

ORDINANCE NO. 645

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARTER LAKE, IOWA, 2013, BY AMENDING PROVISIONS PERTAINING TO ANIMAL CONTROL

BE IT ENACTED by the City Council of the City of Carter Lake, Iowa:

SECTION 1. SECTION MODIFIED. Section 85.01 (9) B shall be removed in its entirety.

SECTION 2. SECTION MODIFIED. Section 85.02 entitled Animal Neglect shall be repealed and the following adopted in lieu thereof:

85.02 ANIMAL NEGLECT.

(1) *Physical abuse.* It shall be unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club, or other object; mutilate, burn, or scald with any substance, or otherwise cruelly set upon any animal, except that reasonable force may be employed to drive off vicious or trespassing animals.

(2) *Physical mistreatment.* It shall be unlawful for any person to knowingly, intentionally, or negligently cause or allow any animal to endure unreasonable or unjustifiable pain, suffering, or injury. Physical mistreatment shall include the intentional tripping or causing to fall by its legs, or lassoing or roping the legs of, any equine by any means for the purpose of entertainment, sport, practice, or contest and the intentional tripping of any bovine by its tail, causing any bovine to fall by its tail, or dragging any bovine by its tail for the purpose of entertainment, sport, practice, or contest.

(3) *Care and maintenance.* It shall be unlawful for any person keeping or harboring any animal to fail, refuse, or neglect to provide such animal with proper food, drink, shade, shelter, physical maintenance and veterinary care. Proper food, drink, shade, shelter, physical maintenance and veterinary care shall require:

- (a) That each animal shall at suitable intervals and at least once every 24 hours, receive a quantity of wholesome foodstuff suitable for the species' physical condition and age, sufficient to maintain an adequate level of nutrition for the animal;
- (b) That each animal shall have available at all times an adequate supply of clean, fresh, potable water. If water pans or dishes are used, such pans or dishes shall have weighted bottoms or be mounted or secured in a manner that prevents tipping;
- (c) That each animal shall have convenient access to shelter throughout the year. Any shelter shall be structurally sound and maintained in good repair to protect the animal from injury and from the elements, and shall be of sufficient size to permit the animal to enter, stand, turn around, and lie down in a natural manner. Any shelter which does not protect the animal from temperature extremes or precipitation, excessive ammonia levels, or which does not provide adequate ventilation or drainage, shall not comply with this section. The shelter and any space accessible to the animal and all bedding for the animal shall be maintained in a manner which keeps the animal reasonably clean, dry, comfortable, and at an appropriate temperature and minimizes the risk of the animal contracting disease, being injured or becoming infested with parasites;

- (d) That each animal shall receive care and medical treatment for debilitating injuries, parasites, and disease, sufficient to maintain the animal in good health and to minimize suffering;
- (e) That no animals shall be hitched, tied or fastened by any rope, chain or cord that is directly attached to the animal's neck. Animals that must be tied, hitched or fastened to restrain them must wear a properly fitted collar or harness, not of the choker type, provided that the proper use of choker collars in the training of animals shall not be prohibited.
- (f) That any enclosure in which an animal is kept shall be constructed of material, and in a manner, to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition. When a dog is confined outside a residence, the following minimum space requirements shall be used:

| Size of Dog | Pen Size (Square Feet) |
|--|---------------------------|
| Extra Large (over 26 inches at withers or over 75 lbs.) | 48 |
| Large (over 20 inches and up to 26 inches at withers or not over 75lbs.) | 40 |
| Medium (over 12 inches and up to 20 inches at withers or not over 50 lbs.) | 32 |
| Small (12 inches or less at withers or not over 20 lbs.) | 24 |
| An additional 16 square feet shall be required for each dog sharing the pen with another. The minimum pen size includes a shelter | |

(4) *Leaving animals in unattended vehicle.* It shall be unlawful for any person to place or confine or allow such animal to be confined in such a manner that it must remain in a motor vehicle or trailer under such conditions or for such periods of time as may endanger the health or wellbeing of the animal due to heat, lack of food or water, or any circumstances which may cause suffering, disability, or death.

(5) *Abandonment of animals.* It shall be unlawful for any person to abandon any animal within the city. Abandonment shall mean leaving an animal for a period in excess of 24 hours without appropriate provisions having been made for the feeding, watering, and care of such animal. If an animal is restrained or confined out of doors without food, water, or proper care, the animal control authority may enter upon any such property where the animal is restrained or confined and supply it with the necessary food, water and care so long as it remains there.

