

**ORDINANCE NO. 181**

**AN ORDINANCE REGULATING THE LICENSING, IMPOUNDING, IMMUNIZATION AND KEEPING OF DOGS AND CATS AND PROVIDING PENALTIES FOR VIOLATIONS.**

Be It Enacted by the Council of the City of Ute, Iowa:

**SECTION 1. DEFINITIONS.** For use in this ordinance, the following terms are defined:

1. The term “dogs” shall mean both male and female animals of the canine species whether altered or not.
2. The term “cats” shall mean both male and female animals of the feline species whether altered or not.
3. The term “at large” shall mean any licensed or unlicensed dog or cat found off the premises of his owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or “at heel” beside a competent person and obedient to that person’s command.
4. The term “owner” shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring a dog or cat.

**SECTION 2. LICENSE.**

1. The owner of a dog shall obtain a city dog license from the City Clerk on or before the date when the owner acquired ownership of the dog or the date when the dog becomes six months of age, whichever occurs first.
2. Thereafter the owner of a dog shall obtain a city dog license from the City Clerk on or before the first day of January of each year.
3. The owner of a cat over the age of six (6) months shall procure a cat license from the City Clerk on or before the first day of February of each year. Such license fee shall be due and payable between January 1 and February 1 of each year. Licenses become delinquent February 1 of each year and the delinquent license fee shall be \$15.00, except in those cases where by reason of residence or age the cat was not subject to licensing during the January 1 to February 1 period.
4. The annual license fee for dogs shall be \$10.00 for each male dog, \$10.00 for each female dog, or \$5.00 for each spayed or neutered dog. Upon payment of the license fee, the City Clerk shall issue to the owner a license which shall contain the name of the owner, the owner’s place of residence and a description of the dog. The City Clerk shall keep a duplicate of each license issued as a public record.
5. The annual license fee for cats shall be \$10.00 for each male cat, \$10.00 for each female cat, or \$5.00 for each spayed or neutered cat. Upon payment of the license fee, the City Clerk shall issue to the owner a license which shall contain the name of the owner, the owner’s place of residence and a description of the cat. The City Clerk shall keep a duplicate of each license issued as a public record.
6. Upon issuance of the license, the City Clerk shall deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The

license tag shall be securely fastened to a collar or harness, which shall be worn by the dog or cat for which the license is issued.

7. Any dog or cat found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

**SECTION 3. RABIES VACCINATION.** Before a city dog or cat license is issued for a dog or cat, the owner must present evidence that the dog or cat has been vaccinated against rabies. Such evidence shall be a certificate of vaccination signed by a licensed veterinarian, and the certificate shall show that the vaccination does not expire within six months from the effective date of the license.

**SECTION 4. KENNEL DOGS OR KENNEL CATS.** Kennel dogs or kennel cats which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint are not subject to the provisions of this ordinance.

**SECTION 5. DOGS AT LARGE PROHIBITED.** No owner of a dog shall permit such dog to run at large, whether the dog licensed, or unlicensed.

**SECTION 6. CATS AT LARGE PROHIBITED.**

- (A) A cat, properly licensed as required by law, shall not be deemed at large if:
  - (1) The cat is on the premises of the owner or a person given charge of the cat by the owner and is either:
    - (i) accompanied by and obedient to the commands of the owner or the person given such charge, or
    - (ii) restrained on those premises by an adequate protective fence or by leash, cord, chain or other similar restraint that does not allow a cat to go beyond the owner's real property lines
  - (2) The cat is off the premises of the owner and is:
    - (i) either accompanied by and obedient to the commands of the owner or a competent responsible person, or
    - (ii) on a leash, cord, or chain or other similar restraint, not more than six feet in length and under the control of a person competent to restrain and control the cat, or
    - (iii) properly restrained within a motor vehicle.
  - (3) It is properly housed in a veterinary hospital or registered kennel.

A cat shall be deemed at large if it is not properly licensed or if it is not housed, restrained or controlled in one of the methods hereinabove set forth.

- (B) Notwithstanding any other provision of this subchapter, any cat shall be deemed at large at any time when attacking persons, domestic animals, destroying property, or on a public school ground except when under the

restraint as set out in paragraph (2) of subsection (A). Furthermore, any female cat in heat shall be deemed at large at any time except:

- 1) When housed in a building which is completely enclosed;
- 2) When housed in a veterinary hospital or registered kennel; or
- 3) When on the premises of the owner, provided the area on which such cat is located is completely enclosed by a fence or other structure having a height of at least 42 inches.

