

(Summary Published in the *Iola Register*, March \_\_\_\_, 2016)

**GENERAL ORDINANCE 3456**

**AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE MUNICIPAL CODE OF THE CITY OF IOLA, KANSAS.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF IOLA, KANSAS THAT THE FOLLOWING SECTIONS OF THE IOLA MUNICIPAL CODE ARE AMENDED OR NEW SECTIONS ADDED AS NOTED TO READ AS FOLLOWS:

SECTION 1. The following chapters or sections have been added, amended, or deleted to read as follows:

Section 10.1 Definitions.

Add: Abandon means for an owner or keeper to relinquish custody of an animal without the intent to recover or resume such custody. Abandon also includes the leaving of an animal by its owner or keeper for more than twenty-four (24) hours without making effective provisions for its proper care, or turn out or release of an animal for the purpose of causing it to be impounded.

Animal shelter means the facility or facilities operated for the purpose of impounding or caring for animals under the authority of this chapter or state law.

At-large means to be: (1) outside of the owner or keeper's property, fence, or other enclosure which restrains the animal to a particular premise, or (2) not under the control, by leash, chain, or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be "At-large".

Bite means any actual abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal.

Delete: Proper tattoo means a legible, indelibly marked code number, as assigned by the city administrator, fixed upon the animal by the humane insertion of pigment under the skin or any other generally recognized method.

Sec. 10-4. - Keeping animals near residences of others.

It shall be unlawful for any person to keep on any private premises in the city, or to feed and care for any such animal therein on any lot or in any enclosure or building located within 200 feet of the dwelling house or residence of any person other than the owner or keeper of such animals; except for the keeping and caring for registered domesticated dogs, cats, or other permitted animals. Permitted domesticated animals may be kept in enclosures that abide by existing setback and other requirements. Nothing in this section shall be construed to prevent the transportation of animals into or through the city and the keeping of animals within any stockyards lawfully operating within the corporate limits.

(Code 1988, § 2-104; Ord. No. 3438, § 2, 9-8-14)

Sec. 10-8. - Animal nuisance activities.

Add new paragraph (a)(6):

- (a) (6) Has been found guilty of running at-large under section 10-10 more than three (3) times in one twenty-four (24) month consecutive period.

Sec. 10-9. - Excessive animal noise.

- (a) The following definitions and conditions shall apply to this section:

Excessive noise means any animal noise which is so loud and continuous or untimely as to disturb the sleep or peace of a neighbor.

Neighbor means any person residing in a residence structure which is within 100 yards of the property on which the animal is owned.

- (b) It shall be unlawful for the owner of any animal to permit such animal to make excessive noise, including loud, frequent and habitual barking, howling, yelping, meowing, roaring, or screeching, that disturbs a neighbor.
- (c) It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the nuisance, and if he or she fails to do so, the city may abate the nuisance by taking up, impounding and/or disposing of the animal at the expense of the owner.
- (d) If a summons is issued charging violation of this section, a subpoena shall also be issued to the disturbed neighbor to testify to the disturbance under oath.

Sec. 10-10. - Running at large.

It shall be unlawful for the owner of any animal to permit such animal to run at large within the city at any time. Any animal shall be deemed running at large when such animal is not inside a residence structure, secure fence or pen, on a leash held by a person capable of controlling such animal or tethered as permitted under section 10-14 of the Iola Municipal Code in such a manner as to prevent its getting onto public rights-of-way or another's property. This section shall not apply to dogs being obedience trained, or to cats, which shall, however, be kept under reasonable restraint to prevent such nuisance activities as prohibited in section 10-8. Any animal found at large, including those that are registered with the City of Iola, may be impounded as provided in Section 10-50.

Sec. 10-14. - Tethering of animals. Add new paragraph (4):

It shall be unlawful to continuously tether an animal for more than one continuous hour, except that tethering of the same animal may resume after a hiatus of three continuous hours.

