



CITY OF INDIANOLA COUNCIL STUDY MEETING

November 6, 2023

6:00 PM

City Council Chambers
110 N 1st St, Indianola, IA
Agenda

- 1. Warren County Economic Development Annual Report**
- 2. Discussion and direction regarding Chapter 56, Dangerous or Vicious Animals**
 - A. Proposed Ordinance
- 3. Discussion regarding upcoming agenda items from within the regular November 6, 2023, City Council meeting at 7:00 p.m.**

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:

3. "Domestic Animal"- Any animal that is owned and cared for by a person and that is kept for pleasure rather than utility. Does not include feral cats or stray dogs.

4. "Restrained"- means to secure an animal by a leash or lead in the control of a responsible person, or confining an animal by means which would reasonably and reliably prevent the animal's escape.

- 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 wooly 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. "Serious injury" means any physical injury incurred by an animal, resulting in major bone fracture, amputation, significant soft tissue damage to muscles, tendons or nerves, disfiguring lacerations or injuries requiring multiple sutures or corrective or cosmetic surgery to repair.

4. "Owner" or "owner of an animal" means any person or persons, firm, association or corporation, owning, keeping, sheltering or harboring an animal.

5. "Provocation" means that the threat, injury or damage caused by the animal was sustained by a person or animal who, at the time, was willfully trespassing upon or within the premises occupied or owned by the owner, and/or other person(s) or animal(s) was tormenting, abusing, or assaulting the animal, or touching or attempting to touch the animal without owner consent while the animal was properly restrained, or the person was committing or attempting to commit a crime.

6. "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 without provocation, in present or past conduct:

A. By biting a person or persons on two separate occasions within a 24-month period; or

B. Did bite once without provocation, causing serious injury to a person, death to a person, or death or serious injury to a domestic animal legally owned by a person as a pet.

C. Could not be controlled or restrained by the owner or person responsible for the dog 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 24-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.

56.06 Exceptions.

A dog shall not be categorized as dangerous or vicious if it bites, attacks, menaces, maims or kills a person, domestic pet or animal in order to:

- A. Defend its owner, caretaker, another person or itself from a physical attack by another person or animal.
- B. Defend its owner, caretaker, another person, or itself from unwanted touch by a person or animal while being under owners' control via leash or any other manner in which the owner has proper control of the dog. Unwanted touch

meaning, an attempt to touch the dog's owner, caretaker or another person in any fashion without consent of said person or to touch, attempt to pet, or approach in attempt to touch a properly controlled dog without consent from the owner.

C. Protect itself, its young or another animal.

D. Defend itself against any person or animal that has tormented, assaulted or abused it.

E. Defends its owner's or caretaker's property against trespassers, intruders, or persons committing a crime.

F. Defends or protects its owner, caretaker, other person, or itself from approach, potential attack, or attack by any other at large animal.

G. If a person is bit while attempting to break up any animal or dog fight and gets bitten in the process, the animal or dog is not at fault.