

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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55.01 DEFINITIONS. The following terms are defined for use in this chapter.

1. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
2. "At large" means off the premises of the owner and not restrained within a motor vehicle, or housed in a veterinary hospital or kennel. All dogs at large must be on a leash sufficient to restrain the dog.
(Ord. 99-39 – Oct. 99 Supp.)
3. "Commercial" means any operation where the raising and sale of livestock is not for personal, household or family purposes, excluding all sale barn operations.
4. "Confinement" means an operation where animals are raised within a confined area and fed with no area for grazing or pasturing.
5. "Dangerous animal" means any dog or other animal which has committed an unprovoked attack on a person or animal requiring treatment deemed necessary by either a medical professional or doctor of veterinary medicine.
6. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus, or poultry.
(Code of Iowa, Sec. 717.1)
7. "Owner" means any person owning, keeping, sheltering or harboring an animal.
8. "Potentially dangerous animal" means any animal which approaches a person or an animal on any public or private property in a menacing fashion or an apparent attitude of attack.

55.02 ANIMAL CONTROL OFFICER. The Animal Control Officer is appointed by the Mayor and is paid an amount on a regular basis as determined by the Council. The Animal Control Officer is authorized and empowered to seize and impound in the City Pound any animal found at large and may use any humane means or force necessary to impound or catch an animal at large and is further authorized to request assistance from the Police Department if it is needed. The Animal Control Officer is provided a vehicle by the City suitable for the purpose of transporting and impounding animals and which is otherwise outfitted for the purpose of animal control. The Animal Control Officer is responsible for collecting all costs and expenses from the owners for all animals redeemed.

55.03 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

(Code of Iowa, Sec. 717B.3)

55.04 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)

55.05 ABANDONMENT OF CATS AND DOGS. A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

(Code of Iowa, Sec. 717B.8)

55.06 AT LARGE PROHIBITED. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

55.07 DESTRUCTION OF ANIMALS AT LARGE. It is lawful for an Animal Control Officer or peace officer to destroy, if necessary, any animal found at large which cannot be captured.

55.08 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.

55.09 ANNOYANCE OR DISTURBANCE. It is unlawful for the 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.

55.10 SANITATION. It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person.

55.11 NUMBER OF ANIMALS LIMITED. It is unlawful for an owner to harbor or house on the same premises more than four (4) animals over the age of six (6) months unless such animals are in a licensed kennel or pet shop, veterinary hospital or animal grooming shop.

55.12 POTENTIALLY DANGEROUS ANIMALS AND DANGEROUS ANIMALS.

1. Any animal which has been deemed potentially dangerous or dangerous shall be seized by the Animal Control Officer or other authorized person and impounded at the City Pound.
2. Any animal which has been deemed potentially dangerous or dangerous is considered to be a nuisance and notice to abate said nuisance shall be filed by the Mayor's office on the owner of the animal for removal of the animal from the City limits within seventy-two (72) hours from the reception of the notice. Upon payment of pickup and impoundment fees, and upon the animal being tattooed or a microchip being implanted at the owner's expense, the animal's owner may remove the animal from the City Pound to outside the City limits. The animal's owner shall provide a notarized statement designating the place to which the animal has been removed. An animal not removed as required or an animal which has been removed and which is found again within the City limits shall be destroyed with no right of appeal.*(Ord. 99-45 – Jan. 00 Supp.)*
3. Any owner of an animal deemed potentially dangerous or dangerous may appeal the removal order to the Council by having a written appeal on file at the office of the Clerk within seventy-two (72) hours of reception of the notice.
4. Any owner of an animal which the Council allows to be returned to the owner's premises shall, while on the owner's property, be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure must have minimum

dimensions of four feet by eight feet (4' by 8') and must have secure sides and secure top. The bottom shall be constructed of a four-inch (4") concrete slab. The enclosure must also provide protection from the elements for the animal. A potentially dangerous or dangerous animal may be off the owner's premises if it is muzzled and restrained by a substantial chain or leash not exceeding six feet (6') in length and under the control of a responsible adult person. Any such animal which is again found to be at large shall be seized by the Animal Control Officer or other authorized person and the animal shall be destroyed, with the owner having no right of appeal.

5. Vicious Dogs. Notwithstanding any other provision of this chapter, no person owning, possessing, harboring or having the care of a vicious dog shall permit such animal within the City except as provided in this section of the Code.

A. For purposes of this section a "vicious" dog means:

- (1) Any dog which has attacked a human being or domestic animal one or more times, without provocation; or
- (2) 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; or
- (3) Any dog that snaps, bites, or manifests a disposition to snap or bite; or
- (4) Any dog that has been trained for dog fighting, animal fighting or animal baiting, or is owned or kept for such purposes; or
- (5) 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 of Iowa or the United States or a branch of the armed forces of the United States; or
- (6) The American pit bull terrier breed of dog; or
- (7) The American Staffordshire terrier breed of dog; or
- (8) Any dog which has the appearance and characteristics of being predominantly of the breeds of American Pit Bull Terrier or American Staffordshire Terrier.