Nothing in this provision, however shall be construed as prohibiting any owner of a female cat in heat from walking such cat with leash, cord, chain or other similar restraint not more than six feet in length or from transporting such cat within a motor vehicle.

(C) No owner of any cat shall permit such cat to be at large at any time.

#### **SECTION 7. ACTIONS OF DOGS CONSTITUTING A NUISANCE.**

1. It shall be unlawful for an owner of a dog to allow or permit such dog to pass upon the premises of another thereby causing damage to, or interference with, the premises.
2. It shall be unlawful for an owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking or otherwise: or by running after or chasing persons, bicycles, automobiles or other vehicles.

#### **SECTION 8. ACTIONS OF CATS CONSTITUTING A NUISANCE.**

1. It shall be unlawful for any owner of a cat to allow or permit such cat to pass upon the premises of another thereby causing damage to, or interference with, the premises.
2. It shall be unlawful for an owner of a cat to allow or permit such cat to cause serious annoyance or disturbance to any person or persons.

#### **SECTION 9. IMPOUNDING FOR DOGS.**

1. Any unlicensed or unvaccinated dog found at large or any licensed dog found at large in violation of Sections 5 and 7 of this ordinance shall be seized and impounded, or, at the discretion of the Chief of Police, the owner may be served a summons to appear before a proper Court to answer charges made thereunder.
2. Owners of licensed dogs shall be notified within two (2) days that upon payment of impounding fees of \$15.00 plus cost of food and care in a reasonable amount, the dog will be returned. If the impounded licensed dogs are not recovered by their owners

within seven (7) days after notice, they shall be disposed of in a humane manner as directed by the City Council.

3. Impounded unlicensed dogs may be recovered by the owner, upon proper identification, by payment of the license fee, impounding fee and boarding cost, and the costs of vaccination if vaccination is required by Section 3. If such dogs are not claimed within seven (7) days after notice, they shall be disposed of in a humane manner as directed by the City Council.

#### **SECTION 10. IMPOUNDING FOR CATS.**

1. Any unlicensed or unvaccinated cat found at large or any licensed cat found at large in violation of Sections 6 and 8 of this ordinance shall be seized and impounded, or at the discretion of the Chief of Police, the owner may be served a summons to appear before a proper Court to answer charges made thereunder.
2. Owners of licensed cats shall be notified within two (2) days that upon payment of impounding fees of \$15.00 per day that said cat is impounded, the cat will be returned. If the impounded, licensed cats are not recovered by their owners within three (3) days after notice, the cats shall be disposed of in a humane manner as directed by the City Council.
3. Impounded unlicensed cats may be recovered by the owner, upon proper identification, by payment of the license fee, impounding fee and boarding costs, and the costs of vaccination if vaccination is required by Section 3. If such cats are not claimed within three (3) days after notice, they shall be disposed of in a humane manner as directed by the City Council.

**SECTION 11. PENALTY.** Any owner violating any of the provisions of this ordinance shall, upon conviction, be subject to the penalties of a misdemeanor.

**SECTION 12. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**SECTION 13. SEVERABILITY CLAUSE.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 14. WHEN EFFECTIVE.** This ordinance shall be in effect after its final passage, approval and publication as provided by law.

**PASSED AND APPROVED** by the City Council of Ute, Iowa, on the 1<sup>st</sup> day of November, 2004.

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Eldon Teut, Mayor

ATTEST:

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Peggy Bridgeman, City Clerk

Published in the Charter Oak/Ute Newspaper on November 11, 2004.

**ORDINANCE NO. 194**

**AN ORDINANCE TO AMEND TITLE III, MENTAL AND PHYSICAL HEALTH, CHAPTER 2, ANIMAL PROTECTION AND CONTROL OF THE 2000 MUNICIPAL CODE OF UTE, IOWA, BY ADDING THERETO A NEW ARTICLE, ENTITLED "VICIOUS DOG PROHIBITED".**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UTE, IOWA:**

**Section 1.** That Title III, Mental Health and Physical Health, Chapter 2, Animal Protection and Control of the 2000 Municipal Code of Ute, Iowa, be and the same is hereby amended by adding thereto Article III, entitled "Vicious Dog Prohibited", to read as follows:

**3-2.0301 Vicious Dog Prohibited.** It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the City of Ute, Iowa, any vicious dog.

