



CITY OF INDIANOLA COUNCIL STUDY MEETING

June 19, 2023

6:00 PM

City Council Chambers

110 N 1st St., Indianola, IA

Agenda

- 1. Presentation regarding the risk renewals for Fiscal Year 24.**
- 2. Discussion and direction regarding Chapter 56, Dangerous or Vicious Animals**
 - A. Chapter 56
- 3. Discussion and direction regarding Chapter 126, Indianola Bike Nite**
 - A. Chapter 126
- 4. Discussion regarding upcoming agenda items from within the regular July 19, 2023, City Council meeting at 7:00 p.m.**

DANGEROUS OR VICIOUS ANIMALS

56.01 Definitions

56.02 Keeping of Dangerous Animals Prohibited

56.03 Seizure, Impoundment and Disposition of Dangerous Animals

56.04 Keeping of Vicious Animals Prohibited

56.05 Seizure, Impoundment and Disposition of Vicious Animals

56.01 DEFINITIONS.

As used in this chapter, the following words and terms have the meanings ascribed thereto:

1. "Animal" means every wild, tame or domestic member of the animal kingdom which is a non-human vertebrate.
2. "Dangerous animal" means: (i) 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; (ii) any animals declared to be dangerous by the Council; or (iii) the following animals, which are 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, female spider monkey, and female woolly monkey.
 - F. Elephants.
 - G. Wild boar.
 - H. Black widow spiders and scorpions.
 - I. Snakes which are naturally venomous or poisonous, with the exceptions stated in Section 56.02.
 - J. All cats, except domestic cats (*Carnivora* of the family *Felidae* including but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.)
 - K. Raccoons, opossums, and skunks.
3. "Owner" or "owner of an animal" means any person or persons, firm, association or corporation, owning, keeping, sheltering or harboring an animal.
4. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, 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:
 - A. By biting a person or persons on two separate occasions within a 12-month period; or
 - B. Did bite once causing injuries above the shoulders of the person; or
 - C. Could not be controlled or restrained by the owner at the time of the bite to prevent the occurrence; or
 - 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 the Council, after hearing.

56.02 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 except 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 maintains 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 State Department of Natural Resources.
5. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the *Code of Iowa*.
6. Venomous reptiles must be kept within a structure and housed in a suitable manner as outlined by the Iowa Herpetological Society. Any venomous reptile found at large may be processed as a dangerous animal pursuant to the provisions of this chapter. Any premises where venomous reptiles are housed shall be prominently posted with a sign containing the wording "Venomous Reptiles," "Poisonous Reptiles," or words of similar import and the owner of such premises shall inform the Indianola Police Department, in writing, by certified mail, within 30 days of the acquisition of a venomous reptile, that a venomous reptile is or will be on such premises.
7. Nothing in this chapter shall in any manner prohibit any individual deemed fully qualified and licensed under the United States Department of Agriculture and the United States Department of Interior from appearing before the Council for special and specific permission to keep for research, education, or reproductive reasons any animal considered herein to be regarded as dangerous or not listed in any particular part of this chapter.
8. While constricting snakes exceeding six feet in length, and lizards exceeding two feet in length are not declared by this chapter to be dangerous, the owners of such animals, within two hours of knowledge of the possibility of such an animal being at large within the community, shall so notify the Police Department of the City.

56.03 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 Indianola Police Department, be destroyed if it cannot be confined or captured. The City 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 written complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal on premises located in the City, the Indianola Police Department 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 a dangerous animal in the City, the Indianola Police Department shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed under Section 56.02 of this chapter 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, which notice shall be given in writing to the person keeping, sheltering or harboring 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 has previously caused serious physical harm or death to any person, in which case the Indianola Police Department 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 Indianola Police Department may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three 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 Indianola Police Department.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of notice of appeal. After such hearing, the Council may affirm or reverse the order of the Indianola Police Department. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing, or any continued session thereof.
5. If the Council affirms the action of the Indianola Police Department, 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 56.02 of this chapter 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 Indianola Police Department is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the Indianola Police Department 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 Council was issued has not petitioned the Warren County District Court for a review of such 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 56.02 of this chapter to possess dangerous animals, or destroy such animal in humane manner.