- (1) For the purpose of tethering an animal, a chain, leash, rope, or tether shall be at least ten feet in length, and not less than three times the length of the animal from tip of nose to base of tail.
- (2) A chain, leash, rope, collaring device, tether, or any assembly or attachments thereto used to tether an animal shall not weigh more than 1/8 of the animal's body weight, or due to weight, inhibit the free movement of the animal within the area tethered.
- (3) Animals shall be tethered in such a manner as to prevent injury, strangulation, or entanglement on fences, trees, or other man made or natural obstacles.
- (4) It shall be unlawful to tether an animal without access to shade when sunlight is likely to cause overheating. Appropriate shelter shall be provided to ensure the animal has access to insulation and protection against cold and dampness when the atmospheric temperature falls below 40 degrees Fahrenheit.
- (5) It is unlawful to attach chains or other tether restraint implements directly to an animal without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal. Use of a choke or pinch type collar for tethering is prohibited.
- (6) Continuous tethering of an animal may be permitted by the animal control officer for a limited period of time, that being 30 days, during special circumstances such as repair or replacement

of a fence, or temporary custody of an animal. In addition, after the adoption of this section, any citizen that currently tethers an animal will be given the same 30-day period of time to come into compliance with the requirements of this section.

Sec. 10-46. - Duties of city administrator.

- (a) Except where otherwise provided, it shall be the duty of the city administrator, through the chief of police and the animal control officer, to administer and enforce the provisions of this chapter directly or through assigned staff. The animal control officer shall keep a record of all animal shelter transactions and all enforcement and investigative activities.
- (b) The city administrator is authorized to develop administrative regulations necessary to implement the provisions of this chapter, including procedures for animal enumerations, contracting with an animal shelter for impoundments and such other fees required by this chapter but not specified in this chapter.

Sec. 10-49. - Right of entry of private property to investigate animal's condition.

In the interest of animal welfare, any person owning any animal in the city by so doing does thereby authorize the animal control officer or chief of police to enter upon private property, other than within any residence where such animal is kept, if the officer has probable cause to believe the animal is being kept in a cruel or inhumane manner, for the purpose of examining such animal and impounding such animal at the animal shelter when, in such examiner's opinion, it is being kept in an unlawfully cruel or inhumane manner. The animal control officer shall have right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this code.

Section 10-51 (b). Tranquilizing gun authorized; killing authorized under certain conditions.

(a) City police officers shall be authorized to use a tranquilizer gun in the enforcement of this chapter. They shall be authorized to kill any dog or cat which is impractical or impossible to catch, capture or tranquilize and which is endangering any person.

(b) City police or animal control officers are hereby authorized to use humane live traps to capture any animal whose presence on private or public property constitutes a nuisance to persons. If there is a threat to the public health or the health of domestic animals, the chief of police may authorize other means to capture or destroy animals deemed to be dangerous.

Section 10-52. **Collecting, maintaining records and remittance of fees.**

The city clerk's office is authorized and empowered to collect the license and impounding fees and penalties described in this article.

The Iola Animal Clinic, 3075 N State St, Iola, Kansas, is also hereby authorized and empowered to collect the license fees and penalties described in this article on behalf of the city, to maintain a record of all such fees collected and to remit all such fees and penalties, along with appropriate reports, to the city clerk on a monthly basis.

**Section 10-86 Euthanization of suffering animals; redemption by owner; payment of expenses by owner.**

Any animal impounded for being kept in violation of this article may be ordered to be humanely euthanized by a licensed veterinarian if such veterinarian deems it necessary to relieve suffering. The owner of any animal that is not euthanized shall be entitled to regain custody of such animal only after such custody is authorized by the court. All expenses accrued for the treatment or care of such animal shall be paid by the owner, whether or not such owner seeks to regain custody of such animal.