**3-2.0302 Definitions.**

- (1) An "owner", for the purposes of this section, is defined as any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells an animal.
- (2) A "vicious dog" means:
  - (a) Any dog which has attacked a human being or domestic animal one or more times, without provocation;
  - (b) Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
  - (c) Any dog that snaps, bites, or manifests a disposition to snap or bite;
  - (d) Any dog that has been trained for dog fighting, animal fighting or animal baiting or is owned or kept for such purposes;
  - (e) Any dog trained to attack human beings, upon command or spontaneously in response to human activities; except dogs owned by and under the control of the police department, a law enforcement agency of the state or of the United States or a branch of the armed forces of the United States;

- (f) Staffordshire terrier breed of dog;
  - (g) The American pit bull terrier breed of dog;
  - (h) The American Staffordshire terrier breed of dog; or
  - (i) Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier.
- (3) A “secure temporary enclosure” means an enclosure used for purposes of transporting a vicious dog and which includes a top and bottom permanently attached to the sides except for a “door” for removal of the vicious dog. Such enclosure must be constructed so that the vicious dog cannot exit the enclosure on its own.

**3-2.0303 Exceptions:** Failure by the owner to comply and remain in compliance with any of the terms of any applicable exception shall subject the vicious dog to immediate impoundment and disposal pursuant to subsection 3-2.0305 of this section, and shall operate to prevent the owner from asserting such exceptions as a defense in any prosecution under subsection 3-2.0301.

- (1) The owner of a vicious dog currently licensed as of the date of publication of this ordinance and who maintains the vicious dog at all times in compliance with the requirements of subsection 3-2.0304 of this section and all other applicable requirements of this chapter, may keep a vicious dog within the city.
- (2) The city animal shelter may temporarily harbor and transport any vicious dog for purposes of enforcing the provisions of this chapter.
- (3) A licensed veterinarian may temporarily harbor any vicious dog for the purpose of care and treatment of the animal.
- (4) A person may temporarily transport into and hold in the city a vicious dog only for the purpose of showing such vicious dog in a place of public exhibition, contest or show sponsored by a dog club association or similar organization. However, the sponsor of the exhibition, contest, or show must receive written permission from the City Clerk, must obtain any other permits or licenses required by city ordinance, and must provide protective measures adequate to prevent a vicious dog from escaping or injuring the public at least seven (7) days prior to said exhibition, contest or show. The person who transports and holds a vicious dog for showing shall, at all times when the vicious dog is being transported within the city to and from the place of exhibition, contest, or show, keep the vicious dog confined in a “secure temporary enclosure” as defined in subsection 3-2.0302(3).

**3-2.0304** The owner of any vicious dog, currently licensed as of the date of publication of this ordinance, shall be allowed to keep such vicious dog within the city only if the owner complies with and provides sufficient evidence that the owner is in compliance with all of the following regulations:

- (1) The owner of the vicious dog shall keep current the license for such vicious dog through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee who is at least eighteen (18) years of age.
- (2) The owner of a vicious dog must be at least eighteen (18) years of age.
- (3) The owner shall present to the City Clerk proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000), covering any damage or injury that may be caused by a vicious dog during the duration of its license. The policy shall contain a provision requiring the insurance company to provide written notice to the director of public health not less than fifteen (15) days prior to any cancellation, termination, or expiration of the policy.
- (4) The owner shall, at the owner’s own expense, have the vicious dog spayed or neutered and shall present to the City Clerk written proof from a licensed veterinarian that this sterilization has been performed.

- (5) The owner shall bring the vicious dog to the Ute Animal Shelter or a veterinarian authorized by the City Council, where a person authorized by the City Council shall cause an identifying microchip to be inserted beneath the skin of the vicious dog. The City Clerk shall maintain a file containing the registration numbers and names of the vicious dog and the names and addresses of the owners. The owner shall notify the City Clerk of any change of address.
- (6) At all times when a vicious dog is at the property of the owner, the owner shall keep the vicious dog “confined” in a securely enclosed and locked pen or structure upon the premises which shall be set back at least ten (10) feet from the nearest property line of said premises. Such pen or structure must have secure sides at least six feet in height, embedded into the ground no less than one foot or secured into a concrete slab, and a secure top. Said pen or structure must be constructed of materials which will prevent the dangerous dog from biting or otherwise attacking a person wholly outside of the pen or structure. At all times when a vicious dog is away from the property of the owner, the owner shall keep the vicious dog, either securely leashed with a leash of a fixed length no longer than four (4) feet, and muzzled, or in a “secure temporary enclosure”, as that term is defined in subsection 3-2.0302(3) section. The owner shall not permit any person under the age of 18 years to transport, walk, or attempt to control a vicious dog.
- (7) The owner shall not sell or otherwise transfer the vicious dog to any person except a member of the owner’s immediate family who is at least eighteen (18) years of age, who will then become the owner and will be subject to all of the provisions of this section. The owner shall notify the City Clerk within five (5) days of the event that the vicious dog is lost, stolen, dies, or has a litter. In the event of a litter, the owner must deliver the puppies to the Ute Animal Shelter or an authorized veterinarian for destruction or permanently remove the puppies from the City of Ute and provide sufficient evidence of such removal by the time the puppies are weaned, but in no event shall the owner be allowed to keep in the City of Ute a vicious dog puppy born after the date of publication of this ordinance, that is more than eight (8) weeks old. Any vicious dog puppies kept contrary to the provisions of this section are subject to immediate impoundment and disposal pursuant to subsection 3-2.0305 of this section.
- (8) The owner shall have posted at each possible entrance to the owner’s property where the vicious dog is kept, a conspicuous and clearly legible vicious dog sign. Such vicious dog sign must be at least eight (8) inches by ten (10) inches in rectangular dimensions and shall contain the words “VICIOUS DOG” in lettering not less than two (2) inches in height.

