

ORDINANCE NO. 2305

AN ORDINANCE OF THE CITY OF WAHOO, SAUNDERS COUNTY, NEBRASKA, TO AMEND TITLE IX: GENERAL REGULATIONS, CHAPTER 96: ANIMALS, BY AMENDING AND ADDING SECTIONS PERTAINING TO PROHIBITED AND PERMITTED ANIMALS, LICENSING, AND IMPOUNDMENT OF NEGLECTED ANIMALS; TO PROVIDE FOR THE SEVERABILITY OF ANY SECTION, CLAUSE, OR PROVISION OR PORTION FOUND UNCONSTITUTIONAL OR INVALID; TO PROVIDE FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM AND THE EFFECTIVE DATE THEREOF. AND TO PROVIDE THAT THIS ORDINANCE SHALL BECOME AND BE MADE A PART OF THE MUNICIPAL CODE OF THE CITY OF WAHOO, NEBRASKA.

WHEREAS, on January 24, 2002, the Mayor and Council of the City of Wahoo, Nebraska, did adopt the Wahoo Municipal Code, and,

WHEREAS, Chapter 96: Animals of the Wahoo Municipal Code pertaining to animals, prohibited animals, livestock, household pets, limitations, licensing, impoundment of neglected and abandoned animals, dangerous animals should be amended,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WAHOO, NEBRASKA, AS FOLLOWS:

1. That the findings hereinabove should be and are hereby made a part of this Ordinance as fully as if set out at length herein.

2. That Title IX: General Regulations, Chapter 96: Animals, of the Municipal Code of the City of Wahoo, Nebraska, be amended to read as follows:

CHAPTER 96: ANIMALS

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Animals

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GENERAL PROVISIONS

§ 96.01 OWNER DEFINED.

Any person who shall keep, maintain, harbor or permit any animal to be for ten days or more in or about his or her house, store, or enclosure, or to remain to be fed, shall be deemed the owner and possessor of such animal and shall be deemed to be liable for all penalties herein prescribed. (Neb. RS 54-606, 71-4401) ('72 Code, § 6-104)

PROHIBITED ANIMALS

§ 96.02 PROHIBITED ANIMALS

Prohibited animals shall include all exotic, livestock, unusual and wild animals as more thoroughly described below:

(A) *Exotic animal* shall mean any animal that is native to a foreign country or of foreign origin or character, is not native to the United States or was introduced from abroad except domestic pets. This term specifically includes animals such as, but not limited to, elephants, camels, antelope, anteaters, kangaroo and water buffalo.

(B) *Livestock* shall mean swine, cattle, horses, mules, sheep, chickens, roosters, fowl, goats, llamas, or any other animal which is normally and historically kept and raised on farms in the United States and used or intended for use as food, fiber, or farm work except household pets. Provided, however, that livestock shall be permissible in areas where livestock animal units are permissible under the City of Wahoo's zoning regulations.

(C) *Unusual animal* shall mean any exotic, wild, poisonous, or potentially dangerous animal not normally considered domesticated and shall include animals prohibited by the City of Wahoo, State of Nebraska, or federal requirements, and also:

- (i) Class mammalia; order carnivora, family felidae (such as lions, tigers, jaguars, leopards, and cougars) and hybrids of the same except commonly accepted domesticated cats; family canidae (such as wolves, coyotes, and fox) and hybrids of the same except domesticated dogs; family mustelidae (such as weasels, martins, fishers, skunks, wolverines, mink, and badgers) except ferrets; family procyonidae (such as raccoon); family ursidae (such as bears); and order chiroptera (such as bats).

(ii) Class reptilia; (i) all poisonous or venomous snakes, lizards, amphibians and other reptiles and shall include but not be limited to: cobras and their allies (elapidae, hydrophidae); vipers and their allies (crotalidae, viperidae); boonslang and kirtland's tree snake (clonophis); and gila monster (helodermatidae); (ii) order loricata (such as alligators, caymans, and crocodiles); (iii) green anaconda (eunectes murinus), Indian python (molurus molurus), reticulated python (python reticulatus), and African rock python (python sebae).

