

AN ORDINANCE AMENDING CHAPTERS 55 AND 56 – ANIMAL PROTECTION AND CONTROL PLUS DANGEROUS ANIMALS

WHEREAS, City staff periodically reviews the Code of Ordinances, as well as existing City practices, to find ways to better provide services to citizens; and

WHEREAS, the protection and control of animals within City limits is vital for public safety and public health, and the Council has decided to better clarify the animal control ordinance, as well as the language of the dangerous animals ordinance;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of Denison, Iowa as follows:

SECTION 1. AMEND CHAPTER 55, ANIMAL PROTECTION AND CONTROL, TO AMEND SUBSECTIONS 01, 02, 03, AND 04. The Code of Ordinances Chapter 55 of the City of Denison, Iowa, is amended by replacing existing Sections 55.01 through 55.04 with the following language:

55.01 DEFINITIONS.

The following terms are defined for use in this chapter.

5. “Dangerous animal” means those animals listed in Section 717F.1, paragraph 5a of the *Code of Iowa*. In addition, the following animals are also considered dangerous animals:
- A. Badgers : and other (Mustelidae), wolverines, weasels and skunks (Mephitidae);
 - B. Raccoons (Procyonidae);
 - C. Scorpions;
 - D. Piranhas (Characidae) and sharks (Chondrichthyes);
 - E. Any domesticated animal that has proven itself to be a dangerous or vicious animal by a history of attacking or biting human beings or other animals;
 - F. Any crossbreed of such animals which have similar characteristics to the animals specified above.

6. “Exotic Animal” means

- A. A rare or unusual animal (including crossbreeds with similar characteristics) kept within a human household which is generally thought of as a wild species not typically kept as a pet; is an animal species not native or indigenous to the local region within the States of Iowa and/or Nebraska are prohibited:
 - i. Apes; Chimpanzees (Pan); Gibbons (Hylobates); Gorillas (Gorilla); Orangutans (Pongo); and Siamangs (Symphalangus).
 - ii. Baboons (Papoi, Mandrillus).
 - iii. Coyotes (Canis latrans).
 - iv. Gamecocks and other fighting birds.
 - v. Monkeys, old world (Cercopithecidae).
 - vi. Wolves (Canis lupus and Canis niger)
 - vii. Poisonous insects

B. Any animal that includes any characteristics of the animal species that historically has been known to:

- i. which could lead to death; and/or
- ii. cause paralysis, flu-like symptoms, nausea, and/or any physical reaction not normal to the healing process; and/or
- iii. have the tendency to strike, tear, rip, constrict and/or remove or permanently destroy bodily parts of another animal and/or person.

C. Exotic Animal Exemptions. The following animals are exempt from the definition of Exotic Animal; however, they must still comply with the limits as indicated in Chapter 55 unless a lower limit is established here:

- a. Aquatic Animals, which are defined as animals that breathe oxygen while under water or at the surface of the water and have gills for underwater breathing, and almost never leave the water are not considered an Exotic Animal. This section does not include the Piranha species of fish. However, upon the release of any aquatic animal into natural waters, that animal will be considered an Exotic Animal for prosecution purposes.
- b. Regulated animals may be allowed for educational purposes within an educational institution
- c. Avian or Birds smaller than thirty-eight inches (38") in adult height.
- d. Chinchillas.
- e. Gerbil.
- f. Guinea Pigs.
- g. Hamster.
- h. Hedgehogs.
- i. Mouse.
- j. Rabbit.
- k. Snakes or reptiles no bigger than or 36" in length and/or width, so long as they do not meet any criteria as established in paragraph (6) of this section.

9.) "Hybrid" meaning any cross breed resulting mating of domesticated animal or regulated animal with Canidae within order Carnivora (e.g., Wolves, wolf-dog hybrids which are at least 50 percent wolf, coyotes, coyote-dog hybrids, which are at least 50 percent coyote. Foxes, jackals), but excluding Canis familiars. – Iowa City Code of Ordinances.

