

21—67.7(162) Kennels, shelters and other facilities—access, seizure and impoundment.**67.7(1) *Boarding kennels and commercial kennels.***

a. Records shall be made, and retained for a period of 12 months for each animal boarded, groomed or trained. Records shall include owner's name and address, identification of animal, duration of stay, service provided and illnesses which have occurred.

b. Animals exhibiting symptoms of disease shall be promptly examined and treated by a veterinarian.

c. Group housing is permitted only if the animals are owned by the same person and are compatible.

d. Grooming and training utensils and equipment shall be cleaned and sanitized between use on animals owned by different persons.

e. Primary enclosures shall be cleaned and sanitized between use in containing animals owned by different persons.

f. Primary enclosures shall utilize latches which cannot be inadvertently opened, or shall be equipped with some form of locking device so as to prevent the accidental release of the animal contained therein.

67.7(2) *Animal shelters and pounds.*

a. Dogs, cats and other vertebrates upon which euthanasia may be permitted by law, shall be destroyed only as defined by euthanasia under Iowa Code chapter 162.

b. Animal shelters and pounds shall develop and implement a plan providing for the surgical sterilization of all dogs and cats released, unless exempted from this provision in accordance with Iowa Code section 162.20(5).

c. Sterilization agreements shall contain the following:

(1) Name, address and signature of the person receiving custody of the dog or cat.

(2) A complete description of the animal, including any identification.

(3) The signature of the representative of the pound or animal shelter.

(4) The date that the agreement is executed and the date by which sterilization must be completed.

(5) A statement which states the following:

1. Sterilization of the animal is required pursuant to Iowa Code section 162.20.

2. Ownership of the dog or cat is conditioned upon the satisfaction of the terms of the agreement.

3. Failure to satisfy the terms of the agreement constitutes a breach of contract, requiring the return of the dog or cat.

4. A person failing to satisfy the sterilization provisions of the agreement is guilty of a simple misdemeanor.

d. In addition to records required by 67.5(1), animal shelters and pounds shall maintain, for a period of 12 months, the following records:

(1) Euthanasia records, including date of entry, source of animal, and date of euthanasia.

(2) Sterilization agreements, including confirmation in the form of a receipt furnished by the office of the attending veterinarian.

(3) Disposition records of all animals lawfully claimed by owners, research facilities, or Class B federal dealers.

e. A pound or animal shelter may apply in writing for an enforcement waiver pursuant to Iowa Code section 162.20(5), paragraph "b." The application shall include the specific guidelines under which the waiver is being requested and a certified copy of the ordinance providing the basis for the waiver application. A waiver application fee of \$10 shall accompany the application.

f. A pound or animal shelter shall be subject to civil penalties as provided in Iowa Code section 162.20(3), paragraph "c," for not procuring and maintaining required records documenting compliance with the sterilization agreement, successfully seeking return of the animal from a noncompliant custodian, failing to effect a sterilization agreement when required for an animal which is released, or seeking legal recourse as provided in Iowa Code section 162.20(4). The pound or animal shelter shall be entitled to appeal pursuant to Iowa Code chapter 17A.

67.7(3) Access to facilities and records. The premises, housing facilities and records required by Iowa Code chapter 162 shall be open for inspection by authorized personnel of the Iowa department of agriculture and land stewardship during normal business hours.

67.7(4) Seizure and impoundment.

a. "Animals," as that term is used in this subrule, shall include any dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal. Animals, as that term is used in this subrule, shall not include members of the equine, bovine, porcine, ovine, or caprine species.

b. "Seizure and impoundment," as used in this subrule, may mean either of the following:

(1) The confinement of the animals to the property of the owner or custodian of the animals with provisions being made for the care of the animals pending review and final disposition.

(2) The physical removal of the animals to another facility for care pending review and final disposition.

c. Failure of any pound, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction or dealer to adequately house, feed, water or care for the animals in the person's or facility's possession or custody may subject the animals to seizure and impoundment. Seizure and impoundment shall be at the discretion of the secretary. Standards to guide discretion shall include, but not be limited to, the following:

(1) An assessment of the condition of the animals, including, but not necessarily limited to, direct visual examination. Such assessment may include procedures and testing necessary to accurately determine disease, nutritional, and health status.