(D) *Wild animal* shall mean any animal within the boundaries of the United States which is now or historically has been found in the wild, or is in the wild state wherein it is living in its original, natural condition and is not domesticated.

(E) *Own, Keep or Harbor Prohibited Animal*. It shall be unlawful for any person or persons to own, keep, or harbor any prohibited animal within the corporate limits of the City of Wahoo. This section shall not apply to: (1) a public zoo, circus, or carnival that maintains all legally required permits under applicable state or federal law, including applicable rules and regulations of the Nebraska Game and Parks Commission and federal wildlife agencies; or (2) an animal shelter.

(F) *Sell, Give Away, Transfer or Import Prohibited Animal*. It shall be unlawful for any person to sell, give away, transfer, or import into the City any prohibited animal except for a public zoo doing business with another zoo.

(G) *Impoundment*. In the event that the City determines a prohibited animal is being owned, kept, or harbored by any person in violation of this title, the City may impound the animal, or order the owner to remove such animal from the city limits or to destroy it. If the City orders the owners to remove the prohibited animal, the City shall deliver a copy of the order in person or by certified mail. If the owner fails to remove such prohibited animal after the expiration of eleven days from receipt of notice, the City is hereby authorized to confiscate such animal and dispose of it in accordance with this title.

(H) *Owner's cost*. Any person or persons violating this section shall bear full cost and expenses incurred by the City in the recovery, care, medical treatment, boarding costs, impoundment cost, and disposal of said animals, including removal from a motor vehicle or trailer.

LIMITATION OF ANIMALS

§ 96.03 HOUSEHOLD PETS; LIMITED.

It shall be unlawful for any person to keep, maintain or harbor, within the corporate limits and the zoning jurisdiction of the municipality more than three (3) of any single species of animal, or a combination of household pets exceeding eight (8), which are at least six (6) months of age, unless specifically permitted by zoning regulation. A household pet shall mean dogs, cats, birds, guinea pigs, hamsters, mice, snakes, iguana, and turtles. Household pet shall also include any domesticated animal that a person owns or that is sold or offered for sale generally for the purpose of being kept indoors as household pets, except as described as a Prohibited Animal. A domesticated animal shall mean a tame animal that is subject to the dominion and control of an owner and accustomed to living in or near human habitation without requiring extraordinary restraint or unreasonably disturbing such human habitation.

ANIMALS

§ 96.04 ANIMAL SHELTER.

Animal Shelter shall mean any organization, whether privately held or governmentally run, for the purpose holding stray, lost, abandoned, surrendered animals or for providing temporary kenneling and finding permanent adoptive homes for animals.

(Neb. RS. 17-548) ('72 Code, § 6-110)

§ 96.05 LICENSE – DOGS AND CATS.

(A) Any person who shall own, keep, or harbor a dog or cat over the age of six months within the

city shall within 30 days after acquisition of the dog or cat acquire a license for each such dog or cat annually by or before May 1 of each year. The tax shall be delinquent from and after May 31, and an additional delinquency fee as established by city resolution shall thereafter be assessed in addition to the annual license fee; provided, the possessor of any dog or cat brought into or harbored within the corporate limits subsequent to May 1 of any year shall be liable for the payment of the dog or cat tax levied herein. The city may impose a higher licensing tax for animals which have not been either spayed or neutered at the time of licensing. Licenses shall be issued after vaccination verification by the City Clerk upon the payment of a license fee as established by city resolution for each dog or cat. The license shall not be transferable, and no refund will be allowed in case of death, sale, or other disposition of the licensed dog or cat.

(B) The owner shall state at the time the application is made and upon printed forms provided for such purpose his or her name and address and the name, breed, color, and sex of each dog or cat owned and kept by the owner. A certificate that the dog or cat has had a rabies shot and distemper/parvo vaccinations effective for the ensuing year of the license, shall also be presented when the license is applied for. No license or tag shall be issued until the aforementioned certificates are shown.

(’72 Code, § 6-101) (Am. Ord. 1242, passed 7-25-85; Am. Ord. 1346, passed 7-5-90) Penalty, see § 96.20

Statutory reference:

Authority, see Neb. RS 17-526 and 54-603

§ 96.06 LICENSE TAGS – DOGS AND CATS.