(6) *Tethering of animals.* Animals can no longer be tied up alone outside for more than 30 minutes. However if there is an adult (19 years or older) outside with the dog, he can be tied up as long as the adult is with him. The dog also needs to be on a long enough tie out that he can move freely (5 times his body length) and weighs just 1/8 of his bodyweight (no big tow chains). If your dog is tethered it needs to be tethered in a manner to keep it 15 ft. from a public sidewalk. Even if your dog is in a fenced yard or outside kennel the tethering ordinance still applies. If you have a securely fenced yard or fenced run for your dog and it is not tethered, it is ok to leave him outdoors without human supervision for extended periods of time.

(7) *Owner's cost.* Any person or persons violating this section shall bear full cost and expenses incurred by the animal control authority in the care, medical treatment, impoundment cost, and disposal of said animals. In addition to the sanctions which may be imposed by law, any person who is found in violation of this section shall pay a penalty in the sum of \$200.00 which shall be paid to the animal control authority (Police Department) and shall be used solely for enforcement activities. *(Code of Iowa, Sec. 717B.3)*

SECTION 3. SECTION MODIFIED. Section 85.04 entitled Abandonment of Cats and Dogs is repealed and the following adopted in lieu thereof:

85.04 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.

In addition to the sanctions which may be imposed by law, any person who is found in violation of this section shall pay a penalty in the sum of \$100.00 which shall be paid to the animal control authority (Police Department) and shall be used solely for enforcement activities.

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

SECTION 4. SECTION MODIFIED. Section 85.09 (3) entitled Annoyance or Disturbance is repealed and the following adopted in lieu thereof:

85.09

3. To cause unsanitary, dangerous or offensive conditions. In addition to the sanctions which may be imposed by law, any person who is found in violation of this section shall pay a penalty in the sum of \$500.00 for the first offense of defecation and \$750.00 for additional offences, which shall be paid to the animal control authority (Police Department) and shall be used solely for enforcement activities.

SECTION 5. SECTION MODIFIED. Section 85.11 entitled Dangerous Animals is repealed and the following adopted in lieu thereof:

85.11 DANGEROUS ANIMALS.

(1) No person shall own, keep or harbor, or allow to be in or upon any premises occupied by him, or under his charge or control, any dangerous animal or potentially dangerous animal without complying with the requirements of this chapter regarding dangerous or potentially dangerous animals.

(2) A dangerous animal is defined as one who meets one or more of the following conditions:

- (a) Any animal which attacks, snaps at, bites, or has a history of attacking a human being or other domestic animal one or more times, without provocation.
- (b) Any animal engaging in or found to have been trained to engage in exhibitions of fighting.
- (c) Any animal previously declared a potentially dangerous animal that bites a human being without provocation.

(3) A potentially dangerous animal is defined as one who meets one or more of the following conditions:

- (a) Any animal that when unprovoked: (i) inflicts an injury on a human being that does not require medical treatment, (ii) injures a domestic animal, or (iii) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack; or
- (b) Any specific animal with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

(4) No animal may be declared dangerous or potentially dangerous that inflicts injury or damage on a person committing a willful trespass or other tort upon premises occupied by the owner or lessee of the animal, or committing or attempting to commit a crime. No animal may be declared dangerous or potentially dangerous for taking any action to defend or protect a human being within the immediate vicinity of the animal from an unjustified attack or assault. No animal used in connection with lawful activities of law enforcement officials shall be declared a dangerous or potentially dangerous animal.

The court may, in addition to any other fine or judgment, order the animal control authority to forthwith put the animal to death by removing the same to the animal shelter for such purpose. Any person found guilty of violating this section shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the animal, boarding and veterinary expenses necessitated by the seizure of any animal for the protection of the public and such other expenses as may be required for the destruction of any such animal.

A. RESPONSIBILITIES OF OWNERS OF DANGEROUS DOGS

(1) Any person owning a vicious or dangerous dog must register the dog with the City of Carter Lake and pay a fee of one hundred fifty dollars (\$150.00) for such registration.

(2) Upon licensing a vicious or dangerous dog, the owner shall display, in a conspicuous manner, a sign on his or her premises warning that there is a vicious dog on the premises. The sign shall be visible and legible from the sidewalk and street.

(3) If the animal is kept outdoors, the owner shall properly confine the dog in a pen or structure with secure sides and a secure top. If the bottom is not secured to the sides, the sides must be embedded in the ground no less than two (2) feet. The pen shall be no less than six (6) feet high and contain no less than fifty (50) square feet of ground space. All pens shall comply with city zoning guidelines, they shall be at least twenty-five (25) feet from any neighboring residential structures or

one-half (1/2) the distance from the outdoor facility and the residential structure, whichever is greater, so as not to be offensive to the neighboring residents.