15. Regulated Animal: any animal meeting the definitions of the following:

- a. Dangerous animal.
- b. Hybrid animal.
- c. Exotic animal.
- d. Any animal meeting the definition of Iowa Code 717F.1, , paragraph 5a Definitions.

55.03 LICENSE FEE.

The fee for an annual Animal license issued hereunder shall be set by resolution of the City Council. Such fee is listed in the Schedule of Civil Penalties and Fees in the Appendix of this Code of Ordinances. A penalty shall be added to the license fee for each month or part thereof

when the license fee is delinquent. The delinquent penalty shall be set by resolution of the Council and is also listed in the Schedule of Civil Penalties and Fees in the Appendix of this Code of Ordinances.

1. Any person who owns more than four (4) total animals, none of which meet the definition of Regulated Animal, shall have an additional fee as indicated within the Fee Schedule retained at the City Clerk's Office and amended time to time by the Council through a resolution.
2. Regulated Animal Fee: any animal that falls under the designation of a Regulated Animal shall pay an additional annual fee for licensing of said animal more than the license fee prescribed by the Council. Regulated Animals residing within the City of Denison prior to the passage of this ordinance are not exempt from this section. Animal licenses will only be granted for wolf hybrids with a copy of the owner's permit from the Iowa Department of Natural Resources.
3. Regulated Animal Delinquency Tax: any person purchasing a Regulated Animal license after January 1st shall pay an additional late fee in the amount as indicated within the Fee Schedule retained at the City Clerk's Office and amended time to time by the Council through a resolution, every month after January 1st over the amounts prescribed by paragraph (5) of this section.

SECTION 2. AMEND CHAPTER 55, ANIMAL PROTECTION AND CONTROL, TO CREATE NEW SUBSECTIONS 25, 26, 27, 28, 29, 30 AND 31. The Code of Ordinances Chapter 55 of the City of Denison, Iowa, by adding Sections 55.26 through 55.31 as follows (new language underlined):

55.25 OWNING, HARBORING, AND KEEPING OF REGULATED ANIMAL(S).

1. It shall be unlawful for any person within the City limits of Denison to own, harbor and/or keep:
 - a. Any Regulated Animal, except domesticated Animals registered with the City within 60 days this section becomes effective, and kept in accordance with the standards and requirements set forth in section (2) below;
 - b. Any Hybrid, except any Hybrid registered with the City on the day this section becomes effective and kept in accordance with the standards and requirements set forth in section (2) below;
 - c. Any animal which habitually pursues any vehicle upon any public street, alley, or highway in the City;
 - d. Any animal which kills or wounds any domestic animal.
2. Keeping of Regulated Animals: It is hereby declared that this section of Regulated Animals is a matter of public interest pertaining to the health, safety and welfare of residents of and visitors to the City. The provisions of subsection (1) are not applicable to Owners of Regulated Animal(s) within the City of Denison, provided there is full compliance with the following conditions:
 - a. Leash and Muzzle for regulated animals: No person shall permit a Regulated Animal to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than 4 feet in length and under the control of an immediate family member over 18 years of age. No person shall permit a Regulated Animal or Hybrid 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 animals may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all Regulated Animals on a leash outside the animal's kennel or pen must be muzzled by a muzzling device sufficient to prevent such an animal from biting persons or other animals.

b. **Confinement:** All Regulated Animals shall be securely confined indoors or in a securely enclosed and locked kennel or pen except when leashed and muzzled as provided in subsection (2)(a). All kennels or pens for Regulated Animals shall comply with the following minimum requirements:

i. The first enclosure shall be constructed of not less than 9-gauge galvanized chain link fencing, with mesh openings not greater than 2 inches, which shall be securely anchored by stainless steel or copper rings, placed at intervals not greater than 6 inches apart, to a poured concrete base as described herein. Such enclosure shall not be less than 500 square feet in area, plus 250 square feet for each additional canine animal kept therein. Such enclosure shall be the location in which any Regulated Animal is primarily kept.

ii. The first enclosure shall extend to a height of not less than 6 feet and shall be surrounded from ground level to a height of not less than 4 feet by 1/4-inch galvanized mesh screening.

