



# Memo

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## Legal Department

TO: Mayor and City Council  
FROM: Kristine Stone, Assistant City Attorney  
RE: Cruelty to Animals 17.1(1)(f)  
DATE: September 20, 2012

The Ames Municipal Code currently states that Cruelty to Animals is a public offense against the City of Ames and that it shall be charged as a simple misdemeanor. *See* 17.1(1)(f). The City Code adopts the State Code violation by reference. Iowa Code Section 380.10(2)(a)(2) states that a city may adopt a code by reference “only if the criminal penalty provided by the law adopted does not exceed the maximum fine and term of imprisonment for a simple misdemeanor.” Currently, the Municipal Code references Iowa Code 717B.2, Animal Abuse, which is defined as an aggravated misdemeanor. We are prohibited from adopting by reference any Iowa Code violations that are greater than a simple misdemeanor. It is likely that the State Code was amended at some time and 717B.2 changed from a simple misdemeanor to an aggravated misdemeanor. Our Code should now be amended to reflect the changes that have been made to the Iowa Code.

Iowa Code Section 717B.3, Animal Neglect, is a simple misdemeanor and prohibits a person from failing to provide sufficient food or water to an animal, torturing an animal, or mutilating, beating or killing any animal “by any means which causes unjustified pain, distress, or suffering.” The Animal Control Department is requesting that Ames Municipal Code Section 17.1(1)(f) be amended to refer to 717B.3, rather than 717B.2, so that the City can continue to prosecute cases of animal neglect and cruelty.

An ordinance is attached for your consideration and approval.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTION 17.1(1)(f), AND ADOPTING A NEW SECTION 17.1(1)(f) TO REMOVE THE REFERENCE TO IOWA STATE CODE SECTION 717B.2 AND REPLACE IT WITH 717B.3; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the Animal Control Department would like to have the ability of charging a person with Animal Neglect, consistent with the definition contained in the Code of Iowa; and

**WHEREAS**, currently the Code refers to the incorrect State Code violation.

**NOW THEREFORE, BE IT ENACTED**, by the City Council for the City of Ames, Iowa, that:

**Section One.** The Municipal Code of the City of Ames, Iowa, shall be and the same is hereby amended by repealing Section 17.1(1)(f), and adopting a new Section 17.1(1)(f), to read as follows:

**“Sec. 17.1. OFFENSES; CERTAIN PUBLIC OFFENSES TO BE OFFENSES AGAINST THE CITY.**

...

(f) **Animal neglect** [*State Law Ref. 717B.3*]

...

**Section Two.** Violation of the provisions of this ordinance shall constitute a municipal infraction punishable as set out by law.

**Section Three.** All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

**Section Four.** This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

ATTEST:

\_\_\_\_\_  
Diane R. Voss, City Clerk

\_\_\_\_\_  
Ann H. Campbell, Mayor