B. Vicious Animal Exceptions. The owner of any dog defined as a vicious dog shall comply with the following:

- (1) Present to the City Clerk a certificate of insurance issued by an insurance company licensed to do business in the

State of Iowa, providing personal liability insurance coverage as in a homeowner's policy, with a minimum amount of liability of \$100,000 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or his other agents, in the keeping or owning of such vicious dog. The certificate shall require notice to the City, in conformity with general standards for certificates of insurance, if the underlying policy of insurance is cancelled for any reason. In lieu of such a certificate, a copy of a current homeowner's policy designating these requirements shall be sufficient proof of insurance for purposes of this subsection. If a certificate of insurance or policy is not immediately available, a binder indicating the coverage may be accepted for up to thirty (30) days subsequent to the determination that a dog is vicious; however, if after thirty (30) days a certificate of insurance or a policy has not been submitted, the dog shall be removed from the City within ten (10) days.

C. Confinement of Vicious Dogs.

(1) All vicious dogs shall be securely confined within an occupied house or residence or in a secured, enclosed and locked pen or structure. Such pen or structure must have secure sides and a secure top attached to the sides, or in lieu of a top, walls at least six feet in height or at least six feet taller than an internal structure, such as a doghouse.

(2) All pens or structures designed, constructed or used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a four inch thick concrete bottom, attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined vicious dog.

(3) All structures erected to house vicious dogs must comply with the City zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No vicious 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.

(4) No person shall permit a vicious dog to go outside its pen or structure unless such dog is securely leashed with a leash no longer than six (6) feet in length. No person shall

permit a vicious dog to be kept on a chain, rope or other type of leash outside its pen or structure unless both the dog and leash are under the actual physical control of a person eighteen (18) years of age or older.

(5) Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

(6) Violation of this section is a misdemeanor.

D. Seizure, Impoundment and Disposition of Vicious Animals.

(1) In the event that a vicious animal, as defined in this section, is found at large, such animal may, in the sole discretion of the Mayor or his designee be destroyed rather than captured and impounded. The City shall not be under any duty to attempt the capture and impoundment of a vicious animal as defined in this section nor shall the City have a duty to notify any person of the vicious animal at large prior to its destruction.

(2) The Mayor, or his designee, either upon receipt of a complaint or upon his or her action may initiate proceedings to determine whether or not an animal being kept, sheltered or harbored within the City limits is a vicious animal as defined in this section.

(3) If the Mayor or his designee concludes the animal is a vicious animal as defined in this section, then the Mayor or his designee shall order the person owning, keeping, sheltering, or harboring the animal to comply with this section or remove the vicious animal from the corporate limits of the City or to destroy the vicious animal in a humane manner. This order shall be served upon the person or entity by personal service or registered mail.

(4) Unless appealed, the order of the Mayor or designee shall be deemed final for all purposes three (3) days after the order is served as provided by subparagraph (3) above.

(5) The person or entity against whom the order of the Mayor or his designee is issued shall have the right to appeal the order to the City Council. The order shall be stayed pending Creston City Council action on the appeal. The appeal shall be filed in writing with the office of the City Clerk, within three (3) days of the date of the service of the order as above provided. Failure to timely file such written appeal shall constitute a waiver of the right of appeal and the order of the Mayor or his designee shall be then deemed final for all

purposes. The notice of appeal shall state the grounds for appeal. The appeal hearing shall be held as expeditiously as reasonably possible. The appellant shall be entitled to at least one (1) day notice of the date of the hearing. Following the hearing, the City Council may affirm or reverse the order of the Mayor or designee. The City Council shall cause notice of its decision to be served upon the appellant by personal service or certified mail. The City Council decision shall be deemed final for all purposes three (3) days after the appellant's receipt of the City Council notice of decision.

(6) If the City Council affirms the Mayor or designee, then the notice of decision shall order the person or entity owning, keeping, sheltering or harboring such vicious animal to comply with this section or to remove such animal from the corporate limits of the City or to destroy the animal in a humane manner.

(7) The person or entity owning, keeping, sheltering, or harboring the vicious animal shall comply with the order of the City Council on or before the date the order becomes final. In the event the person or entity does not timely comply with the order, then the Mayor or designee is authorized to seize and impound such vicious animal and such animal shall be impounded for a period of seven (7) days. If at the end of the impoundment period the person or entity against whom the order has been entered has not petitioned the Iowa District Court of Union County for further review of the order, the Mayor or designee shall then cause the vicious animal to be destroyed in a humane manner.

(8) The failure to comply with a final order issued pursuant to this section shall constitute a municipal infraction.

(Ord. 06-94 - June 06 Supp.)

55.13 RABIES VACCINATION. Every owner of an animal shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have an animal in said person's possession, six months of age or over, which has not been vaccinated against rabies and which is not wearing a current certificate of vaccination tag required under the rules of the Iowa Department of Agriculture. This section does not apply to animals that are under the control of the owner or keeper and in transit and to be in the City for less than thirty (30) days or which are assigned to a research institution or similar facility.