c. The first enclosure shall have a full top, which shall also be constructed of not less than 9-gauge chain link fencing with mesh openings not greater than 2 inches, and which shall be securely anchored to the sides of the enclosure. The entire base of the first enclosure shall be a poured concrete slab floor at least 4 inches thick.

d. **Confinement Indoors:** No Regulated Animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition.

e. **Insurance:**

i. All Owners of Regulated Animals must provide proof of public liability insurance in the amount of \$500,000.00 for bodily injury or death to any one person with the limit; however, if the owner of a Regulated Animal is convicted due to an animal harming another living animal or human being, the insurance requirement will be a minimum of \$1,000,000.00 for bodily injury or death resulting from one incident, and \$1,000,000.00 for property damage resulting from any one incident, to City Hall staff within 30 days of the effective date of this section.

ii. The City of Denison shall be named as an additional insured under such insurance and a copy of the current enforceable policy shall be deposited with the City Clerk or their designee. Such insurance policy shall provide that no cancellation of the policy will be made unless 10 days written notice is first given to the City Clerk or their designee.

f. **Registration:** All Owners of Regulated Animals shall within 30 days after the effective date of this section, and every year hereafter, register said animal with the City of Denison by filing with the City Clerk or their designee three (3) color photographs of the animal with a frontal and both side profile views of the entire animal, clearly showing the color and approximate size. There shall be a registration fee as prescribed in section 55.03.

- g. Reporting Requirements: All Owners of Regulated Animals must report to the City Clerk or their designee, in writing, within 10 days information regarding any of the following incidents:
- i. The removal from the City or death of a registered Regulated Animal; or
 - ii. The birth of offspring of a registered Regulated Animal; or
 - iii. The new address of a registered Regulated Animal should the animal be moved within the City of Denison; or
 - iv. If the registered Regulated Animal is sold, the name and address of the new owner(s).

55.26 CONTROL OF ANIMAL DEFECATION.

No Owner or person having control of an animal shall permit solid fecal matter from such animal to remain on any street, alley, or other public or private property not owned or occupied by such person but shall immediately remove the fecal matter from such property. Furthermore, all owners of animals shall ensure that the fecal matter on their owned or rented property does not become a nuisance due to its odor.

55.27 DUTY OF OWNER IN CASE OF ANIMAL BITE.

Every Owner of an animal who knows that such animal has bitten any person or animal shall immediately report such fact to the Police Department and health officer and shall keep such animal confined for not less than 10 days, or for such period of time as the health officer shall direct. The Owner of any such animal shall surrender the animal to the Chief of Police or to any City police officer upon demand for examination.

55.28 LIMITATION ON NUMBER OF ANIMALS.

1. No person shall own, harbor, or keep more than six (6) animals of more than 4 months of age within the corporate limits of the City of Denison.
2. No more than two Regulated Animals can be in the same household.
3. This section shall not apply to any veterinary clinic, licensed animal boarding house, or animal shelter or pound.

55.29 EXOTIC ANIMAL REGULATIONS.

1. Protected Animals.
 - a. Compliance with Federal Regulations. It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian, or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).
 - b. Regulating the Importation of Certain Birds. No person, firm, or corporation shall import or cause to be imported into this City any part of the plumage, skin or dead body of any species of hawk, owl, or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body, or any part thereof legally collected for use by members of an American First Nation for ceremonial purposes or in the preservation of their tribal customs and heritage.

2. Grandfathered Clause. The prohibitions set forth in this section regarding an Exotic Animal shall not apply to residents of the City who possessed one or more of the prohibited species prior to the effective date of this ordinance, so long as it is not illegal to own or possess them within the State of Iowa, and who register the same animal(s) with the Office of the City Clerk within 60 days of the effective date of this ordinance, and provided that:
 - a. All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
 - b. Animals are maintained in quarters so constructed as to prevent their escape.
 - c. Any resident who shall claim exemption under this subsection shall furnish satisfactory evidence in the form of a bill of sale, veterinary records, or other proof satisfactory to the Clerk, which demonstrates ownership of the otherwise prohibited species prior to the effective date of this ordinance.

