of appeal must be filed with the City Clerk within three days after receipt of the order contained in the notice to remove the illegal animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Chief of Police.

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 days of the receipt of notice of appeal. After such hearing, the City Administrator may affirm or reverse the order of the Chief of Police. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three days after the hearing, or any continued session thereof.

5. If the City Administrator affirms the action of the Chief of Police, the City Administrator shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such illegal animal, remove such animal from the City, permanently place such animal with an organization or group allowed under Section 33.03 of this Chapter to possess illegal 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 Chief of Police is not appealed and is not complied with within three days, or the order of the City Administrator's designee after appeal is not complied with within

three days of its issuance, the Chief of Police or Chief's designee is authorized to seize and impound such illegal animal or kill the animal if seizure and impoundment is not possible without risk of serious physical injury or death to any person. An animal which is 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 decision and order of the City Administrator's designee was issued has not petitioned the Polk County District Court for a review of said order, the City Administrator's designee shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed under Section 33.03 of this Chapter to possess such animals, or destroy such animal in a humane manner. Failure to comply with an order issued pursuant to this Chapter shall constitute a misdemeanor offense.

### 33.05 EXEMPTION.

1. Any person owning or keeping an illegal animal as of February 1, 1985, may obtain an exemption, allowing that person to continue to keep such animal by complying with the provisions of this section.
2. A person owning or keeping an illegal animal as of February 1, 1985, in order to obtain an exemption, must register such animal with the City Clerk prior to March 31, 1985. The animal must be re-registered each year subsequent thereto until the animal dies or is otherwise removed from the City.
3. The person shall provide the City Clerk with:
  - A. His or her name and address;
  - B. The address where the animal is kept;
  - C. A description of the animal;
  - D. A description of the method of containing or controlling the animal at that location; and
  - E. Evidence of the existence of a certificate or policy of insurance in an amount not less than One-hundred Thousand Dollars (\$100,000.00), providing liability coverage for all damages or injuries which might arise to any person as a result of the keeping of such animal.
  - F. Certification from a licensed doctor of veterinary medicine that the animal is healthy and is not infected with rabies or any disease dangerous to humans.

4. As a condition of exemption, the owner or keeper of the illegal animal must sign an agreement, provided by the City Clerk, indemnifying the City and agreeing to defend it and hold it harmless from all claims for damages, indemnity, or contributions arising as a result of the keeping or ownership of such animal.

5. All illegal animals, not exempted by the provisions of this section, must be removed from the City of Windsor Heights prior to March 31, 1985.

6. If any owner or keeper of an animal exempted pursuant to the provision of this section shall fail to re-register the animal in any subsequent year, the City may proceed to have the animal removed or destroyed pursuant to the ordinance.

33.06 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall own, keep, shelter or harbor for any reason within the City a dangerous animal so defined herein, except as provided in Section 33.07 of this Chapter.

33.07 DANGEROUS ANIMAL EXCEPTIONS. The prohibition contained in Section 33.06 of this Chapter shall not apply to the keeping of dangerous animals in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs. However, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a dangerous animal pursuant to the provisions of Sections 33.06 and 33.08 of this Chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "guard dog", "dangerous dog", or words of similar import, and the owner of such premises shall inform the Chief of Police that a guard dog is on duty at said premises.

33.08 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS.

1. The Chief of Police or his or her designee, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a dangerous animal as defined herein, may initiate proceedings to declare such animal a dangerous animal. If the owner contests said designation a hearing on the matter shall be conducted by the City Administrator or his or her designee. 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 dangerousness. The notice shall also set forth that if the animal is determined to be dangerous, the owner may be required to license and confine the animal as required by this Chapter. 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 Administrator or his or her designee determines an animal is a dangerous animal, or a dangerous animal held in violation of this Chapter as set out in the notice of hearing, the City Administrator or his or her designee shall order the person, firm, or corporation owning, sheltering, harboring or keeping the animal to license and confine the animal as required by this Chapter, or remove it from the City. 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 days of its issuance, the City Administrator or his or her designee 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 Administrator or his or her designee was issued has not appealed such order to the City Council, or has not complied with the order, the City Administrator or his or her designee shall cause the animal or animals to be destroyed.

3. The order to license, confine or remove a dangerous animal from the City issued by the City Administrator or his or her designee 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 days after receipt of the order. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the City Administrator or his or her designee.

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 twenty (20) days of the 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 City Administrator or his or her designee. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three days after the hearing, or any continued session thereof. The hearing shall be confined to the record made before the City Administrator or his or her designee, the arguments of the parties or their representatives, any additional evidence which was not available at the time of the hearing before the City Administrator or his or her designee, and any other information the City Council deems necessary.

5. If the City Council affirms the action of the City Administrator or his or her designee, the City Council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such dangerous animal, shall license and confine said animal as required by this Chapter or remove such animal from the City. The decision and order shall immediately be served upon the person or entity

against whom rendered in the same manner as the notice set out in subsection (a) of this section. If the original order of the City Administrator or his or her designee is not appealed and is not complied with within three days or the order of the City Council after appeal is not complied with within three days of its issuance, the Chief of Police or his or her designee is authorized to seize and impound such dangerous 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 decision and order of the City Administrator or his or her designee or the City Council was issued has not petitioned the Polk County District Court for a review of said order, or has not complied with the order, the City Administrator or his or her designee shall cause the animal to be destroyed in a humane manner.

6. Failure to comply with an order of the City Administrator or his or her designee issued pursuant hereto and not appealed, or of the City Council after appeal, is a misdemeanor.

7. Any animal which is alleged to be dangerous and which is under impoundment or quarantine at the animal shelter 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, all costs shall be paid by the City except costs attributable to initial confinement prior to notice or costs of any required quarantine which shall nonetheless be paid by the owner.

33.09 MISDEMEANOR. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor. Each day said violation continues shall be considered a separate offense.