**Sec. 10-87. - Care of animals; acts of unlawful cruelty.**

It shall be unlawful cruelty to animals for any person to own any animal and:

- (1) Fail to provide such sufficient and wholesome food, potable water, shade and protection from the weather, which shall include a structurally sound, accessible, weatherproof enclosure with adequate bedding, opportunity for exercise, veterinary care when needed to treat injury or illness, unless the animal is instead humanely euthanized, or other care as is needed for the health or well-being of such kind of animal. The weatherproof enclosure shall be of sufficient size to allow the animal to turn about freely, stand, sit, and lie in a comfortable, normal position and to walk in a normal manner. The interior height of the enclosure shall be at least six inches higher than the tallest animal housed in the enclosure.
- (2) Abandon or leave any animal in any place.
- (3) Leave any animal unattended in a vehicle when such vehicle does not have adequate ventilation and temperature to prevent suffering, disability or death to such animal.

**Section 10-91. Exposing poisonous substances.**

It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health.

**Sec. 10-92. - Use of spring steel traps.**

It shall be unlawful for any person to use, place, set out, or deploy any animal trap above ground which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap except rat and mice traps. Nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals.

(Ord. No. 3163, § 8(g), 12-13-94)

**Section 10-126(I). Registration.**

- (a) It shall be the duty of any person in the city owning any cat or dog over 120 days of age to register such cat or dog with the city clerk or the clerk's designee. In no event shall any person be permitted to have more than four domestic pets registered within the corporate limits of the city pursuant to the

terms of this article. The city clerk may delegate authority to the animal control officer to enforce any section of this article requiring registration.

- (b) Any other section of this article notwithstanding, the registration provision of this section shall not apply to the nonresident owner of any cat or dog while such person is visiting or temporarily remaining within the city for less than 30 days, provided such cat or dog shall remain on a leash or otherwise effectively restrained while with the city.
- (j) The city clerk shall keep on file a copy of all certificates of registry issued, within the preceding 36 months. Such certificates shall include, but not be limited to, the following information:
  - (1) The owner's name, address, telephone number, and an alternate phone number;
  - (2) A description of the cat or dog, including name, breed, color, age, weight, sex and neutered or unneutered status; notation of proper microchip information or tattoo marking, if applicable;

Paragraphs (l), (m) and (n) deleted.

**Section 10-127. - License; denial, revocation and reinstatement.**

(f) The animal control officer may revoke any license or registration upon ten days' notice to the licensee or registrant. No license or registration shall be revoked except after a hearing which date and time shall be specified in the notice.

**Sec. 10-128. - Confinement when in heat.**

The owner of any female cat or dog shall, during the period that such animal is in heat, keep it securely confined and enclosed.

Any unspayed female dog in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of the enclosure shall be so constructed that no other dog or dogs may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus and that is not properly confined, or any such animal that is creating a neighborhood nuisance, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. Failure to comply with the order of the animal control officer shall be a violation of this article, and the animal will then be impounded in accordance with this chapter. A violation of this section is a Class C misdemeanor.

**Section 10-130. - Guard dogs.**

(a) Any person owning a trained guard dog (for the purposes of this section such term shall mean a dog used to guard public or private property) in the city shall register such dog with the Code Office who shall verify that such animal is confined in a manner that will not endanger persons not on the premises being guarded.

(c) Any person operating a guard dog service in the city shall register such business with the city clerk's office and shall list all premises to be guarded with the chief of police before such service begins.

**Section 10-132. - Dangerous animals.**

- (a) A "Dangerous Animal", as used in this Article, shall mean:
- (1) Any animal which attacks or bites any human being or domestic animal or has attacked or bitten a human being or domestic animal;
  - (2) Any animal with a known propensity, tendency or disposition to attack, cause injury to, or threaten the safety of human beings or domestic animals;
  - (3) Any animal which in a vicious or threatening manner, approaches any person in apparent attack upon the person while on the streets, sidewalks, or any public grounds or places, or on private property; or
  - (4) Any animal which because of its size, physical characteristics and vicious propensities is capable of inflicting serious physical injury or death on a human being.

