

## ORDINANCE

- 26A -

### AN ORDINANCE RELATING TO THE KEEPING OF ANIMALS AND RELATING TO DANGEROUS AND VICIOUS ANIMALS

WHEREAS, the City Council of Farmington, Iowa, by previous Ordinances had set forth the conditions under which animals may be licensed, and

WHEREAS, the City of Farmington, Iowa, no longer requires the licensing of animals and desires to clarify the conditions under which animals may be kept,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMINGTON, IOWA, AS FOLLOWS:

**SECTION 1** Definitions: For use in this Ordinance and in Ordinance 26, the following terms are defined:

1. The term “abandon” shall mean to cease to support or look after an animal and/or desert an animal.
2. The term “animal” shall mean all domesticated and non-domesticated non-human vertebrates including without limitation all dogs, cats, birds, pigs, rodents, snakes, cattle, horses, swine, chickens and sheep.
3. The term “contractor” shall mean any person or persons, firm, association or corporation licensed to provide animal board and care.
4. The term “dangerous animal” shall mean any animal which is not naturally tame or gentle and which is of a wild nature or disposition; or which is deemed by the City Council of Farmington to be a dangerous animal following notice to the owner of the animal and an opportunity to be heard as to whether it is a dangerous animal. The following animals shall be dangerous 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, chimpanzees and gorillas;
  - G. Alligators and crocodiles;
  - H. Pit Bull Terriers, American Pit Bulls, Staffordshire Terriers and/or any other dog whose appearance and characteristic of breed is commonly regarded as Pit Bull, Pit Bull Dog or Pit Bull Terrier;
  - I. Any cross-breed of animals listed above which has characteristics similar to the animals listed above.
5. The term "owner" shall mean any person or persons, firm, association, company or corporation owning, keeping, sheltering, or harboring an animal.
6. The term "officer" shall mean the Mayor or his or her designee authorized to enforce this ordinance.
7. The term "provocation" shall mean attack, torture, torment, mishandle and/or another action that a reasonable person would expect to cause a violent reaction by an animal under circumstances similar to those that existed at the time of an attack by the animal on a human being, domestic animal or fowl. "Provocation" shall include an attack or attempted attack against the owner of the animal or the immediate family of the owner of the animal within the presence of the animal. The word "provocation" shall not mean the mere act of entering the premises, dwelling, or other buildings or property of the owner of an animal.
8. The term "vicious animal" shall mean any animal which has attacked a human being without provocation on at least one occasion in the past and any animal that has attacked any domestic animal or fowl without provocation on at least two separate occasions within any 24-month period.

**SECTION 2** Prohibited Acts:

1. Vicious Animals. No owner shall keep, shelter or harbor a vicious animal within the City of Farmington. By keeping, sheltering or harboring a vicious animal within the City of Farmington, the owner of such an animal shall be deemed to have consented to the seizure and destruction of his or her animal.
2. Dangerous Animals. No owner shall keep, shelter or harbor a dangerous animal except as specified herein.
- A. Dangerous animals shall be contained, at all times, within an enclosure that is suitably designed to confine the animal, prevent the animal's

escape and prevent the inadvertent freeing of the animal. Enclosures built according to the following specifications are per se “suitably designed to confine a dangerous animal”:

- a. All walls shall be constructed out of chain link, tightly spaced wooden or tightly spaced metal slat fence or other materials which are equally as effective to constrain an animal as chain link, wooden slats and metal slats to confine a particular animal – unless the animal can climb chain link in which case chain link shall not be used;
  - b. All slats shall be spaced equal to or less than three inches apart;
  - c. All walls shall be at least six feet in height;
  - d. The space between the fence and the ground shall be no greater than two inches; and
  - e. Every gate or door therein shall remain locked at all times except when an animal is entering or exiting the enclosure with a lock that requires a combination or a key to open and which key is not located within the immediate area of the gate is per se suitably designed to confine the animal.
- B. No dangerous animals shall be outside an enclosure that is suitably designed to confine it except for the purpose of transporting the animal off the premises where it is typically confined and then only when such animal is restrained on a choke chain not greater than six feet in length and under the control of a person reasonably competent to restrain and control the animal; restrained within a motor vehicle; housed in a veterinary hospital or registered kennel; and/or participating in a regularly scheduled competitive or exhibition event sanctioned or sponsored by a nationally recognized organization, local chapter thereof, or other generally recognized local organization.
- C. By keeping, sheltering or harboring a dangerous animal except as specified herein, the owner of such an animal shall be deemed to have consented to the seizure and destruction of his or her animal.
3. Abandonment. No owner of any animal shall abandon said animal except that an owner of an animal may deliver the animal to another person who will accept ownership and custody of the animal or to an animal shelter or veterinarian who participates in a program to relocate animals – none of which shall constitute abandonment.
4. Limits on Numbers of Animals. No owner shall keep, shelter or harbor more than three animals of the same species and no owner shall keep, shelter or harbor more than three species of animals. This prohibition shall not apply to licensed veterinarians and licensed veterinary care facilities,

licensed animal shelters and persons who hold licenses issued by the State of Iowa for breeding or kennel operations.

5. Outdoor Enclosures. No owner shall keep, shelter or harbor an animal in outdoor enclosures unless the enclosure is located at least 35 feet away from every portion of any dwelling other than that of the animal's owner. This prohibition shall not apply to licensed veterinarians and licensed veterinary care facilities, licensed animal shelters and persons who hold licenses issued by the State of Iowa for breeding or kennel operations. Additionally, the following requirements shall be met by owners:

- A. All outdoor animal enclosures shall be maintained in such a way as to keep them free from offensive odors that reasonably interfere with the quiet enjoyment of property located within 500 feet of the enclosure.
- B. All outdoor animal enclosures shall be maintained in such a way as to prevent said enclosures from becoming a nuisance, which care shall include regular removal from and proper disposal of animal waste from the premises.

6. Infestation. No owner shall allow his or her animals or the premises where his or her animals are kept, sheltered or harbored to become infested with ticks, fleas or other vermin.

7. Improper Release. No person except the owner of an animal shall open any gate or door on any premises when opening said gate or door may result in the release of an animal from the premises and no person shall entice or otherwise enable an animal to leave the premises where it is kept, sheltered or harbored.

8. Property Damage. No owner of any animal shall allow or permit such animal to cause damage to or interfere with the property of another.

9. Personal Injury. No owner of any animal shall allow or permit such animal to bite, scratch or otherwise cause personal injury to another or to another's domesticated animals.

10. Unreasonable Disturbance. No owner of any animal shall allow or permit such animal to frequently or habitually howl, yelp, screech, mewl, bark or otherwise cause unreasonably annoyance or disturbance to another.

11. Rabies Vaccinations. No person shall own, keep, shelter or harbor a dog, six months of age or over, which has not been vaccinated against rabies. The tag evidencing vaccination and issued by a veterinarian administering the vaccine shall be attached to the collar of the dog.

**SECTION 3** **Seizure and Impounding:** Upon complaint by a resident of the City that a vicious animal exists within the City of Farmington or that an owner and/or animal has engaged in a prohibited act or without such a complaint and upon reasonable suspicion that a vicious animal exists within the City of Farmington or that a particular animal has engaged in a prohibited act, an officer may investigate whether a vicious animal does so exist and/or whether another prohibited act has occurred. If, after investigation, the officer reasonably determines that a vicious animal does so exist or that a particular animal has engaged in a prohibited act, the officer or his or her designee may seize the animal. Seizure may be affected by tranquilization or other sedation of an animal or animals and the City, the officer and/or the agents of the officer discharging a tranquilizer gun or otherwise administering a drug to such an animal shall be immune from suit for damage to the animal as a result thereof. After seizing the animal, the officer or his or her designee shall impound the animal unless the animal is a vicious animal in which case it shall be destroyed and the costs of destruction shall be paid by the owner to the City.