3. Exotic Animal Permit. Any person wishing to own, keep, or harbor more Exotic Animals than the limit imposed by Chapter 55 , or than they presently have, must request a Permit from the Council. A permit can only be granted when the following requirements are met:
 - a. There are no residential properties within 300 feet, or the applicant has received signatures from residents and property owners within 1000 feet of their place of residence that they do not object to such ownership.
 - b. A diagram of the housing structure must be submitted with the application indicating the housing area reserved for the Exotic Animal(s).
 - c. The maximum number of Exotic Animals desired.
 - d. Certification training documents demonstrating the knowledge and capability of the applicant for such request and handling of Exotic Animal(s).
 - e. Understand and agree to comply with the requirements set forth.
 - f. Agree to the annual fee(s).
 - g. Applicant must own the property.
 - h. Council agrees by at least a two-thirds of the total number of Council persons not including the mayor, to grant the Permit.

55.30 BEE KEEPING.

Keeping of bees is prohibited within the city limits.

SECTION 3. AMEND CHAPTER 56, DANGEROUS ANIMALS, TO REVISE SUBSECTIONS 04 AND 05. The Code of Ordinances Chapter 56 of the City of Denison, Iowa, is amended by updating Sections 56.04 as follows (new language underlined):

56.04 SEIZURE, IMPOUNDMENT, AND DISPOSITION.

1. In the event that a regulated animal is found at large and unattended upon public property, park property, public right-of-way, public waterway, lagoon or public sewer system, or on the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of a peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a ~~dangerous animal~~ regulated animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a ~~dangerous animal~~ **regulated animal** on premises in the City in violation of this chapter or is keeping a regulated animal which has demonstrated a propensity to attack or bite without provocation, the Police Chief shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a regulated animal in the City, the Police Chief shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the regulated animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the regulated animal, and shall be served personally or by certified mail. Such order and notice to remove the regulated animal shall not be required where such regulated animal has previously caused serious physical harm or death to any person, in which case the Police Chief shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
3. The order to remove a ~~dangerous animal~~ **regulated animal** issued by the Police Chief may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the regulated animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within fourteen (14) days after the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Police Chief. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.
5. If the Council affirms the action of the Police Chief, the Council shall order in its written decision that the person owning, sheltering, harboring, or keeping such ~~dangerous animal~~ **regulated animal** remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Police Chief is not appealed and is not complied with within three (3) days or the order of the Council after appeal has been served, the Police Chief is authorized to seize, impound, or destroy such regulated animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the Police Chief or Council was issued has not petitioned the Crawford County District Court for a review of said order, the Police Chief shall cause the animal to be disposed of by sale or shall destroy such animal in a humane manner. Failure to comply with an order of the Council issued pursuant to this chapter shall constitute a simple misdemeanor. All impoundment fees shall be at the expense of the owner of the regulated animal, which fee shall be the actual cost of the feeding, care of the animal, **housing, and any administrative fees.**

SECTION 4. REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. 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 this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 6. WHEN EFFECTIVE. This ordinance shall be effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this __ day of _____, 2022, through the first reading.

PASSED AND APPROVED this __ day of _____, 202_, through the second reading.

PASSED, APPROVED AND ADOPTED on this __ day of _____, 202_, through the third and final reading.

CITY COUNCIL OF THE CITY OF
DENISON IOWA

PAMELA SOSEMAN
CITY OF DENISON, IA

ATTEST:

JODIE FLAHERTY, CITY CLERK
CITY OF DENISON

I, Jodie Flaherty, City Clerk of the City of Denison, Iowa, do hereby certify that the foregoing Ordinance was passed and approved by the City Council of the City of Denison, Iowa on the ____ day of _____, 202_, and was published in _____, a newspaper of general circulation in the said City of Denison on the ____ day of _____, 202_.

Dated this ____ day of _____, 202_.

JODIE FLAHERTY, CITY CLERK
CITY OF DENISON