

ORDINANCE NO. 2020-10-13

**ORDINANCE AMENDING THE CODE OF
ORDINANCES OF THE CITY OF FRUITLAND,
IOWA ADOPTED ON JULY 2, 2019**

WHEREAS, pursuant to Iowa Code Section 380.8, the City Council does hereby amend the City Code of Fruitland, Iowa, adopted through action of the City Council on July 2, 2019; and

WHEREAS, an official copy of the City Code is on file in the office of the City Clerk, together with standard codes adopted by reference in this code; and

WHEREAS, copies of this code shall be kept in the City Clerk's office available for public inspection and for sale at cost to the public.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL
FOR THE CITY OF FRUITLAND, IOWA:**

THAT Section 4-1-7 Keeping a Vicious Animal of the Code of Ordinances, City of Fruitland, Iowa is hereby repealed, and amend sections from 4-1-8 to 4-1-7 as Kennel Dogs to be renumbered consecutively thereafter.

THAT the Code of Ordinances, City of Fruitland, Iowa, is hereby amended by adding a section, to be numbered 4-1-1 Definitions 5. A dangerous animal is, which said section reads as follows:

A dangerous animal is:

- a. Any animal which is not naturally tame or gentle; and
- b. Which is of a wild nature or disposition; and
- c. Which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals; and
- d. Having known tendencies as a species to do so; or
- e. Has bitten or attacked a human being or other animals without provocation or justification;
- f. Exhibits aggressive or dangerous behavior and is not adequately confined or restrained;
- g. Is known or suspected to be an animal exposed to rabies and is not adequately confined and restrained; or,

- h. Requires confinement or restraint to protect the health, safety, or welfare of the public.
- i. The following are animals which shall be deemed to be dangerous animals per se:
 - (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
 - (2) Wolves, coyotes, and foxes;
 - (3) Badgers, wolverines, weasels, skunks and mink;
 - (4) Raccoons;
 - (5) Bears;
 - (6) Monkeys, chimpanzees, and apes;
 - (7) Alligators and crocodiles;
 - (8) Scorpions; gila monsters;
 - (9) Snakes that are venomous or constrictors;
 - (10) Pit bulls meaning any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds;
 - (11) Any cross breed of such animals which have similar characteristics of the animals specified above;
- j. Any animals declared to be dangerous by the City Council.

THAT the Code of Ordinances, City of Fruitland, Iowa, is hereby amended by adding a section, to be numbered 4-1-1 Definitions 6. Vicious animal, which said section reads as follows:

“Vicious animal” means any animal that:

- a. Has bitten or attacked human beings or other animals; or
- b. Has previously been deemed dangerous, and subsequently bitten or attacked another animal; or
- c. Has previously been seized or impounded for exhibiting dangerous behaviors; or
- d. A dog that chases other animals, bicycles, pedestrians, or vehicles on streets, sidewalks or public places within the city.
- e. Exceptions:
 - (1) Protecting self or others: an animal shall not be considered

vicious if it has bitten or attacked if the animal was:

- a. Protecting or defending itself, its young, or another animal;
 - b. Responding to pain or injury; or
 - c. Protecting or defending a human being within the immediate vicinity of the animal from physical attack or assault.
- (2) Instigation by others: an animal shall not be considered vicious if it has bitten or attacked if the injury or damage was sustained by one who:
- a. At the time was committing a willful trespass or other tort on the premises occupied by the owner or custodian of the animal;
 - b. Was tormenting, abusing, or assaulting the animal;
 - c. In the past has been observed or reported to have tormented, abused, or assaulted the animal; or
 - d. Was committing or attempting to commit a crime.

THAT the Code of Ordinances, City of Fruitland, Iowa, is hereby amended by repealing a section, numbered 4-1-6 1. Definitions, and renumbering 4-1-6 2. to 4-1-6 1.

THAT the Code of Ordinances, City of Fruitland, Iowa, is hereby amended by adding a section, to be numbered 4-1-11. Vicious Animals; Guard or Attack Dogs, which said section reads as follows:

1. It shall be unlawful for any person to keep or harbor a fierce or vicious animal, except in an authorized zoo or zoological park.
2. If satisfied that an animal is accustomed to seizing and biting people or is vicious and has actually bitten one or more person or animals, the Chief of Police, or assigned designee, may, if he finds such animal at large, kill the same without previous notice to the owner.
3. Dogs maintained as guard dogs or placed in an enclosed area for the protection of person or property shall not be included under this section as long as they remain in this enclosed area and are completely confined in a kennel, yard, or other space when not being used as a guard dog.
4. The owner, or other person in control if not the owner, of all premises upon which attack and guard dogs are maintained shall post signs on,

over, or next to all exterior doors stating that such dogs are on the premises. At least one (1) such sign shall be posted at each driveway or entrance way to said premises.

