

ORDINANCE 80

ANIMAL PROTECTION AND CONTROL

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80.01 PURPOSE

The purpose of this ordinance is to protect human beings, livestock, and domesticated animals from the perils of dangerous and vicious animals within the confines of Benton County, Iowa and to protect animals from the dangers of abuse, cruelty and neglect.

80.02 DEFINITIONS

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Abandoned animal" means leaving an animal in a public or private place, for a period in excess of 24 hours without appropriate provisions having been made for the feeding, watering, and care of such animal. If an animal is restrained or confined outdoors without food, water, or proper care, the animal control authority may enter upon any such property where the animal is restrained or confined and supply it with the necessary food, water and care as long as it remains there.
2. "Adequate food" means nutritious food suitable for the species provided continuously or at suitable intervals in a sanitary manner in quantities sufficient to allow for normal growth or maintain good health and body weight in an animal considering its age and condition.
3. "Adequate shelter" means a dog house, barn or similar structure, for each animal chained, tethered, penned or otherwise restrained or confined outdoors, suitable for the species, age, condition and size of the animal; that has solid sides, floor and top that do not leak air or moisture and a cover over the doorway which keeps the doghouse or structure dry and allows the animal unlimited access and egress from the doghouse, barn or structure; is clean, safe, enable the animal to be clean and dry and protects the animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is large enough for the animal to stand up, lie down and stretch comfortably and make all other normal bodily movements in a comfortable, normal position for the animal; has a floor that is elevated from the ground and contains insulation between the floor and ground. A carrier or crate is not adequate shelter.
4. "Adequate water" means continual access to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, condition and age of the animal in sufficient amounts to

maintain good health in the animal. Such water will be provided in a secure manner so that the container cannot be overturned.

5. “Animal” means a living creature, not human, and being either domestic or wild.
6. “Animal Control Officer” means an employee of animal control designated to enforce laws pertaining to animals.
7. “At large” means any animal on or off the premises of the owner and not under control of the owner, keeper or other persons acting for the owner or not confined in a secure enclosure.
8. “Dangerous animal” means:
 - a. Any genus/species of animal which is capable of killing, inflicting serious injury upon, or causing illness or disease among human beings or domestic animals and having a known tendency (either in its natural state, in the wild, or as a tame, feral or domesticated animal) as a species to do so, and is declared to be a dangerous animal by the Board of Supervisors;
 - b. Those animals deemed to be dangerous animals include the following, subject to amendment by the Board of Supervisors:
 - i. Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
 - ii. Wolves, wolf-dog hybrids, coyote-dog hybrids, foxes and jackals;
 - iii. Badgers, wolverines, weasels, skunks and minks;
 - iv. Raccoons;
 - v. Bears;
 - vi. Monkeys and chimpanzees;
 - vii. Bats;
 - viii. Alligators and crocodiles;
 - ix. Scorpions;
 - x. Snakes that are venomous, or constrictors;
 - xi. Gila monsters;
 - xii. Any dog which has the appearances and characteristics of being the breed of Staffordshire Terrier, American Pit Bull Terrier, American Staffordshire Terrier, and other breed known as pit bull terriers, or a combination of any of these breeds.
 - c. Animals used in agriculture as defined by the United States Department of Agriculture shall not be considered dangerous animals.
9. “Humanely destroy” means to put an animal to death in a way that is quick and causes as little pain and suffering as possible, following accepted animal care standards.
10. “Keeping” means the act of confining, harboring, maintaining, owning, feeding or sheltering an animal.
11. “Law enforcement officer” means the County Sheriff or any of his deputies or any officer of a local law enforcement agency providing services to an incorporated area within Benton County.
12. “Livestock” means fowl other than urban hens, swine, sheep, goats, llamas, horses and cattle.
13. “Owner” means any person confining, harboring, keeping, maintaining, feeding or sheltering an animal. (Iowa Code Sec. 351.2)
14. “Unprovoked” means an animal acts “without provocation” when it was not teased, tormented, or abused a person, or it was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity.
15. “Vicious animal” means any animal that has:
 - a. Attacked a person or persons while running at large and the attack was unprovoked, or
 - b. Exhibited vicious tendencies in present or past conduct in this jurisdiction or any other jurisdiction, including such that said animal:

- i. Has inflicted injury to a person or persons, or
 - ii. Has inflicted injury to a domestic animal or fowl or other livestock or
 - iii. Could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence.
- c. Exceptions:
 - i. Dogs used in security or police work shall not be classified as vicious dogs if a bite occurs while the dog is performing in such a capacity.
 - ii. Dogs shall not be classified as vicious dogs if a bite or bites are inflicted upon a person who is, at the time of the bite or bites, engaged in a criminal act against the person or property of another.

80.03 ABUSE OF ANIMAL(S)

It shall be unlawful to abuse an animal. The following acts shall constitute abuse of animals and shall subject the owner or other person to the penalty provisions of state law and the Animal Protection and Control Ordinance.

1. Failure to provide the animal with access to adequate food, adequate water and easy access to adequate shelter;
2. Beating, tormenting, overloading, overworking or molesting an animal;
3. Abandoning any animal;
4. Exposing any known poisonous material with the intent of allowing or encouraging the material to be eaten by any domesticated animal, bird, fowl, or livestock.
5. Harboring or owning any sick, diseased or injured animals without procuring veterinary care for said animals;
6. Maintaining an animal in such conditions and hygiene that the animal is unable to walk, move normally, conduct routine bodily functions, or stay clean, and free of urine, fecal matter, open wounds, disease and parasites;
7. Leaving an animal in a vehicle, on a vehicle, tethered or confined to a vehicle, for a length of time that could result in danger to or death of an animal. If a bystander or law enforcement officer determines that such an animal is in immediate danger, then he/she may remove the animal by whatever means is necessary without liability, for the purpose of taking the animal into protective custody.
8. Intentionally injuring, maiming, disfiguring, mutilating or destroying an animal by any means that causes pain or suffering;
9. Chaining, tethering, penning, humane live trapping or otherwise restraining or confining an animal outdoors for more than 15 minutes without access to adequate food, adequate water, adequate shelter when the temperature falls below 32 degrees Fahrenheit with the wind chill factor applied or when the heat index reaches or exceeds 85 degrees, or during any heat or wind chill advisory, watch or warning issued by the National Weather Service;
10. Chaining, tethering, penning or otherwise restraining or confining an animal outdoors without providing the animal with unlimited access to an area, in addition to their doghouse or similar structure, that provides adequate protection;
11. If an Animal Control Officer has probable cause to believe an animal is being abused or neglected, the animal may be seized and placed into protective custody at the animal shelter or a licensed veterinarian;
12. If an owner refuses the Animal Control Officer entry upon property to view an animal suspected of being abused, the officer may request a search warrant from a magistrate. Such requests shall detail the

reason why the warrant is necessary and what the Animal Control Officer has reason to believe a violation of this chapter exists. In connection with such a seizure, the owner/suspected abuser of the animal shall be charged with the appropriate violation of this chapter.

80.04 ABANDONMENT

A person who has ownership of a dog, cat, or any domestic animal shall not abandon the dog, cat, or any domestic animal, except the person may deliver the dog, cat or domestic animal to another person who accepts ownership and custody, or the person may deliver the dog, cat, or domestic animal to an animal shelter or pound. (Code of Iowa, Sec. 717.4)

If an abandoned animal is found injured or sick, the animal shall be held for a period of seven (7) days to allow for the owner to claim it. If the owner does not come forward within that period, the animal may be treated or humanely destroyed based on the professional judgment of a licensed veterinarian, considering the animal's condition and prognosis.

In cases where the injury is severe and delays would result in unnecessary suffering; the holding period may be shortened at the veterinarian's discretion.

