

Ordinance 08-01

AN ORDINANCE TO REPLACE ORDINANCE 3-1-5 ANIMALS.

WHEREAS, the City of Van Horne has decided to change the Title III Community Protection, Chapter 1 Offenses, 3-1-5- Animals Ordinance to allow for Pet registrations and to improve the protection of citizens and animals within the City limits.

IT IS THEREFORE ORDAINED that Section 3-1-5 of the Van Horne City Code is hereby amended as follows:

3-1-5 ANIMALS

1. DEFINITIONS. Terms used in this chapter shall have the following meanings:

Adequate protection from the elements: A protected area, in addition to a doghouse or similar structure, that provides shade from the sun and protection from wind, rain, snow and extremes of hot and cold.

Adequate shelter: A doghouse or similar structure for each animal chained, tethered, penned or otherwise restrained or confined outdoors, that is appropriate for the animal's condition, age, size and species and is clean, dry and has sides, floor and top that do not leak air or water with a cover over the doorway that keeps rain and snow out of the doghouse or structure and allows the animal unlimited access to and egress from the doghouse or structure. A carrier is not an adequate shelter.

Animal: A living creature, not human, and being either domestic or wild.

Animal Control Officer: An employee of animal control designated to enforce laws pertaining to animals.

Animal Control Program Supervisor: Primary person responsible for the care and humane treatment of animals at the Shelter.

Animal control shelter: Any premises designated by the City Council for the humane care of all impounded animals.

Animal display: Any exhibition, act, fair, circus, rodeo, public show, trade show, photographic opportunity, carnival ride, parade, race, performance, or similar undertaking in which animals are required to perform tricks, fight, wrestle or participate in performances for the amusement or entertainment of an audience, whether or not a fee is charged. Display shall not include the use or exhibition of animals for animal-related educational purposes by nonprofit groups.

At large: Off the premises of the owner, unless:

- (1) The animal is on a leash, chain, or similar restraint not more than 6 feet in length and under the control of the owner or walker;
- (2) The animal is within a motor vehicle;
- (3) The animal is housed within a veterinary hospital, licensed kennel, pet shop or animal shelter;
- (4) The animal is trained and used by a government agency and accompanied by the appropriate government agency handler.

Cat: Any member of the feline species.

Dangerous animal: For purposes of this chapter, all animals whether actually vicious or not, defined as follows:

- (1) Felids (cats), except domesticated cats;
- (2) Ursids (bears);
- (3) Crocodilians (such as alligators and crocodiles);
- (4) All venomous and constricting snakes.
- (5) Pit Bulls

Dog: Any member of the canine species.

Educational purposes: Teaching and instructing with the intent and effect of imparting knowledge to others.

Housing: Any location where an animal is normally kept.

In heat: A female animal during the active state of estrus.

Licensed kennel cat and/or dog: Cats and/or dogs kept or raised in a state or federal licensed kennel solely for the purpose of show, breeding or sale and kept under constant restraint.

Livestock: For purposes of this chapter livestock is defined as fowl, swine, bees, sheep, goats, llamas, horses and cattle.

Owner: Any person who owns, keeps, harbors or knowingly permits an animal to remain on or about any premises owned or occupied by that person.

Person: Any individual, association, corporation, partnership, organization or institution commonly recognized by law as a unit.

Pet shop: Any business established for the purpose of buying, selling, or boarding of animals, excepting kennels.

Pit Bull: Any dog of the breed known variously as American pit bull terrier, American Stafford terrier or pit bull terrier, or any dog of mixed breed which contains a strain of such breed known variously as American pit bull terrier, American Staffordshire terrier or pit bull terrier, which is identifiable as such by a qualified veterinarian duly licensed in the State of Iowa.

Premises: A tract of land including the buildings thereon.

Residence: The place where a person or persons live.

Service animal: Any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

Vicious animal: A vicious animal is one which inflicts a bite or bites upon and/or attacks human beings or domesticated animals without cause or justification.