Notwithstanding anything to the contrary herein, no animal shall be deemed "dangerous" if any proscribed conduct listed herein took place at a time when: (1) the person who was the object of such conduct was committing a willful trespass or other tort upon the premises of the owner or keeper of the animal, or (2) the person who was the object of such conduct was at the time provoking, teasing, tormenting, abusing, or assaulting the animal, or (3) the person who was the object of such conduct was committing or attempting to commit a crime, or (4) the animal who was the object of such conduct was provoking, tormenting, abusing, or assaulting the animal.

Any dog owned by governmental or law enforcement agencies when used in the service of those agencies, shall be exempt from the requirements of this section.

- (b) In the event that the Animal Control Officer has probable cause to believe that an animal is dangerous, as defined by Section 10-132 (a), a Notice to Appear in Municipal Court will be issued to the animal's owner. The Municipal Judge may order the animal to be impounded at a licensed veterinary clinic pending the determination of whether the animal is dangerous. The owner or keeper of the animal shall be liable for the costs of impounding and keeping such animal.
- (c) At the hearing in Municipal Court, the City shall have the burden of proof to show by clear and convincing evidence that the animal is dangerous pursuant to Section 10-132 (a) and that the animal is being kept or harbored within the city limits. The parties may present relevant evidence at the hearing as to whether the animal is dangerous and as to the appropriate disposition of the animal.
- (d) At the conclusion of the hearing, the Municipal Judge shall determine whether the animal is dangerous pursuant to Section 10-132 (a). If a determination is made that the animal is dangerous, the Municipal Judge shall decide whether: (1) the animal shall be destroyed, (2) the animal shall be removed from the city under appropriate conditions, or

- (3) the owner or keeper shall be allowed to keep the animal subject to the provisions of Section 10-133.
- (e) A vicious animal is defined as any animal that has caused or attempted to cause serious injury to any person or domesticated animal or has maimed or killed any person or domesticated animal. All dangerous animals shall have for identification; city tags and a microchip implant. The owner or keeper of the dangerous animal shall be responsible for all costs associated with the identification requirements. ~~All canines in this category shall obtain these identifiers upon the animal reaching 120 days of age. (For Pit Bull's refer to Ord. No. 3216, section 10-182)~~
- (f) Leash and muzzle. No person shall permit a dangerous dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than three feet in length. No person shall permit a dangerous dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all dangerous dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.
- (g) Confinement. All dangerous dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in subsection (b) of this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine dangerous dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house dangerous dogs must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (h) Confinement indoors. No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
- (i) ~~A vicious animal shall be kept as required under Ordinance No. 3216, section 10-184 of this Code.~~ Dangerous animals shall also have "Dangerous Animal" signs posted on the front and rear of the property and if the dangerous animal is being walked outside the home, it must be restrained on a leash of no longer than three feet in length and of sufficient tensile strength to restrain the animal.
- (j) Dangerous animal owners shall carry no less than \$250,000.00 liability insurance for each dog deemed dangerous. The owner of said animal shall file a copy of said certificate of insurance with the city, with said copy to reflect the amount of coverage and the dates of coverage.
- (k) No dangerous animal may be maintained within 400 feet of a school, park or public playground.
- (l) A dangerous animal that has caused any serious injury to, or killed any person or domesticated animal shall be impounded by the city. The animal shall then be

euthanized and disposed of in a humane manner and if no proof of rabies vaccination is available the head will be sent for proper testing all at the owner's expense.

- (m) No person under the age of 18 shall own or possess any dangerous animal within the city limits.

~~(Ord. No. 3319, § 1, 2-10-04)~~

**Sec. 10-134. - Emergency treatment.**

- (a) Any sick or injured cat or dog found at large in the city wearing a current city registration or rabies vaccination tag ~~or having a proper tattoo marking~~ or current microchip shall be taken at once by the animal control officer or the chief of police to a veterinarian for examination and treatment, and the owner of such animal shall be promptly notified. All charges for veterinary services shall be borne by such owner.
- (b) Any sick, injured or disabled cat or dog found at large in the city without such identifying tag or microchip shall be disposed of in a humane manner.