(A) Upon the payment of the license fee, the person designated by the licensing authority shall issue to the owner of a dog or cat a license certificate and a metallic tag for each dog or cat so licensed. The metallic tags shall be properly attached to the collar or harness of all dogs or cats so licensed and shall entitle the owner to keep or harbor the said animal until April 30 following such licensing.

(B) Dogs and cats must wear identification tags or collars at all times when off the premises of the owner. In the absence of a tag, the animal shall be regarded as a stray whenever off its owner's property.

(C) In the event that a license tag is lost and upon satisfactory evidence that the original plate or tag was issued in accordance with the provisions herein, the person designated by the licensing authority shall issue a duplicate or new tag for the balance of the year for which the license tax has been paid and shall charge and collect a fee set by resolution of the City Council for each duplicate or new tag so issued. All license fees and collections shall be immediately credited to the General Fund. It shall be the duty of the person designated by the licensing authority to issue tags of a suitable design that are different in appearance each year.

(’72 Code, § 6-102)

Statutory reference:

Authority, see Neb. RS 17-526 and 54-603

§ 96.07 WRONGFUL LICENSING -- DOGS AND CATS.

It shall be unlawful for the owner, keeper, or harbinger of any dog or cat to permit or allow such dog or cat to wear any license, metallic tag, or other city identification than that issued by the City Clerk for dogs and cats.

(Neb. RS 17-526, 54-603) (’72 Code, § 6-103) Penalty, see § 96.20

§ 96.08 RUNNING AT LARGE.

It shall be unlawful for the owner of any animal (regardless of species) to allow such animal to run at large at any time within the corporate limits of the city. It shall be the duty of the city police to cause any animal found to be running at large within the city to be taken up and impounded. **RUNNING AT LARGE** shall mean any animal found off the premises of the owner, and not under control of the owner or a responsible person, either by leash, cord, chain, wire, rope, cage, or other suitable means of physical restraint.

(’72 Code, § 6-105) (Am. Ord. 1066, passed 3-11-76)

Statutory reference:

Authority, see Neb. RS 17-526

Dog collars required, see Neb. RS 54-605

Cross-reference:

Other animals, see § 96.01

§ 96.09 CAPTURE IMPOSSIBLE.

The city police shall have the authority to kill any animals showing vicious tendencies, or characteristics of rabies which make capture impossible because of the danger involved.

(Neb. RS 54-605) ('72 Code, § 6-106)

§ 96.10 LIABILITY OF OWNER.

It shall be unlawful for any person to allow an animal owned, kept, or harbored by the owner, or under his or her charge or control, to injure or destroy any real or personal property of any description belonging to another person. The owner or possessor of any such animal, in addition to the usual judgment upon conviction, may be made to be liable to the persons so injured in an amount equal to the value of the damage so sustained.

('72 Code, § 6-108) Penalty, see § 96.20

Statutory reference:

Statutory liability, see Neb. RS 54-601

Joint liability, see Neb. RS 54-602

§ 96.11 IMPOUNDING.

(A) It shall be the duty of the person designated by the licensing authority to capture, secure, and remove in a humane manner to any animal shelter or veterinarian any animal violating any of the provisions of this subchapter. Stray animals that are roaming at large, remaining on private property without consent of the owner or tenant, or remaining on or frequenting public property, are deemed to be the property of the city. If the stray animal cannot be captured by conventional means, every police or humane officer is authorized to use any means necessary to remove the animal. The animals so impounded shall be treated in a humane manner and shall be provided with a sufficient supply of food and fresh water each day. Each impounded animal shall be kept and maintained at the pound for a period of not less than five days unless reclaimed earlier by the owner. The day on which the animal was impounded shall count as one day and any part of any day during which the animal is impounded shall also count as a full day. Before an animal is released from impoundment, the items listed in division (B) below shall be met. Any unclaimed impounded animal, after being kept for no more than five days, will become the property of the city or of the Animal Shelter and shall be placed for adoption in a suitable home or humanely destroyed.

(B) Before releasing an animal from impoundment, except an impoundment due to rabies or suspect of rabies, the following items must be met:

(1) The animal must be current regarding its rabies vaccination and distemper/parvo vaccination. If the animal is not current regarding said vaccinations it shall be given the vaccinations at the owner's expense.