Walker: Any person responsible for having control over an animal when it is off the premises of its owner.

Wild or exotic animals: Any or all of the following animals, whether bred in the wild or in captivity, and also any or all of their hybrids with domestic species. The words in parentheses are intended to act as examples only and are not to be construed as being an exhaustive list or to otherwise limit the generality of each group of animals:

- (1) Nonhuman primates and prosimians (such as chimpanzees, monkeys);
- (2) Felids, except domesticated cats;
- (3) Canids, including wolf hybrids and except domesticated dogs;
- (4) Ursids (bears);
- (5) Elephants;
- (6) Marine mammals (such as whales, seals, sea lions, dolphins and otters);
- (7) Crocodilians (such as alligators and crocodiles);
- (8) Marsupials (such as kangaroos and opossums);
- (9) Ungulates (such as hippopotamus, rhinoceros, giraffe, camel, zebra, deer);
- (10) Hyenas;
- (11) Mustelids (such as skunks, weasels, otters and badgers);
- (12) Procyonids (such as raccoons and coatis);
- (13) Edentates (such as anteaters, sloth and armadillos);
- (14) Viverrids (such as mongooses, civets and genets).

Wildlife rehabilitation permit: A permit which authorizes the holder to take and temporarily possess injured or orphaned state-protected species of birds, mammals, amphibians or reptiles with the intent to return the animal to its natural habitat as soon as possible.

Wildlife Rehabilitator: A person possessing an Iowa DNR Rehabilitators Permit and operating within the corporate limits of the City of Van Horne, Iowa.

2. RABIES VACCINATION and CERTIFICATES AND TAGS.

(a) It shall be unlawful for any person to own a cat or dog over 6 months of age which has not been currently vaccinated against rabies in accordance with the Compendium of Animals Rabies Control as compiled by the National Association of State Public Health Veterinarians, Inc.

(b) The following shall be exempt from the provisions of subsection (a) of this section:

Any animal for whom a veterinarian has provided an exemption statement that a rabies vaccination would be detrimental to the animal's health.

(c) Every cat or dog over 6 months of age shall wear a collar with a valid rabies vaccination tag attached to the collar when outside the owner's residence. The owner shall display the rabies vaccination tag and certificate, or veterinarian's exemption statement, to City Official or Peace Officer upon demand.

3. VETERINARIAN REQUIREMENTS. The veterinarian shall, upon request from an employee of City of Van Horne, supply the employee with the name, address and telephone number of the owner and current rabies information of any cat or dog which the veterinarian has vaccinated for rabies.

4. LICENSING OF DOGS AND CATS.

(a) Licensing Required Fee. The owners of all cats and all dogs within the corporate limits of the City (except dogs and cats under the age of six months and guide dogs for blind persons) are hereby required to obtain a dog or cat license annually. The cost of said license shall be ten dollars (\$10.00) for every dog and cat. The license fee shall be due January 1 each year. A penalty of fifteen dollars (\$15.00) per month or any part thereof shall be assessed for failure to pay license fee after March 1.

(b) License tags. The Clerk shall provide each year numbered tags which shall be issued to the owner upon payment of the license fee herein provided, and the Clerk shall maintain a record of all tags issued, the owner of the cat or dog, the owner's address, the owner phone number, breed of animal, sex of animal, age of animal, description of animal and the license tag number. The license tag issued by the Clerk shall be securely fastened to the collar or harness of the dog or cat for which issued.

(c) Rabies vaccination; condition for license. No dog or cat license shall be issued until the purchaser thereof presents to the Clerk a certificate of vaccination for rabies, duly signed by a licensed veterinarian, and which certificate shows that it does not expire within six months of the effective date of the issuance of the dog or cat license.

(d) Unlicensed dogs and cats. It is unlawful for any person within the City to own or possess a dog or cat that has not been licensed as provided in this chapter.

5. DUTY OF OWNER.

(a) The owner shall attach a yearly identification tag to their cat or dog's collar which contains the city ID information.

(b) It shall be unlawful for an animal to run at large.

