

ORDINANCE NUMBER 23-30

An ordinance to amend Section 5-1 of the Beatrice City Code regarding definitions for animal and fowl ordinances; to repeal conflicting ordinances or parts of ordinances; and to provide for publication in electronic form and for an effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEATRICE, NEBRASKA:

SECTION 1. That Section 5-1 of the Beatrice City Code be and is hereby amended to read as follows:

“Sec. 5-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate shelter: Adequate shelter shall mean a physical structure available for use by an animal so that when factors related to the age, size, physical condition, medical condition, species, and breed disposition are considered, the animal's well-being is not endangered by weather or environmental conditions.

Animal: Any vertebrate member of the animal kingdom excluding man.

Animal control officer: Animal control officer shall mean any person authorized by law, employed, appointed or contracted with 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. Additionally, all law enforcement officers of the City of Beatrice shall have all of the authority which is hereby conferred upon animal control officers, and any authority conferred in this chapter upon any "animal control officer" shall be deemed to also be conferred upon every law enforcement officer of the City of Beatrice.

Animal shelter: Animal shelter shall mean a facility that is used to house or contain animals and is owned, operated, or maintained by the City of Beatrice or contracted with the City of Beatrice for the purpose of providing temporary kenneling of animals.

Boarding: Boarding shall mean caring for, feeding, watering, or sheltering an animal belonging to another by any person or business for pay, trade, barter, commission, or remuneration of any sort.

Dangerous animal: Dangerous animal shall mean any animal that (a) has killed or inflicted severe injury on a human being on public or private property; (b) has killed a domestic animal without provocation while the animal was off the owner's property; or (c) has been previously determined to be a potentially dangerous animal according to this chapter and such animal subsequently and aggressively bites, attacks, or endangers the safety of humans or domestic

animals. Under (a) and (c) herein, the animal shall not be considered a dangerous animal if the conduct of the animal in question is directed at a person:

- (1) Who, at the time, was committing a willful trespass or any other tort upon the property of the owner of the animal;
- (2) Who, at the time, was tormenting, abusing, or assaulting the animal;
- (3) Who has, in the past, been observed or reported to have tormented, abused, or assaulted the animal; or
- (4) Who, at the time, was committing or attempting to commit a crime against the person, against public peace, or relating to property.

Dwelling: Dwelling shall mean any building or portion thereof which is designed and used for residential purposes. An attached or detached garage shall be deemed to be part of the dwelling.

Exotic animal: 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. This term specifically includes animals such as, but not limited to, elephants, camels, antelope, anteaters, kangaroo and water buffalo.

Fowl: Fowl shall mean chickens, ducks, geese, turkeys, pigeons, pheasants, quail, partridge, guineas, or other domesticated or wild birds.

Hybrid: Hybrid shall mean any animal which is (1) the product of the breeding of a domesticated animal with a non-domesticated animal including, but not limited to, wolf/dog hybrids, or (2) the product of the breeding of a non-domesticated animal with an animal of a different species, variety, or breed.

Large animal: Large animal shall mean cattle, horses, mules, sheep, goats, llamas, or any other domesticated 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 weighing more than twenty (20) pounds except fowl.

Muzzling: Muzzling shall mean that the jaws of an animal are confined by a device that prevents it from biting.

Owner: Any person owning, keeping or harboring one (1) or more animals or has licensed the animal under his or her name. Except for any person participating in the trap, vaccinate, neuter, and release program operated by the Beatrice Humane Society, within the corporate limits of the city, an animal shall be considered harbored if it is fed or sheltered for three (3) consecutive days or more.

Person: Any individual, firm, corporation, association, or partnership.

Pit bull: Any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, Dogo Argentino, Presa Canario, Cane Corso, American Bulldog, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which

substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.

Potentially dangerous animal: Potentially dangerous animal shall mean:

- (a) Any animal that when unprovoked:
 - (1) Inflicts a wound on a human or injures a domestic animal either on public or private property; or
 - (2) Chases or approaches a person upon streets, sidewalks, or any public grounds in an outward appearance of aggressive or dangerous behavior; or
- (b) Any 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.

Premises: Premises shall include any enclosure, building, lot, yard, or portion thereof, facilities and appurtenances thereto, grounds, area, or place used or held out for use to own, keep, or harbor animals.

Run at large: Run at large shall include any animal that is not under the actual control of its owner. An animal shall not be considered under the actual control of its owner unless on a leash, cord, or chain which is securely fastened or picketed in a manner sufficient to keep the animal on the premises where picketed, or on a leash, cord, or chain of six (6) feet or less in length physically held by the owner or confined within a receptacle, enclosed vehicle, fenced enclosure or shelter or within the real property limits of the owner and in the owner's presence and under direct and effective voice control.

Severe injury: Severe injury shall mean any physical injury to a person that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery, or one (1) or more broken bones, or that creates a potential danger to the life or health of the victim.

Unusual animal: 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 Beatrice, State of Nebraska, or federal requirements, and also:

- (a) 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); order primata (such as monkeys and chimpanzees); and order chiroptera (such as bats).
- (b) 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); boomslang 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*).

Wild animal: 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.

Wound: Wound shall mean any injury to a person not included within the definition of severe injury."

SECTION 2. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. That this ordinance shall be in full force and effect from and after its passage, approval, and publication in electronic form as provided by law.

PASSED AND APPROVED this 6th day of November, 2023.

Attest:


Erin Saathoff, CMC, City Clerk


Robert Morgan, Mayor



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(crotalidae, viperidae); boomslang and kirtland's tree snake (clonopsis); 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).

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MEMORANDUM

TO: Mayor & City Council **DATE SUBMITTED:** October 17, 2023

FROM: Taylor Rivera
City Attorney **FOR AGENDA OF:** November 6, 2023

SUBJECT: Amendment – Animal & Fowl Definitions **EXHIBIT(S):** Redline Ordinance

In May 2023, the Beatrice Humane Society opened a low-cost spay and neuter clinic to implement a Trap, Vaccinate, Neuter, Release (“TVNR”) Program.

Currently, Section 5-1, the definitions section for animal and fowl ordinances, defines an “Owner” as “any person owning, keeping, or harboring one (1) or more animals or has licensed the animal under his or her name”. The definition further states that “an animal shall be considered harbored if it is fed or sheltered for three (3) consecutive days or more”.

The proposed amendment includes an exception for the Beatrice Humane Society when it takes in animals as part of its TVNR program.