(2) If the animal is a dog or cat then it shall have a current license of the city as stated in §§ 96.17 and 96.18.

(3) The owner shall pay the animal shelter's or veterinarian's daily boarding fee.

(4) The owner shall pay to the city a general impoundment fee as set forth by resolution.

(5) The owner shall pay to the city a restitution fee as set forth by resolution to reimburse the cost of employing a humane officer, if so employed, at the time of impoundment.

('72 Code, § 6-109) (Am. Ord. 1804, passed 5-23-02)

Statutory reference:

Pounds authorized, see Neb. RS 17-548

Pounds created by rabies control authorities, see Neb. RS 71-4408

§ 96.12 IMPOUNDMENT AND DISPOSAL OF ABANDONED, CRUELLY NEGLECTED OR MISTREATED ANIMALS.

Any animal found abandoned, cruelly neglected or mistreated or in such a condition as to constitute a direct threat to its life, safety or health may be impounded if seized pursuant to a search warrant or validly seized without a warrant. When a criminal complaint has been filed in connection with the impounded animal, that court shall have exclusive jurisdiction for the disposition of the animal and to determine any rights therein, including questions relating to the title, possession, control, and disposition of the animal. Within 7 days after the animal has been impounded, either the city attorney or the Saunders County Attorney shall file an application with the court for a hearing to determine disposition and the cost for the care of the animal. Notice of hearing shall be given to the owner or custodian from whom the animal was seized. Such notice shall be served by personal or residential service. If service cannot be made, then service may be made by publication in the county where the animal was seized. The hearing may be held not more than 10 business days after the date of application for hearing unless otherwise ordered by the court. The court may: (i) order immediate forfeiture of the animal to either the city or the local animal shelter and authorize the appropriate disposition of the animal; (ii) order the owner or custodian of the animal to retake possession of the animal subject to management conditions; and/or (iii) order the owner or custodian of the animal to retake possession following the posting of a bond or other security or to otherwise order reimbursement of all reasonable expenses for the care of the animal including veterinary and shelter care. Payment shall be subject to state statute. Nothing in this section shall prevent the humane destruction of a seized animal at any time as determined necessary by a licensed veterinarian or as authorized by court order. (Neb. Rev. Stat. § 28-1012 and 1012.01)

§ 96.13 CITATION FOR ABANDONED, CRUELLY NEGLECTED OR MISTREATED ANIMALS.

A law enforcement officer who has reason to believe that an animal has been abandoned or is being cruelly neglected or mistreated may issue a citation to the owner or custodian as prescribed by state statute. Any law enforcement officer acting under this section shall not be liable for damage to property if such damage is not the result of the officer's negligence. (Neb. Rev. Stat. § 28-1012 and 1012.01)

§ 96.14 RABIES SUSPECTED; IMPOUNDMENT.

Any animal suspected of being afflicted with rabies, or any animal not vaccinated in accordance with the provisions of this chapter which has bitten any person and caused an abrasion of the skin, shall be seized and impounded under the supervision of the Animal Shelter for a period of not less than ten days. If upon examination by a veterinarian, the animal has no clinical signs of rabies at the end of such impoundment, it may be released to the owner, or, in the case of an unlicensed dog or cat, it shall be dispositioned of in accordance with the provisions herein. If the owner of the said animal has proof of vaccination, it shall be confined by the owner or some other responsible person for a period of at least ten days, at which time the animal shall be examined by a licensed veterinarian. If no signs of rabies are observed, the animal may be released from confinement.

(Neb. RS 71-4406) ('72 Code, § 6-111)

§ 96.15 ANIMAL NOISE.

It shall be unlawful for any person to own, keep, or harbor any animal which by loud, continued, or frequent noise, barking, howling, or yelping or otherwise shall annoy or disturb any neighborhood, or person, or which habitually makes noise at or chases pedestrians, drivers, or vehicles while they are on any public sidewalks, streets, or alleys in the city. Upon the written complaint or telephone complaint of any affected person that any animal owned by the person named in the complaint is an annoyance or disturbance, or otherwise violates the provisions of this section, the city police shall investigate the

complaint and, if in their opinion the situation warrants, shall notify the owner to silence and restrain such animal. Upon a second violation, within any 30-day period, the city police shall issue a citation to the owner of the animal for violation of this section. The provisions of this section shall not be construed to apply to the City Animal Shelter.