55.14 LEASH CONTROL BY PROCLAMATION. The Mayor may, by published proclamation, order all animals to be constantly confined or restrained by leash, cord or chain for a period of time not exceeding one hundred twenty (120) days. Any animal not confined during the proclaimed time may summarily be disposed of by the Animal Control Officer and the owner thereof shall be subject to a fine.

55.15 OWNER'S DUTY. It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

55.16 CONFINEMENT. When a local board of health receives information that any person has been bitten by an animal or that a dog or animal is suspected of having rabies, it shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

(Code of Iowa, Sec. 351.39)

55.17 CATCHING AND IMPOUNDING.

1. Any animal found at large, wherever found, shall be seized and impounded or, at the discretion of the Animal Control Officer, the owner may be served a summons to appear before the proper court to answer charges. The Animal Control Officer may use any humane means or force necessary to impound or catch the animal at large.

2. The owner of an animal which has rabies vaccination tag or identification tag attached shall be notified in writing or by one publication of said notice in a newspaper published in the City. The payment for the animal shall be made to the Animal Control Officer. The daily holding fee is \$5.00, and the payment schedule of pickup fees is as follows:

A. First offense within two (2) years \$25.00

A photograph of the dog will be taken for future identification.

B. Second offense within two (2) years \$50.00

The dog will be tattooed or a microchip will be implanted at the owner's expense prior to release.

C. Third offense within two (2) years \$100.00

Upon a third offense, the animal shall be removed from the City limits permanently.

If the impounded animal is not recovered by its owner within seven (7) days after notice, the animal shall be set for adoption and attempts to relocate will be made as prescribed in the Animal Control Policy.

3. Impounded, unlicensed animals may be removed by the owner upon proper identification and presentation to the Animal Control Officer proof that said animal has been currently vaccinated for rabies, by payment of all pickup and impounding costs, and by proof that proper insurance is in place to cover any damages or injuries that may be caused by the animal. If such animals are not claimed within seven (7) days after impounding, they shall be set for adoption and attempts to relocate will be made as prescribed in the Animal Control Policy..

(Subsections 2 and 3 - Ord. 13-139 – Sep. 12 Supp.)

4. If any animal impounded at the Pound is sold, there shall be deducted from the selling price all accrued costs and expenses for impounding the animal. The balance of the sale price, if any, shall be paid to the owner of the animal.

5. Any animal which has bitten and broken skin on any human shall be impounded at the City Pound or with a veterinarian of the owner's choice for a period of not less than ten (10) days or for a period directed by a veterinarian or at the direction of a medical professional. The animal's owner shall be liable for all costs accrued during impoundment.

55.18 ENFORCEMENT. Individuals may, and the Animal Control Officer shall, cause enforcement of this chapter upon written or oral complaint. Peace officers shall additionally cause enforcement of this chapter against known violators.

55.19 PENALTY. Anyone violating the provisions of this chapter within a two (2) year time limit shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days and a fine as follows: *(Ord. 99-39 – Oct. 99 Supp.)*

1. For the first violation, a minimum of \$25.00 fine shall be imposed.
2. Upon the second violation, a minimum fine of \$50.00 shall be imposed.
3. Upon the third and subsequent offenses, a minimum fine of \$100.00 shall be imposed for each violation and the animal removed from the City limits permanently.
4. Each day that the owner of an animal does not comply with this chapter is deemed a separate offense.

55.20 LIVESTOCK CONFINEMENT OPERATIONS. No commercial livestock confinement operations shall be allowed within the City limits. In the

event of continued operation after providing notice to cease and desist, a fine may be levied in an amount not to exceed \$100.00 per day for each day the violation continues after receiving notice to cease and desist.

55.21 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council. However, any nonconforming use in existence at the time of the passage of the ordinance codified in this section, or any future nonconforming use approved by the City, shall be allowed to continue under the following restrictions:

1. The number of head of livestock which a person may legally keep within the City shall be limited to the extent that there is adequate continuous acreage for the size and number of the livestock kept. It is unlawful for any person to keep within the City limits such a number of livestock which would tend to disrupt the peace and good order of the community or which becomes a nuisance due to noise, smell or other undesirable characteristics. Any shelter or enclosure will be maintained in a clean and sanitary condition, free from offensive odors and any fence used for the purpose of confining said livestock shall be of a character to eliminate nuisances or damages to adjoining property.
2. In the event of the sale, gift, conveyance or other transfer, whether by deed, inheritance or any other means, of any property afforded nonconforming use status herein, the right of the subsequent owner to continue such nonconforming use shall be terminated if not exercised within 365 days of the date said subsequent owner takes possession of the property.
3. Animal Control shall investigate complaints and issue citations if needed.

(Ord. 16-167 – Aug. 16 Supp.)