(c) It shall be unlawful for the owner of an animal or person having an animal in their possession, care, custody or control to allow or permit said animal to create a disturbance

by engaging in frequent and/or habitual howling, yelping, barking or other vocalizations when such disturbance interferes with the comfortable enjoyment of life or property of another.

(d) It shall be unlawful to harbor or maintain animals in such a condition as to create unhealthful or unsanitary conditions for humans or animals occupying the premises. If such conditions exist, a city official is authorized to make an investigation. After notice and meeting with the person or persons occupying or maintaining the residence or premises, or the persons harboring or maintaining the animals, the City Official may recommend animals be removed from the residence or premises to remedy or correct the conditions. Upon failure of the person or persons to remedy the conditions, appropriate action may be pursued in the courts to enforce the recommendations of the City Official and/or correct the conditions.

(e) State and federal licensed kennels are not exempt from this chapter.

6. IMPOUNDMENT OF ANIMALS. A City or County Official may apprehend any animal running at large. Upon impoundment Benton County Shelter Procedures shall be followed.

7. HARASSMENT OF ANIMALS PROHIBITED. It shall be unlawful for a person to tease, torment, agitate or attack any animal.

8. SEIZURE, IMPOUNDMENT, AND DISPOSITION OF DANGEROUS OR VICIOUS ANIMALS AND ANIMALS RUNNING AT LARGE.

(a) In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way, or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, at the discretion of the mayor or sheriff's department, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt confinement or capture of a dangerous or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

(b) Upon the complaint of any individual that a person is keeping, sheltering, or harboring a dangerous animal or vicious animal on the premises in the city and in a manner contrary to the provisions of the ordinance, the mayor and sheriff's department shall cause the matter to be investigated, and if after investigation, the facts indicate that the person named is harboring a dangerous or vicious animal in the city in a manner contrary to the provisions of this ordinance, the officer shall remove such animal from the city, permanently place the animal with an organization or group allowed to possess dangerous or vicious animals or destroy the animal, within three days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal. The notice shall be given in writing to the person keeping, sheltering or harboring the dangerous or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the animal shall not be required where such animal has previously caused serious physical harm or death to any person in which case the officer 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.

(c) The order to remove a dangerous or vicious animal issued by the officer may be appealed to the City Council. In order to appeal such an order, written notice of appeal must be filed with the city clerk within two days after the receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such a written notice of appeal shall constitute a waiver of right to appeal the order of the sheriff's department.

(d) Animals defined in this chapter as running at large upon public property, park property, public right-of-way, or the property of someone other than its owner, thereby creating a hazard to person or property, such animal may, at the discretion of the mayor, city council or city clerk, be impounded or ordered permanently removed from the City.

9. UNHEALTHFUL OR UNSANITARY CONDITIONS AND OTHER REGULATIONS.

(a) An owner shall maintain all structures, pens, coops, kennels or yards wherein animals are confined in a clean and sanitary condition, devoid of vermin, and free of odors arising from feces and urine.

(b) The owner or walker of any animal shall remove any feces discharged by the animal upon any public or private property.

(c) An owner may, collect the feces and turn it under the surface of the owner's soil in any manner that prevents odor or collection of vermin.

10. RESTRAINT AND CONFINEMENT OF ANIMALS.

(a) An owner shall confine animals in such a manner as to avoid injury to the animals or to others and to ensure access to adequate fresh food, adequate potable water, adequate shelter and adequate protection from the elements.

(b) An owner using a fenced yard or electronic fence to confine an animal must ensure the fence is of sufficient height, condition and security and electronically fenced animals must have a properly working collar and be properly trained to prevent escape or removal of the animal.