(Am. Ord. 1804, passed 5-23-02)

§ 96.16 SERVICE ANIMAL.

(A) *Service animal.* Service animal shall have the same meaning as in 28 C.F.R. 36.104, as amended.

(B) *Exempt from license tax.* Every service animal shall be licensed as required by the city code, but no license tax shall be charged. Upon the retirement or discontinuance of the animal as a service animal, the owner of the animal shall be liable for the payment of the required license tax.

(C) *Misdemeanor; violence on a service animal.* A person commits the offense of violence on a service animal when he or she intentionally injures, harasses, or threatens to injure or harass or attempts to intentionally injure, harass, or threaten an animal that he or she knows or has reason to believe is a service animal.

Statutory reference:

Statutory fee exemption, see Neb. RS 54-603

§ 96.17 OFFENSIVE ODORS.

It shall be unlawful for any person or persons to keep any household pet in any pen, shed, or yard within the City from which any deleterious or offensive odor shall be emitted; and the maintaining of any of the above-mentioned household pets in such condition shall of itself constitute a nuisance.

§ 96.18 SANITARY REGULATIONS.

The owner of any household pet shall keep all pens, enclosures, and shelter structures wherein such animals are kept in a clean and sanitary condition so as not to give off offensive odors which are a source of discomfort to persons residing in the vicinity thereof. The owner of any household pet shall not allow offal, manure, and waste material of such animal to accumulate or remain in the pens, enclosures, and shelter areas, excluding pasture acreage, upon which such animal resides or is confined in any manner which is conducive to the breeding or attraction of flies, mosquitoes, or other noxious insects or in any manner which endangers the public health or safety or which creates an unhealthy environment. The maintenance or permitting of any of the foregoing conditions on any such lot or parcel of ground is hereby declared to be a public nuisance. The owner of any household pet shall in a sanitary manner remove or dispose of all offal, manure, and waste material accumulating from such animal at least once every seven days.

§ 96.19 IRRESPONSIBLE ANIMAL OWNER.

(A) It shall be unlawful for any person who has been declared an irresponsible animal owner by the Chief of Police to own any animal, or to reside on premises with any animal owned by another person, for a period of thirty-six months from the issuance of such declaration.

(B) The Chief of Police may declare a person to be an irresponsible animal owner when any person has been convicted of three or more violations of this chapter within a thirty-six month period. Such declaration is also revocation of all existing licenses and permits issued to such person and shall prohibit any licenses or permits from being issued to such person for a period of thirty-six months.

(C) The city shall notify the person declared to be an irresponsible animal owner of the declaration in writing. Such notice shall be served either in person or by mailing such notice by certified mail. After eleven days from the date of such notice, the declaration shall be final and binding upon the city and upon the irresponsible animal owner unless within ten days after such notice, the irresponsible animal owner requests, in writing, a review of the determination by the hearing officer pursuant to the cities then existing nuisance regulations.

(D) The person designated as an irresponsible animal owner shall have ten days from the date of the notice, or if appealed ten days from the final decision, to relinquish ownership to the city or Animal Shelter. If ownership is not relinquished, the city may impound any animal owner by the irresponsible animal owner, and dispose of such animal in accordance with this Chapter.

§ 96.20 PENALTY FOR VIOLATION.

(A) Any person who shall violation any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or be fined in a sum not to exceed \$500.00 and not less than \$200.00 for the first offense, and not less than \$300.00 for a second offense, and not less than \$500.00 for the third offense and each offense thereafter, recoverable with costs, or by both such fine and imprisonment.

(B) In addition to the penalties for all violations herein provided, the court may order such person to reimburse the city, and/or a public or private agency for expenses incurred in the care, medical treatment, impoundment, and disposal of any animal involved in or connected with the incident for which the complaint was filed. A court may also enter an order requiring restitution to any person for damage or injury to such person or such person's property.