(2) An assessment as to the likelihood that the condition of the animals will deteriorate if action is not taken.

(3) An assessment as to the degree of failure to provide for the animals. Primary consideration will be based on the general health of the animals and the adequacy with which the animals are being fed, watered and sheltered.

(4) An assessment as to the history, if any, of the facility's compliance, noncompliance, and willingness to take corrective action. Such an assessment will be based on past inspection reports completed by regulatory personnel from the appropriate licensing agency.

(5) Court determination, if any, as to the existence of cruelty, abuse or neglect under Iowa Code chapter 717.

(6) The willingness of the facility to allow frequent monitoring and the ability of the department or local law enforcement officers to provide this service.

(7) A determination as to whether adequate impoundment facilities or resources exist and are available for use by the department for the seizure and impoundment of animals.

d. In proceeding under this subrule the department may either:

(1) Petition the court in the county where the facility is located for an ex parte court order authorizing seizure and impoundment, either separately or as part of an action commenced pursuant to Iowa Code chapter 717. The petition shall request an expedited hearing within seven days of the order for seizure and impoundment. The expedited hearing shall determine final disposition of the animals seized and impounded.

(2) Issue an administrative order authorizing seizure and impoundment. The order shall state the finding of facts on which the order was issued. The order shall be personally served upon the owner or manager of the facility. If the owner or manager cannot be found after a reasonable effort to locate, the notice shall be posted conspicuously at the facility. The notice shall state the time and place of an administrative hearing to determine the appropriateness of the seizure and impoundment; and if such seizure and impoundment is upheld, then the hearing shall determine final disposition of the animals seized and impounded.

The administrative hearing shall be held within three days of the seizure unless a continuance is agreed upon by the department and the owner. A decision at the administrative hearing will not be stayed by the department for more than 48 hours pending appeal without a court order. However, the department may delay the disposition if the department determines the delay is desirable for the orderly

disposition of the animals. Unless otherwise provided in this subrule, the department will follow adopted departmental rules on the conduct of the administrative hearing.

e. The release of animals for final disposition to the department will allow for the sale, adoption or euthanasia of the animals. Determination of the most appropriate option for final disposition of a specific animal shall reside with the department and be based on, but not limited to, the animal's physical health, the presence of any condition which would necessitate treatment of significant duration or expense, and the appropriateness of the animal as a pet. All due consideration shall be given to the sale or adoption of an animal as the preferable option of disposition.

f. Any moneys generated from the sale or adoption of animals shall be used to provide compensation for the cost of care of the animals while impounded or the cost of disposition. Any residual moneys shall be directed to the owner. If the moneys generated from the sale and adoption of the animals are insufficient to meet the costs incurred in caring for the animals, the difference may be recovered in an action against the owner of the animals.

g. The department may arrange for impoundment services, including final disposition, with any licensed facility able to adequately provide for the care and disposition of the animals. Animals for which an order is issued authorizing seizure and impoundment shall be individually identified and records maintained relating to their care and final disposition. The department, or their representatives, shall be allowed access during normal business hours to the records and animals impounded.

h. In lieu of seizure and impoundment, the secretary may authorize a one-time dispersal of animals, including by sale, as a remedial option. The owner may petition the department in writing for full or partial dispersal. The petition shall address the terms and conditions for dispersal which are being requested. The department may require additional terms and conditions. The terms and conditions governing dispersal will be contingent upon department approval. Such approval shall be in writing.

i. Conditions of this subrule, subrule 67.7(3), and Iowa Code sections 162.13 and 162.14 shall likewise apply to all eligible licensees and registrants, whether or not they have been properly licensed by Iowa Code chapter 162.

67.7(5) Adoption by reference. The secretary may adopt by reference or otherwise such provisions of the rules, regulations and standards under the federal Acts, with such changes therein appropriate to make them applicable to operations and businesses subject to Iowa Code chapter 162, which shall have the same force and effect as if promulgated under said chapter.

This rule is intended to implement Iowa Code sections 162.3, 162.4, 162.13 and 162.20.