56.04 KEEPING OF VICIOUS ANIMALS PROHIBITED.

No person shall keep, shelter or harbor for any reason within the City a vicious animal except 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 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 this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the words "Guard Dog," "Vicious Dog," or words of similar import, and the owner of such premises shall inform the Indianola Police Department that a guard dog is on duty at such premises.

56.05 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS.

1. The Indianola Police Department, in its 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 Council. The person 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 the hearing. Such 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 will be required to have the animal humanely 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 Council determines that an animal is vicious, the Council shall order the person owning, sheltering, harboring, or keeping the animal 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 days of its issuance, the Indianola Police Department 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 Council was issued has not petitioned the Warren County District Court for a review of the order, the Indianola Police Department shall cause the animal to be destroyed.

3. 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 Indianola Police Department may immediately destroy it. If its ownership is not ascertainable, the Indianola Police Department may destroy it after three days of impoundment.

4. 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.

CHAPTER 126

INDIANOLA BIKE NITE

126.01 Food Vendor	126.04 Nuisance
126.02 Non-Food Vendor	126.05 Violations
126.03 Temporary Stands	126.06 Exception

126.01 FOOD VENDOR.

1. No person shall provide or sell food/beverages to the public on public property in the City on the third Friday, April through September of each year, unless the person has first obtained a food vendor's permit from the Supporters of Indianola Committee.
2. The fee for a food vendor's permit shall be established by the Supporters of Indianola. EXCEPTION: There shall be no food vendor fee for businesses on the square and one block off which serve the same food (as their business) on the sidewalk directly in front of and adjacent to their business in Indianola on the third Friday, April through September of each year.
3. The food vendor permit shall be granted on condition that the food vendor locate the vendor's sale stand at a location to be determined by the Supporters of Indianola Committee except to the above exception. All food vendors must show proof of liability insurance in the amount of \$1,000,000.00 and name the Supporters of Indianola and the City as additional insured. All food vendors shall comply with the Iowa Department of Health Rules and Regulations governing the sale of food for consumption on the premises.
4. The Supporters of Indianola Committee has the exclusive authority to issue or not issue food vendor permits. All disputes regarding the issuance of a food vendor permit shall be finally decided by the Supporters of Indianola Committee on a case-by-case basis. Preference may be given to vendors from Indianola and Warren County.

126.02 NON-FOOD VENDOR.

1. No person shall sell merchandise or entertainment to the public on public property in Indianola on the third Friday, April through September of each year, unless the person has first obtained a non-food vendor's permit from the Supporters of Indianola Committee.
2. The fee for a non-food vendor's permit shall be established by the Supporters of Indianola. EXCEPTION: There shall be no non-food vendor fee for businesses on the square and one block off which sell the same non-food products (as their business) on the sidewalk directly in front of and adjacent to their business in Indianola on the third Friday, April through September of each year.
3. The non-food vendor permit shall be granted on condition that the vendor locate the vendor's sale stand at a location to be determined by the Supporters of Indianola Committee except to the above exception. All non-food vendors must show proof of liability insurance in the amount of \$1,000,000.00 and name the Supporters of Indianola and the City as additional insured.
4. The Supporters of Indianola Committee has the exclusive authority to issue or not issue non-food vendor permits. All disputes regarding the issuance of a non-food vendor permit shall be finally decided by the Supporters of Indianola Committee on a case-by-case basis. Preference may be given to vendors from Indianola and Warren County.

126.03 TEMPORARY STANDS.

Temporary stands for the sale of food or other merchandise shall be permitted at locations designated by the Supporters of Indianola Committee.

126.04 NUISANCE.

The sale of food/beverages or the location of a temporary stand for the sale of food/beverages or merchandise/entertainment outdoors without a permit or in violation of any of the provisions of this chapter is hereby declared to be a nuisance. The police officers of the City are hereby empowered to cause the offending stand or temporary stand or outdoor entertainment or place to be immediately dismantled and removed without notice.

126.05 VIOLATIONS.

It is a simple misdemeanor and/or a municipal infraction for any person to supply or sell food/beverages and merchandise/entertainment within the City on the third Friday, April through September of each year, without first having obtained the appropriate vendor permit.

126.06 EXCEPTION.

It shall not be a violation of this chapter and no vendor permit shall be required for a person to sell or supply food/beverages in Indianola on the third Friday, April through September of each year, on that person's own licensed premises providing that the person was in possession of a current Iowa Permit for the sale of food/beverages consumption on the premises as of April 1 of each year.