(c) An owner using an enclosure to confine an animal must:

1. Use a secure enclosure constructed of chain link or similar material with all 4 sides enclosed;

2. Use an enclosure of sufficient height to prevent the animal from escaping from such enclosure and cover the enclosure with adequate materials to provide the animal with shade and protection from the elements;

3. Ensure the width of the enclosure is at least twice the length of the animal and the length of the enclosure is at least 4 times the length of the animal, as measured from the tip of its nose to the base of its tail. The area of the enclosure shall be 50 percent larger for each additional animal, using the length of the largest animal as the base measurement. Size requirements do not include space taken by a doghouse, shelter or similar structure whether inside or outside the enclosure.

(d) An owner may use a chain or tether to restrain an animal, only on the owner's property and only under the following conditions:

1. No animal shall be restrained by a chain or tether for more than 8 hours in a 24 hour period;

2. The chain or tether must be at least 10 feet in length.

3. The chain or tether must be attached to a properly fitting collar or harness worn by the animal.

4. Chaining or tethering must be done in a manner to permit the animal to consume adequate fresh food and adequate potable water.

5. The chained or tethered animal cannot leave the property of the owner.

- (a) No person shall chain, tether, or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over, or across any public sidewalk, street, alley or private property other than the owners.

11. DISPOSING OF, GIVING AWAY OR SELLING ANIMALS. It shall be unlawful to give as a prize any live animal, bird or fish.

12. VICIOUS ANIMALS AND DANGEROUS ANIMALS. No person shall own, keep or harbor a vicious or dangerous animal within the city.

13. LIVESTOCK. No person shall own, keep or harbor livestock within the City limits.

14. WILD OR EXOTIC ANIMALS. No person shall own, keep or harbor wild or exotic animals within the City limits.

15. REPORT OF BITES. Anyone having knowledge of a person being bitten by or receiving a skin abrasion from an animal within the city shall promptly report such fact to a Van Horne City official.

16. DESTRUCTION OF ANIMALS AT LARGE. It shall be lawful for a Van Horne City Official or Sworn Police Officer to humanely destroy any animal found at large which cannot be captured following reasonable attempts at capture or notification of owner if known.

17. CRUELTY TO ANIMALS. It shall be unlawful to torture, torment, mutilate, cruelly beat, or cruelly kill any animal or unnecessarily fail to provide the same with proper food, shelter, protection from the weather, or drive or work the same when unfit for labor, or cruelly abandon the same or cause the same to be cruelly carried on any vehicle or otherwise; or commit any other act or omission by which unjustifiable pain, distress, suffering or death is caused or permitted to any animal or animals, whether the acts or omissions herein contemplated are committed either maliciously, willfully, or negligently.

18. TRAPPING. It shall be unlawful to trap or attempt to trap any animal with other than a humane, live trap in the city limits except by an authorized government agency.

19. CITATIONS FOR VIOLATIONS.

(a) City and County Officials are authorized to issue and deliver citations to persons accused of violating any of the provisions of this chapter.

Any person delivered such citation alleging an offense under this chapter may either appear on it or forward to the office of the Clerk of the Benton County District Court such fine and costs as may be scheduled and shown on the citation, which shall satisfy the obligations of the person charged. In the event of nonscheduled violations, the person must appear before the court for appropriate proceedings.

(b) Fines and costs shall follow Municipal schedule as per City Ordinance.

20. COURT PENALTY. For all persons who (1) elect not to pay the scheduled fines above set forth, or (2) otherwise fail to appear before the appearance date, and (3) for all other offenses not hereinbefore identified as scheduled offenses; shall constitute a simple misdemeanor, and upon conviction a person shall be subject to a fine of up to \$500.00, imprisonment for up to 30 days, as the court in its discretion may determine. Each day a violation occurs shall constitute a separate offense.

If any section, ordinance, or part thereof shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the remaining ordinances, or parts, sections or provisions thereof, which were not adjudged invalid or unconstitutional.

This ordinance shall be in full force and effect after passage and approval and publication as provided by law.

First Reading __September 10, 2007_____

Second Reading__October 8, 2007_____

Third Reading _____November 12, 2007_____

Passed and approved the 12th_____ day of __November____, 2007.

Ronald F. Donald, Mayor

ATTEST:

Linda Klopping, City Clerk