**3-2.0305** Notwithstanding any provisions to the contrary, the Mayor or City Peace Officer is authorized to immediately impound any vicious dog found in the City of Ute which does not fall within the exceptions listed in subsection 3-2.0304 above, and the Ute Animal Shelter or authorized veterinarian may house or dispose of such vicious dog in such manner as the City Council may deem appropriate, except as the procedures in subsection 3-2.0306 below otherwise require.

**3-2.0306** When the Mayor or City Peace Officer has impounded any vicious dog pursuant to this section, and the owner of such dog disputes the classification of such dog as a vicious dog, the owner of such dog may file a written petition with the City Clerk for a hearing concerning such classification no later than seven (7) days after impoundment. Such petition shall include the name and address, including mailing address, of the petitioner. The City Clerk will then issue a notice of hearing date by mailing a copy to the petitioner’s address not later than ten (10) days prior to the date of the hearing. When no written request from the owner for a hearing is received by the City Clerk within seven (7) days of impoundment, the vicious dog shall be humanely destroyed.

The hearing, if any, will be held before the City Council or a hearing officer designated by the Mayor. The appellant-owner of such dog shall bear the burden of proof. Any facts that the petitioner wishes to be considered shall be submitted under oath or affirmation, either in writing or orally at the hearing. The City Council shall make a final determination whether the dog is a vicious dog as defined in subsection 3-2.0302(2) of this section. Such final determination shall be considered a final order of the City Council.

If the dog is found to be a vicious dog, it shall be humanely destroyed, unless the owner produces evidence deemed sufficient by the City Council that the vicious dog is to be permanently taken out of the City of Ute, and the owner pays the cost of impoundment. If the dog is found not to be a vicious dog, the dog shall be released to the owner.

The procedures in this subsection shall not apply, and the owner is not entitled to such a hearing with respect to any dog that was impounded as the immediate result of an attack or bite. In those instances, the dog shall be handled, and the procedures governed by the provisions of Subsection 3-2.0305.

**Section 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 3. SEVERABILITY CLAUSE.** If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

**Section 4. EFFECTIVE DATE.** This ordinance shall be in full force and effect thirty (30) days after the legal publication of said ordinance.

**PASSED AND APPROVED** on this 4th day of January, 2010.

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Annie Teut, Mayor

ATTEST:

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Peggy Bridgeman, City Clerk

**ORDINANCE NO. 199**

AN ORDINANCE AMENDING TITLE III, MENTAL & PHYSICAL HEALTH, CHAPTER 2, ANIMAL PROTECTION & CONTROL OF THE MUNICIPAL CODE OF UTE, IOWA, ARTICLE 2, DOG LICENSING, SECTION 3-2.0206 ACTIONS OF DOGS CONSTITUTING A NUISANCE BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF UTE, IOWA:

Section 1. Title III Mental & Physical Health, Chapter 2, Animal Protection & Control of the Municipal Code of Ute, Iowa, Article 2, Dog Licensing, Section 3-2.0206 Actions of Dogs Constituting a Nuisance is amended by adding to the section the following:

3. **NUMBER OF ANIMALS.** It is unlawful, except for a licensed kennel or pet shop, veterinary hospital or animal grooming shop, for an owner to harbor or house on said owner's premises more than a combined total of three (3) dogs and cats over the age of six (6) months. An owner can not own and license over three dogs and cats combined. Owners having more than three dogs/cats when ordinance went into effect, will be considered grandfathered in, but can not replace existing dogs/cats.



Section 2. REPEALER. All ordinance or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED by the Council the 9<sup>TH</sup> day of July, 2012, and approved this 9<sup>th</sup> day of July, 2012.

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Annie Teut, Mayor

ATTEST:

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Peggy Bridgeman, City Clerk

(CITY SEAL)