If the owner is identified at any point, they shall be responsible for all costs incurred for the care, treatment, and humane destruction of the animal, including any housing or veterinary expenses.

80.05 EXHIBITIONS AND FIGHTS

No person shall arrange, promote, or stage an exhibition at which any animal is tormented or any fight between animals or between a person and an animal, or shall keep a place where such exhibitions and fights are staged for the entertainment of spectators. (Code of Iowa, Sec. 717.3)

80.06 INJURIES TO ANIMAL(S)

No person, having no right to do so, shall maliciously kill, maim, or disfigure any animal of another, or maliciously administer poison to any such animal, or expose any poisonous substance with the intent that the same should be taken by any such animal. (Code of Iowa, Sec. 717.1)

80.07 AT LARGE PROHIBITED

It shall be unlawful for any owner to allow an animal to run at large within the unincorporated areas of Benton County. Chronic at large animals: if an animal is found to be at large at least 3 occasions within the past thirty (30) days, a law enforcement officer may impound the animal. The owner of the said animal will have seven (7) days to establish a secure confinement for the return of the animal.

80.08 DAMAGE AND INTERFERENCE

It shall be unlawful for the owner of an animal to allow or permit such an animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

80.09 IMMUNIZATION REQUIRED

It shall be unlawful for any person to own or have a dog or cat in the person's possession, six (6) months of age or over, which has not been vaccinated against rabies. Dogs or cats in kennels and not allowed to run at large shall not be subject to these vaccination requirements. (Code of Iowa, Sec. 351.33)

80.10 OWNER'S DUTY

1. It shall be the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It shall be the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected of suffering from rabies. (Code of Iowa, Sec. 351.38)
2. It is unlawful for any person to knowingly bring, transfer, or rehome a dangerous or vicious animal into the county without prior written approval from the receiving jurisdiction.
3. Any person who knowingly brings or attempts to rehome a dangerous or vicious animal within the county without verifying and obtaining written confirmation from the appropriate animal control authority or governing body of the receiving jurisdiction shall be subject to a fine and seizure of the animal or animals.
4. Each animal transferred in violation of this provision shall constitute a separate offense.

80.11 CONFINEMENT

When Benton County receives information that any person has been bitten by any animal or that a dog or animal is suspected of having rabies, it shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board with the help of law enforcement if necessary. After two weeks, Benton County may humanely destroy the animal. If such an animal is returned to its owner, the owner shall pay the cost of impoundment. (Code of Iowa, Sec. 351.39)

80.12 AT LARGE: IMPOUNDMENT

Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of a law enforcement officer, the owner may be served a summons to appear before a proper court to answer charges thereunder. Upon a third offense within the past thirty (30) days, the animal shall be order impounded and a citation shall be issued to the owner for animal at large.

If an animal becomes sick or injured while impounded, the condition shall be promptly evaluated by a licensed veterinarian. Based on the veterinarian's professional judgment, the animal may receive treatment or be humanely destroyed if necessary to prevent undue suffering.

The owner shall be responsible for all costs related to the animal's care, treatment, or humane destruction, including any veterinary and boarding expenses, regardless of whether the illness or injury occurred before or during impoundment.

80.13 DISPOSITION OF ANIMAL(S)

When an animal has been apprehended and impounded, written notice shall be given within two (2) days to the owner, if known. Impounded animals other than animals impounded for attacking persons or domesticated animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog or cat, by having it immediately vaccinated. If the owner does not redeem the animal within seven (7) days of the date of notice, or if the owner cannot be located within seven (7) days, the animal may be humanely destroyed in accordance with law.

80.14 IMPOUNDING COSTS

Impound costs shall be as established by the resolution of the Board of Supervisors. (Code of Iowa, Sec. 351.80). The animal owner will be charged a mandatory impoundment fee of \$100 plus any costs necessary for care while the animal is impounded.