(4) No person owning or harboring a dangerous or vicious dog shall permit such dog to go beyond the confined area of such person's premises unless the dog is securely leashed and muzzled. The leash shall not be longer than six (6) feet. Retractable or flexi-leads are not allowed. The leash shall be controlled by an adult or by a person physically capable of controlling the dog.

(5) The owner must provide proof at the time of registration that:

a. Proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000).

b. The dog's rabies vaccination status is current;

c. The dog is licensed for the current year; and

d. The dog is micro chipped with a permanent ID.

(6) Once a dog is deemed to be dangerous, it shall be neutered or spayed so as not to propagate vicious characteristics inherent in the progeny of the dangerous dog.

(7) In the event that a dangerous dog 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 life or property, such animal may, in the discretion of the Animal Control Officer or the Police Chief, 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 dog found at large, and shall have no duty to notify the owner of such animal prior to its destruction.

B. APPEAL PROCEDURE

(1) Within fourteen (14) days of the date of the notice of the police or health officer's decision that a dog is dangerous, the owner of the dog may appeal the decision to a three member panel appointed by City Council and comprised of a local veterinarian, dog trainer and a person possessing experience with, or extensive knowledge of, dog breeds, such as a dog groomer. The owner of the dog shall send notice of his/her intent to appeal by certified mail to the Animal Control Officer, with copies to the Chief of Police and Clerk of City Council. If such an appeal is filed, it shall be commenced within two (2) weeks of its filing. Within five days of the close of the appeal hearing, the three member panel shall determine whether to uphold or reverse the decision of the police or animal control officer.

(2) The determination of the three member panel shall be final and binding. The dog shall be kept either in a secure enclosure or shall be impounded at an animal shelter during the appeal process. Any and all costs for the impounding of the dog shall be borne by the owner unless otherwise determined by the panel.

C. VIOLATIONS AND PENALTIES; ENFORCEMENT

(1) Any person who violates any provision of this Ordinance shall be subject to a fine of \$500.00 dollars and revocation of the dangerous dog permit. In the event of permit revocation, the owner shall remove such dog from the city limits within twenty-four (24) hours or the dog shall be humanely destroyed. Further, each day for which a violation occurs and each violation of any provision of this Ordinance shall constitute a separate offense.

(2) The Carter Lake Police Department and Animal Control Officer shall enforce the provisions of this Ordinance.

(3) Three violations of 85.11 of this ordinance shall result in mandatory euthanasia of the dangerous dog. However, the police or Animal Control Officer may determine that the dog shall be euthanized after only one attack, depending on the severity of the attack.

SECTION 6. SECTION MODIFIED. Section 85.14 (6) entitled At Large: Impoundment is repealed and the following adopted in lieu thereof:

85.14 AT LARGE IMPOUNDMENT

6. When an animal has been apprehended and impounded, written notice shall be given of such impoundment to the owner, if known, within two days. If an impounded animal is not claimed within ten days, excluding Sundays and holidays, of the giving of the notice, or if the owner of the animal cannot be determined within ten days of the date of impoundment, the animal may be disposed of as provided in this chapter. The cost of impounding, board and keep and any other related costs shall be billed to the owner, if known or later identified.

SECTION 7. SECTION MODIFIED. Section 85.16 entitled Fees is modified by adopting the following sub section (6):

85.16 FEES

6. In the event the animal is transferred the Humane Society the owner is responsible for the paying all fines and tickets to the City of Carter Lake before the release of the animal. The owner will also be responsible for a \$10.00 administrative fee in order to get a release sheet to have animal released from Humane Society.

SECTION 8. SECTION MODIFIED. Section 85.20 entitled SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS is modified by deleting sub section 85.20 in its entirety.

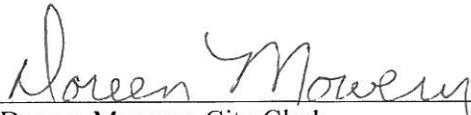
SECTION 9. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 10. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed and approved this 20th day of July, 2015.


Gerald Waltrip – Mayor

ATTEST:


Doreen Mowery, City Clerk

FIRST CONSIDERATION: May 18, 2015

SECOND CONSIDERATION: June 15, 2015

THIRD CONSIDERATION: July 20, 2015

The undersigned as City Clerk of Carter Lake, Iowa does hereby certify that on Aug 3, 2015, I posted true and exact copies of the foregoing ordinance in four public places to wit: City Hall, Carter Lake Senior Citizens' Center, Peoples National Bank and Owen Memorial Library all within the limits of the City of Carter Lake, Iowa.

Doreen Mowery
DOREEN MOWERY, City Clerk