

Ordinance No. 1217LS

1st Consideration passed 12/13/2017

2nd Consideration passed 01/10/2018

3rd Consideration waived 01/10/18

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DUNCOMBE, IOWA BY ADDING TITLE VI, CHAPTER 17, "LIVESTOCK".

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DUNCOMBE, IOWA:

Section 1. That the Code of Ordinances of the City of Duncombe, Iowa be amended by adding Title VI, Chapter 17 "LIVESTOCK" as follows:

LIVESTOCK

6-17-1 Definitions

6-17-2 Livestock Neglect

6-17-3 Livestock and Poultry Prohibited

6-17-4 Damage or Interference

6-17-5 Animal Nuisances

6-17-6 Manure Storage and Application

6-17-7 Procedure Upon Animal Nuisances

6-17-1 DEFINITIONS. For use in this Chapter the following terms are defined as follows:

1. The term "animal" shall mean a nonhuman vertebrate.
2. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and not restrained within a motor vehicle, housed in a veterinary hospital, kennel, or not on a leash.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.01 of the Code of Iowa, or poultry including ducks and chickens, and specifically pot belly pigs.
4. The term "owner" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring an animal.
5. "Pet" means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

6-17-2 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

(Code of Iowa, Sec. 717.2)

6-17-3 LIVESTOCK AND POULTRY PROHIBITED. It is unlawful for a person to maintain, keep, or harbor any cattle, swine, pot belly pigs, sheep, llamas, horses, jacks, goats, guinea fowl, ostriches, poultry (domestic chicken, turkeys, geese, and ducks), or similar domestic animals

raised for home use or for profit within the city limits. Any structure for said livestock shall be located not less than one hundred (100') from the boundary of any R (residential) District. This section shall not apply to a bona fide zoological garden, pet shop, educational institute, circus, carnival, or veterinary hospitals treating such animals.

6-17-4 DAMAGE OR INTERFERENCE. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

6-17-5 ANIMAL NUISANCES. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.
2. Causes unsanitary, dangerous or offensive conditions.
3. Causes a disturbance by excessive barking or other noisemaking; or by running after or chasing persons, bicycles, automobiles or other vehicles, or for an owner of a cat to allow or permit such cat to cause serious annoyance to any person by frequent noisemaking of any kind.

(Code of Iowa, Sec. 657.1)

6-17-6 MANURE STORAGE AND APPLICATION. Manure from livestock operations or lots shall not be stored within the city limits. Manure is allowed to be applied to soil, or farm fields, however it shall be applied according to regular field application standards appropriate for use as a fertilizer for crops. Manure must be incorporated into the soil within 1 day of transport to the property. Every effort must be made to finish application and incorporation prior to rain events as to reduce runoff of property.

6-17-7 PROCEDURE UPON ANIMAL NUISANCES. Whenever the Mayor or other authorized municipal officer finds that an animal nuisance exists which is listed in Section 23-9, the Mayor or officer shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice. The notice to abate shall contain:

1. A description of what constitutes the animal nuisance.
2. The location of the animal nuisance.
3. A statement of the act or acts necessary to abate the animal nuisance.
4. A reasonable time within which to complete the abatement.
5. A statement that if the animal nuisance is not abated as directed and no request for hearing is made within the time prescribed, the owner of the cat or dog will be charged with a civil penalty or municipal infraction.

The notice may be served by certified mail or personal service to the property owner as shown by the records of the County Auditor as well outlined in Section 1-3-2 of this code. Any person ordered to abate a nuisance may have a hearing with the officer ordering the abatement as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the

officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance exists. If the officer finds that a nuisance exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the hearing officer. This appeal shall be heard before the City Council at a time and place fixed by the City Council. The findings of the City Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances. A municipal infraction is punishable by a civil penalty as provided in this section, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in the Duncombe Code of Ordinances. A municipal infraction shall be punishable under the procedures set forth in Section 364.22, Subsections (5) through (12), Code of Iowa.

1. Schedule of Civil Penalties: First Offense \$500.00 maximum Second Offense \$750.00 maximum Third and all subsequent repeat offenses \$1000.00
2. Repeat Offenses. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
3. Alternative Relief. Seeking a civil penalty as authorized in this Chapter does not preclude the City from seeking alternative relief from the Court in the same action, nor does the seeking of a civil penalty preclude the City from filing criminal charges for similar violations where provided by the Durant Municipal Code or the Code of Iowa. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

Any officer authorized by the City to enforce Duncombe Code of Ordinances issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service or by certified mail, return receipt requested. A copy of the citation shall be sent to the Clerk of the District Court.

The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

1. The name and address of the defendant;
2. The name or description of the infraction attested to by the officer issuing the citation;
3. The location and time of the infraction;
4. The amount of civil penalty to be assessed or the alternative relief sought, or both;
5. The manner, location, and time in which the penalty may be paid;
6. The time and place of court appearance.
7. The penalty for failure to appear in Court.

This Chapter does not preclude a peace officer from issuing a criminal citation for a violation of the Duncombe Code of Ordinances regulations if criminal penalties are provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Duncombe Code of Ordinances by criminal sanctions or other lawful means.

(Code of Iowa, Sec. 364.12(3) (h))

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 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 Duncombe City Council on 10th day of January 2018, and

Approved and adopted this 10th day of January 2018.