1. **Notice.** The officer or a contractor with whom the animal is impounded shall give notice of impoundment within 48 hours of impoundment to the owner thereof if such owner's name and address appear on the animal's collar or are otherwise reasonably known. Said notice shall state the expiration date of impoundment as provided herein and shall be deemed given when mailed, by certified and regular mail, to the owner at his or her last known address as it appears on the animal's collar, if any, or as otherwise reasonably known to the officer or contractor.
2. **Redemption.** Any animal that is under impoundment may be redeemed by the owner if (a) the animal is not under quarantine or observation for disease as reasonably determined in the sole discretion of the party from whom redemption is sought; (b) all costs of the animal's impoundment including tranquilization or sedation, reasonable board and reasonable medical care are paid to the City or the contractor who has impounded the animal; and (c) the party from whom redemption is sought is unaware of the existence of any injunction or other court order prohibiting redemption.
3. **Period of Impoundment.** Every animal found without reasonable identification of its owner including a collar bearing its owner's name and contact number or address shall remain in impoundment until the sooner of the animal's redemption or the expiration of 72 hours from the animal's seizure. Every animal found with reasonable identification

of its owner including a collar bearing its owner's name and contact number or address shall remain in impoundment until the sooner of the animal's redemption or the expiration of 168 hours from the animal's seizure. In the event that notice of impoundment is given within 48 hours of the expiration of an animal's impoundment period, said expiration period shall be extended by 48 hours which shall begin to run when the notice of impoundment is deemed given.

4. Disposition of Unredeemed Animals. After the expiration of the appropriate impoundment period as provided in this Ordinance, the officer may cause the humane destruction of the animal or release the possession and ownership of the animal to an animal shelter or a licensed veterinarian who participates in a program to relocate animals. All costs of the destruction and disposal of an animal shall be paid by the owner to the City.
5. Administrative Fee. In addition to any other fines, fees, penalties or costs imposed upon the owner of an animal, the owner of an animal that is seized and/or impounded shall pay to the City an administrative fee of not greater than \$100.00 per seizure (without regard to whether the animal is impounded) and not greater than \$100.00 per destruction and disposal, if any, as determined by the City Council as necessary to cover the City's cost of investigating, seizing, supervising and otherwise regulating the owner's animal.
6. Payment of Fees and Costs. The City may contract with a contractor for the seizure, tranquilization, impoundment, board, reasonable care, euthanasia and/or disposal pursuant to this Ordinance. Fees and costs incurred by the City incident to its own and incident to a contractor's seizure, tranquilization, impoundment, board, care, euthanasia and/or disposal pursuant to this Ordinance are the responsibility of the animal's owner and shall be paid by the animal's owner. Following seizure, impoundment and/or disposal, as the case may be, the City Clerk shall mail a statement of all fees and costs owing, by certified and regular mail, to the last known address of the owner. Said statement shall be due and payable upon mailing and shall become delinquent if not paid within ten (10) days of the date of mailing. All delinquent amounts may be assessed against the property of the owner for collection in the same manner as a property tax, as provided by state law.
7. Vicious and Dangerous Animals. Nothing herein shall be construed to require any officer or contractor to attempt to or to sedate, tranquilize, impound, or provide notice of impoundment to any owner of a vicious animal or to any owner of a dangerous animal that is "at large," as the same is defined in Ordinance 26; or to attempt to or to sedate, tranquilize, impound, or provide notice of impoundment to any owner

of any animal when the animal is caught in the act of chasing, maiming, or killing any domestic animal or fowl, or when such animal is attacking or attempting to bite a person.

First Reading: November 18, 2019

Second Reading: Waived

Third and Final Reading - Passed and approved: December 10, 2019.

Janet Browning, Mayor

Becky L. Fry, Clerk

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