80.15 KEEPING OF DANGEROUS ANIMALS PROHIBITED

No person shall keep, shelter, confine, or harbor for any reason within Benton County a dangerous animal as a pet, or act as a temporary custodian for such an animal, or keep, shelter, confine, or harbor such animal for any other purpose or in any other capacity within Benton County except in the following circumstances:

1. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit show or zoo.
2. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
3. Any dangerous animals under the jurisdiction of an in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

80.16 KEEPING OF VICIOUS ANIMALS PROHIBITED

No person shall keep, shelter, confine, or harbor for any reason within Benton County a vicious animal except in the following circumstances:

1. Animals under the control of law enforcement of military agency.
2. The keeping of guard dogs; however, guard dogs must be always kept within a structure or fixed enclosure, 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 wording "Guard Dog," "Vicious Dog," or words of similar import, and the owner of such premises shall inform the Benton County Sheriff that a guard dog is on duty at said premises.

80.17 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS AND VICIOUS ANIMALS

1. No person shall continue to own or keep a dangerous animal or vicious animal in Benton County. Upon written notice by a law enforcement officer, an animal alleged to be dangerous or vicious shall be surrendered to the animal control officer for humane destruction. Unless a written authorization for humane destruction is signed by the owner at the time of surrender, the animal shall be held for five (5) working days after surrender, with the cost of confinement being assessed against the owner.
2. If an owner desires to have an appeal, he shall deliver a written notice of appeal to the Board of Supervisors within 5 working days of the seizure/surrender of the animal. The animal shall remain in the custody of Benton County or designee during the pendency of the proceedings and the cost of confinement shall be assessed against the owner. Upon the filing of an appeal by the animal owner, the Board of Supervisors shall arrange a hearing within ten (10) days. If either party requests a continuance and there exists a good cause, the appeal hearing shall be set to a date agreed upon by the parties, but in any event no later than thirty (30) days of receipt of notice of appeal.
3. Upon the decision of the Board of Supervisors to uphold humane destruction, the owner may file with Benton County a written authorization for humane destruction. Absent a written authorization for humane destruction, the animal shall remain in custody of Benton County or designee for a period of thirty (30) days from the date of the decision by the Board of Supervisors pending a writ of certiorari by the owner to the district court. Cost of confinement shall be assessed against the owner.

4. If the owner files a writ of certiorari in the district court, upon posting of the required bond, the animal shall remain in the custody of the animal control agency during the pendency of the proceedings and the cost of confinement shall be assessed against the owner.
5. Confinement of an animal shall be at a facility approved by Benton County.

80.18 PENALTIES

A violation of any provision of this ordinance shall constitute a Benton County infraction. Penalties shall be as provided under Iowa Code § 331.302(15), including a civil penalty not to exceed one hundred dollars for a first offense and up to two hundred dollars for each repeat offense. If a violator fails to pay the civil penalty or violates any other order imposed by the court, such failure shall constitute contempt.

80.19 VARIANCES

Variances to the requirement of this ordinance with respect to the keeping of dangerous or vicious animals may be granted by the Board of Supervisors provided that the individual's request for variance is submitted in writing and the individual's request is consistent with the purpose of this ordinance. Requests for variances shall be heard by the Board of Supervisors at their regularly scheduled meetings. In ruling on a variance request the Board of Supervisors is entitled to consider the applicant's experience regarding the handling and keeping of similar animals, the type and quality of the facilities provided for the confinement of the animal, and any prior documented problems or complaints concerning any animals owned by or in custody of the applicant. Under no circumstances shall a variance be granted after a dangerous or vicious animal has killed a domestic animal or attacked a person resulting in injury.

80.20 LIABILITY

Nothing in this ordinance absolves the keeper of an animal that inflicts injury to a person or property from financial responsibility for the animal's actions.

80.21 WHEN EFFECTIVE

This ordinance shall be in effect after its final passage, approval, and publication as provided by law.