THAT the Code of Ordinances, City of Fruitland, Iowa, is hereby amended by adding a section, to be numbered 4-1-12. Seizure, Impoundment, and Disposition of Dangerous or Vicious Animals, which said section reads as follows:

1. The Police Chief, or assigned designee, may destroy a dangerous or vicious animal at their discretion in the event that the animal:

- a. Cannot be confined or captured and is:
- b. Found at large and unattended upon public property, park property, public right-of-way; or,
- c. Found at large on the property of someone other than its owner, thereby creating a hazard to persons or property.
- d. The City shall be under no duty to attempt the confinement or capture of a dangerous/vicious animal found at large nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. The Police Chief, or assigned designee, shall investigate any complaint of a person keeping, sheltering or harboring a dangerous or vicious animal on premises in the City in violation of this chapter. The Police Chief, or assigned designee, shall also investigate any complaint of a dangerous or vicious animal that demonstrates a propensity to attack without provocation. If investigation of the facts indicate that the person named in the complaint is keeping, sheltering, or harboring a dangerous or vicious animal in the City, the Police Chief, or assigned designee, shall order the person named in the complaint to:

- a. Safely remove such animal from the city; or
- b. Permanently place the animal with an organization or group allowed to possess such dangerous or vicious animal; or
- c. Destroy the animal

3. The order shall be contained in a notice to remove the dangerous/vicious animal, shall be in writing, and shall be served personally or by certified mail to the person keeping, sheltering, or harboring the dangerous/vicious animal.

4. The order to remove a dangerous/vicious animal shall be carried out within three (3) business days of receipts of the order; or the recipient of the order

may appeal the order to the City Council. To appeal such order, written notice of appeal must be filed with the City Clerk within the three (3) day period following the receipt of the order to remove the dangerous/vicious animal. The appeal shall be delivered in person or by certified mail to the City Clerk. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order.

- a. The hearing of the appeal shall be scheduled for the next regular Council meeting after receipt of the 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 Police Chief, or assigned designee. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three (3) days after the hearing or any continued session thereof.
- b. If the City Council affirms the action of the Police Chief, or assigned designee, the City Council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such dangerous/vicious animal follow the actions of the original order. 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.

5. Such order and notice to remove the dangerous/vicious animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the Police Chief, or assigned designee, 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.

6. If the original order of the Police Chief, or assigned designee, is not appealed or is not complied with within three (3) days of the order of the City Council after appeals has been served, the Police Chief, or assigned designee, is authorized to seize and impound such dangerous/vicious animal. An animal so seized shall be impounded for a period of seven (7) days. If, at the end of the impoundment period, the person against whom the decision and order of the Police Chief, or assigned designee, or City Council was issued has not petitioned the Muscatine County District Court for review of said order, the Police Chief, or assigned designee, shall cause the animal to be disposed of by sale, permanently placing such animal with an organization or group allowed to possess dangerous/vicious animals, or destroy such animal in a humane manner. All impoundment fees shall be at the expense of the owner of the dangerous/vicious animal, which said fees shall be the actual cost of the feeding and care of the animal.

THAT the Code of Ordinances, City of Fruitland, Iowa, is hereby amended by adding a section, to be numbered 4-1-13. Penalties, which said section reads as follows:

1. Any person or owner of property who violated the provisions of this

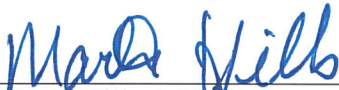
Chapter shall be guilty of a municipal infraction and subject to a penalty as set out in Section 1-3-2 of this Code of Ordinances.

2. Any owner or person charged with a first or second violation of the Chapter may present such summons at City Hall in the City of Fruitland and pay such fine without appearance in court, and upon payment of the fine, shall be deemed to have pleaded guilty to the offense charged. Nothing herein contained shall be construed to prohibit any person charged with a violation of this Chapter from contesting such charge. The provision of this Subsection shall not be applicable upon the filing of a complaint and summons for the third or subsequent violation this Chapter.

THAT the Code of Ordinances, City of Fruitland, Iowa, is hereby amended by adding a section, to be numbered 4-1-14. Exemption for Police Service Dogs (K9s), which said section reads as follows:

1. This Chapter shall not apply to police service dogs (K9s) used by a law enforcement agency that is acting in the performance of its duties.

PASSED AND APPROVED THIS 13th DAY OF OCTOBER, 2020


Marty Hills, Mayor

ATTEST:


Becca Shoppa, City Clerk

Passed First Reading: 10/13/2020

Passed Second Reading: Waived 10/13/2020

Passed Third Reading: Waived 10/13/2020

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