(C) Each day that a violation of any section in this Chapter continues shall constitute a separate and distinct offense and shall be punishable as such. The penalties herein provided shall be cumulative with and in addition to any penalty or forfeiture elsewhere in this chapter provided.

DANGEROUS ANIMALS

§ 96.21 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL AUTHORITY. An entity authorized to enforce the animal control laws of the city and includes any local law enforcement agency or other agency designated by the city to enforce the animal control laws of the city. The animal control authority for the city shall be the Mayor and City Council.

ANIMAL CONTROL OFFICER. Any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of this chapter or any other law or ordinance relating to the licensing of animals, control of animals, or seizure and impoundment of animals and shall include any state or local law enforcement or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of any animal. The animal control officer of the city shall be the Chief of Police of the city, and his or her officers.

DANGEROUS ANIMAL.

(1) Any animal that, according to the records of the animal control authority:

- (a) Has killed a human being;
- (b) Has inflicted injury on a human being that requires medical treatment;
- (c) Has killed a domestic animal without provocation; or
- (d) Has been previously determined to be a potentially dangerous animal by an animal

control authority, the owner has received notice of such determination from an animal control authority or an animal control officer, and the animal inflicts an injury on a human being that does not require medical treatment, injures a domestic animal, or threatens the safety of humans or domestic animals.

(2) An animal shall not be defined as a ***DANGEROUS ANIMAL*** if the individual was tormenting, abusing, or assaulting the animal at the time of the injury or has, in the past, been observed or reported to have tormented, abused, or assaulted the animal.

(3) An animal shall not be defined as a **DANGEROUS ANIMAL** if the injury, damage, or threat was sustained by an individual who, at the time, was committing a willful trespass as defined in Neb. RS 20-203, 28-520, or 28-521, was committing any other tort upon the property of the owner of the animal, was tormenting, abusing, or assaulting the animal, or was committing or attempting to commit a crime.

(4) An animal shall not be defined as a **DANGEROUS ANIMAL** if the animal is a police animal as defined in Neb. RS 28-1008.

DOMESTIC ANIMAL. See definition of household pet referenced in this Chapter.

MEDICAL TREATMENT. Treatment administered by a physician or other licensed health care professional that results in sutures or surgery or treatment for one or more broken bones.

OWNER. Any person, firm, corporation, organization, political subdivision, or department possessing, harboring, keeping, or having control or custody of an animal.

POTENTIALLY DANGEROUS ANIMAL.

(1) Any animal that when unprovoked:

(a) Inflicts an injury on a human being that does not require medical treatment; or

(b) Injures a domestic animal; or

(c) Chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack.

(2) 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.

(Neb. RS 54-617) ('72 Code, § 6-114) (Am. Ord. 1804, passed 5-23-02)

§ 96.22 RESTRAINED.

(A) A dangerous animal that has been declared as such shall be spayed or neutered and implanted with a microchip identification number by a licensed veterinarian within 30 days after such declaration. The cost of both procedures is the responsibility of the owner of the dangerous animal. Written proof of both procedures and the microchip identification number shall be provided to the animal control authority after the procedures are completed.

(B) No owner of a dangerous animal shall permit the animal to go beyond the property of the owner unless the animal is restrained securely by a chain or leash.

(C) Except as provided in division (D) of this section or for a reasonable veterinary purpose, no owner of a dangerous animal shall transport such animal or permit such animal to be transported to another county, city, or village in this state.

(D) An owner of a dangerous animal may transport such animal or permit such animal to be transported to another county, city, or village in this state for the purpose of permanent relocation of the owner if the owner has obtained written permission prior to such relocation from the animal control authority of the county, city, or village in which the owner resides and from the county, city, or village in which the owner will reside. Each animal control authority may grant such permission based upon a reasonable evaluation of both the owner and the animal, including if the owner has complied with the laws of this state and of the county, city, or village in which he or she resides with regard to dangerous animals after it was declared dangerous. An animal control authority shall not grant permission under this section if the county, city, or village has an ordinance or resolution prohibiting the relocation of dangerous animals. After the permanent relocation, the animal control authority of the county, city, or village in which the owner resides shall monitor the owner and such animal for a period of at least 30 days but not to exceed 90 days to ensure the owner's compliance with the laws of this state and of such county, city, or village with regard to dangerous animals. Nothing in this division shall permit the rescindment of the declaration of dangerous animal.