**DIVISION 2. - IMPOUNDMENT**

**Sec. 10-156. - Notification of impoundment; breaking into pound.**

- (a) Upon the taking and impoundment of any cat or dog wearing a current city registration or rabies vaccination tag or current microchip ~~having a proper tattoo marking~~, the animal control officer shall notify the owner of such animal of its impoundment and conditions under which the animal can be recovered. Such notice shall be given by telephone or in writing within 48 hours of the impoundment of such animal.

**Section 10-158. - Period for holding animals.**

- (a) The owner of any impounded cat or dog properly identified as prescribed in section 10-56 shall be given three days to recover such animal. The owner of any impounded cat or dog not so identified shall be given three business days to recover such animal. Exemptions to these holding periods shall be authorized when:
- (1) Any cat or dog is given to be disposed of by its owner;
  - (2) Any owner, upon notification of impoundment, declares intention not to recover such animal; or
  - (3) Any cat or dog not having proper identification arrives at the shelter in such a condition that, in the judgement of the animal control officer, compassion requires that such animal be promptly and humanely euthanized.
- (b) The owner of any animal given to the animal control officer to be disposed of shall be required to make payment of a fee established by agreement with the keeper of the city pound.
- (c) Any cat or dog not recovered by its owner within the prescribed holding period shall become the property of the city and may be adopted, transferred to a duly incorporated humane society or humanely euthanized.

~~DIVISION 3.—PIT BULL DOGS~~~~Sec. 10-181.—Definitions.~~

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

~~Pit bull dog means as follows:~~

- ~~(1) The bull terrier breed of dog;~~
- ~~(2) Staffordshire bull terrier breed of dog;~~
- ~~(3) The American pit bull terrier breed of dog;~~
- ~~(4) The American Staffordshire terrier breed of dog; and~~
- ~~(5) Dogs of mixed breed or of other breeds than listed in this definition, which breed or mixed breed, is known as pit bulls, pit bull dogs or pit bull terriers, or any dog which has the appearance and characteristics of being predominantly of any of the breeds listed under subsection (1), (2) or (3) of this definition, or a combination of any of the breeds listed under subsection (1), (2) or (3) of this definition.~~

~~(Code 1988, § 2-301)~~

~~Cross reference—Definitions generally, § 1-2.~~

~~Sec. 10-182.—Findings and determinations.~~

~~The governing body of the city finds and determines that:~~

- ~~(1) Instances of attacks by pit bull dogs have occurred upon members of other communities.~~
- ~~(2) As a breed of dogs, all pit bull dogs are inherently dangerous.~~
- ~~(3) The possession of pit bull dogs within the city poses a significant threat to the public's health, safety and welfare.~~
- ~~(4) Protective measures by pit bull dog owners are inadequate to protect the public from attacks by these animals.~~

~~(Code 1988, § 2-302)~~

~~Sec. 10-183.—Penalty for violation of division.~~

~~Violations of this division are a class B offense. In addition, the court shall order the license of the subject pit bull revoked and the dog removed from the city. Should the defendant refuse to remove the dog from the city, the municipal court judge may find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. In addition to the foregoing penalties, any person who violates this division shall pay all expenses, including shelter, food, handling, veterinary care, witness fees and court costs necessitated by the enforcement of this article.~~

~~(Code 1988, § 2-305)~~

~~Sec. 10-184.—Requirements for keeping.~~

~~Pit bull dogs shall only be kept and allowed within the city limits of the city, upon the following standards and requirements being met:~~

- ~~(1) Leash and muzzle. No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.~~
- ~~(2) Confinement. All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in subsection (1) of this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.~~
- ~~(3) Confinement indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.~~

**SECTION 2. EFFECTIVE DATE:** This Ordinance shall take effect and be in force from and after its publication in the official City newspaper.

**PASSED** by the Council and **SIGNED** by the Mayor this 28<sup>th</sup> day of March 2016.



**CITY OF IOLA, KANSAS**

By:   
Joel Wicoff, Mayor

By:   
Roxanne Hutton, City Clerk