(Neb. RS 54-618) ('72 Code, § 6-115)

§ 96.23 CONFINEMENT.

(A) No person, firm, partnership, limited liability company, or corporation shall own, keep, or

harbor or allow to be in or on any premises occupied by him, her, or it or under his, her, or its charge or control any dangerous animal without such animal being confined so as to protect the public from injury.

(B) While unattended on the owner's property, a dangerous animal shall be securely confined, in a humane manner, indoors or in a securely enclosed and locked pen or structure suitably designed to prevent the entry of young children and to prevent the animal from escaping. The pen or structure shall have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides shall be embedded into the ground at least one foot. The pen or structure shall also protect the animal from the elements. The pen or structure shall be at least ten feet from any property line of the owner. The owner of a dangerous animal shall post warning signs on the property where the animal is kept that are clearly visible from all areas of public access and that inform persons that a dangerous animal is on the property. Each warning sign shall be no less than ten inches by twelve inches and shall contain the words warning and dangerous animal in high-contrast lettering at least three inches high on a black background. (Neb. RS 54-619) ('72 Code, § 6-116)

§ 96.24 FAILURE TO COMPLY.

(A) Any dangerous animal may be immediately confiscated by an animal control officer if the owner is in violation of this chapter. The owner shall be responsible for the reasonable costs incurred by the animal control authority for the care of a dangerous animal confiscated by an animal control officer or for the destruction of any dangerous animal if the action by the animal control authority is pursuant to law and if the owner violated this chapter.

(Neb. RS 54-620)

(B) In addition to any other penalty, a court may order the animal control authority to dispose of a dangerous animal in an expeditious and humane manner.

(Neb. RS 54-621) ('72 Code, § 6-118)

(C) (1) Any owner whose dangerous animal inflicts on a human being a serious bodily injury as defined in Neb. RS 28-109 is guilty of a Class I misdemeanor for the first offense, whether or not the same dangerous animal is involved.

(2) It is a defense to a violation of division (C)(1) of this section that the dangerous animal was, at the time of the infliction of the serious bodily injury, in the custody of or under the direct control of a person other than the owner or the owner's immediate family.

(Neb. RS 54-622.01)

(D) *Effect of prior conviction.* If a dangerous animal of an owner with a prior conviction under this section attacks or bites a human being or domestic animal, in addition to any other penalty, the dangerous animal shall be immediately confiscated by an animal control authority, placed in quarantine for the proper length of time, and thereafter destroyed in an expeditious and humane manner.

(Neb. RS 54-623)

§ 96.25 PROOF OF INSURANCE.

Any animal that has been determined to be a dangerous animal by the animal control authority shall not be licensed at the next annual license renewal period unless the owner thereof shall first present written proof of liability insurance of not less than \$300,000 to the animal control authority.

('72 Code, §§ 6-117 and 6-119) (Ord. 1344, passed 5-24-90; Am. Ord. 1345, passed 6-28-90)

3. That should any section, paragraph, sentence or word of this Ordinance hereby adopted be declared for any reason to be invalid, it is the intent of the Mayor and Council of the City of Wahoo, Nebraska that it would have passed all other portions of this Ordinance independent of the elimination herefrom of any such portion as may be declared invalid.

4. That all ordinances and parts of ordinances passed and approved prior to the passage, approval, and publication of this Ordinance, in conflict herewith, are hereby repealed.

5. That this Ordinance shall be published in pamphlet form and shall be in full force and take effect from and after its passage, approval, as provided by law.

6. That it is the intention of the Mayor and Council of the City of Wahoo, Nebraska, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Municipal Code of the City of Wahoo, Nebraska, and the sections of this Ordinance may be renumbered to accomplish such intention.

PASSED AND APPROVED this 11th day of April, 2019.

CITY OF WAHOO, NEBRASKA

By: Gerald D. Johnson
Gerald D. Johnson, Its Mayor

ATTEST:

Lucinda J. Morrow
Lucinda J. Morrow, Its Clerk

(SEAL)

1st reading 3/28/2019

