

CITY OF CRETE, NEBRASKA
CITY COUNCIL REGULAR MEETING
January 3, 2023

Notice of the meeting was given by posting and publishing in The Crete News, the appointed method for giving notice as shown by the Proof of Publication attached to the minutes. Advance notice of the meeting was also given to the Mayor and City Council. Pursuant to Section 84-1412(8) of the Nebraska Open Meetings Act, the City has posted a current copy of the Open Meetings Act, Laws of the State of Nebraska in the back of the Council Chambers. Additional copies are available to read. The City may consider items listed on the agenda in random order. All proceedings shown were taken while the meeting was open to the attendance of the public.

Those in attendance pledged allegiance to the flag.

1. Open Meeting

2. Roll Call

Tom
Crisman: Present

Dan
Papik: Present

Travis
Sears: Present

Present: 3.

3. Items of Business

3.A. Discuss amending animal regulations to allow a limited number of hens within the City.

Rules and regulations for other municipalities were researched and discussed within the Committee. The municipalities that did allow them had multiple stipulations, including needing a permit, only having a certain number of hens, the coop being so many feet from the neighbors, and so on. The toughest part of allowing them is the enforcement of those codes, having the time and manpower to do so. Another topic brought up was zoning and possibly allowing them only in certain zones. The Committee recommended moving forward with the research, having the City Administrator and City Attorney look into the zoning aspect and to contact municipalities who allow them to see what issues they have had.

4. Officers' Reports

5. Adjournment

Mayor

(SEAL)

City Clerk-Treasurer

I, Jerry Wilcox, City Clerk for the City of Crete, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council. I hereby certify that a copy of the Open Meetings Act was posted in the back of the Council Chambers. I certify that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the City Clerk. I certify that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting and that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public. I certify that the minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of the City Council. I certify that all news media requesting notification concerning meetings of the City Council were provided with advance notification of the time and place of said meeting and the subjects to be discussed.

City Clerk-Treasurer

(S E A L)

Sec. 7-8. - Keeping of backyard chickens.

The keeping of hens and hen bantams in residential districts on property consisting of a single-family dwelling is allowed, subject to the following:

- (1) Any person who keeps hens or bantams in the City of Nebraska City shall obtain a license from the city prior to acquiring the hens or bantams. Application shall be made to city hall, and the fee for the license shall be ten dollars (\$10.00).
- (2) Licenses are valid for the calendar year and shall expire and become invalid on December 31st at the end of the calendar year after the date of issuance; prorating the fee is not allowed. A person who wishes to continue keeping hens or hen bantams shall have obtained a new license on or before January 1st. Application for a new license shall be pursuant to the administrative procedures and requirements that are applicable at the time the person applies for a new license.
- (3) A person who keeps or houses hens or bantams on his or her property shall comply with all of the following requirements:
 - a. No more than four (4) hens and/or hen bantams may be kept on any one (1) zoning lot. Hereinafter "hens" and "hen bantams" will be referenced collectively as "chickens."
 - b. The principal use of the property shall be a single-family dwelling, and the license applicant shall be the owner of the property.
 - c. No person shall keep any rooster.
 - d. No person shall slaughter any chickens.
 - e. The chickens shall be provided with a covered fenced enclosure or coop (hereinafter, "chicken enclosure") and must be kept in the chicken enclosure at all times. Such chicken enclosure shall contain at least four (4) square feet of floor area per chicken, and the chicken enclosure shall provide at least ten (10) square feet of open area per chicken; no chicken enclosure shall exceed one hundred twenty (120) square feet of floor area or exceed seven (7) feet in height.
 - f. A person shall not keep chickens in any location on the property other than in the chicken enclosure in the rear yard. For purposes of this section "rear yard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the dwelling and extending to the side lot lines.
 - g. No chicken enclosure shall be located closer than ten (10) feet to any property line of an adjacent property.
 - h. No chicken enclosure shall be located closer than forty (40) feet to any residential structure on another person's property.

- i. All chicken enclosures shall be constructed or repaired to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.
- j. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with the food and other associated items.
- k. Eggs produced by licensed chickens may be sold by the license holder, subject to compliance with the zoning ordinance of the City of Nebraska City, Nebraska, Section 515 Home occupations and home-based businesses.
- l. A person who has been issued a license freely and voluntarily consents to a search and examination of the chicken enclosure in his/her rear yard upon demand by any Police Officer or Code Enforcement Officer.

If any of the above requirements are not complied with, the city may revoke any license granted under this section and/or initiate prosecution of the license holder and/or any other person violating the Code. Violations are misdemeanors punishable by section 1-8 of this Code.

(Ord. No. 3022-18, § 2, 1-17-19)

§ 90.01 DEFINITIONS.

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

ANIMAL. Any live, vertebrate creature other than human beings.

ANIMAL CONTROL OFFICER. The duly employed or appointed and acting Animal Control Officer or Pound Master of the animal shelter as provided for in this chapter, his or her duly authorized agents or assistants, or a law enforcement officer of the city.

BIRD(S). Any feathered vertebrate, including, but not limited to, pigeons, but excluding poultry or fowl.

CAT. Any male or female cat which is a member of the family *Felis domestica*.

COMMERCIAL ANIMAL ESTABLISHMENT. Any commercial business engaged in the business of breeding, buying, selling, or grooming of animals.

DOG. Any male or female dog which is a member of the family *Canis familiaris*.

DOMESTIC ANIMAL. Any of various animals domesticated by people so as to live and breed in a tame condition and shall include, but not be limited to, ferrets.

ENCLOSURE. Any fence, cage, wall, or other structure used to confine an animal.

FOWL. Any poultry, including, but not limited to, chickens, geese, ducks, turkeys, quail, pheasant, but not including pigeons.

INOCULATION FOR RABIES. The inoculation of a dog or cat with a vaccine generally approved by licensed veterinarians for use in the prevention of rabies.

KENNEL. The house, buildings, store, yard, enclosure, pen, or place where four or more dogs over the age of six months are harbored or kept, or the house, building, store, yard, enclosure pen, or place where four or more weaned female cats are harbored or kept. However, the above definition shall not apply to spayed female cats or to a city animal shelter or animal hospital or boarding place operated by a licensed veterinarian.

LEASH. A thong, cord, rope, or commercially sold restraint no longer than 16 feet in length; except as otherwise provided for more specific provisions relating to leash as provided for pit bulls, vicious dogs, dangerous dogs or potentially dangerous dogs for which separate leash requirements shall control.

LIVESTOCK. Any animal kept or raised for use or pleasure, including, but not limited to, cows, sheep, goats, donkeys, mules, or horses.

OWN. Unless otherwise indicated in the text, shall mean to possess, whether by purchase, gift, or finding; keep; harbor; or have charge, custody, or control of an animal.

OWNER. Any person, firm, corporation, organization, political subdivision or department possessing, harboring, keeping or having control or custody of a dog, cat or animal, to be present in or about his or her home, business or enclosure or to remain to be fed or lodged in or about such house, business or enclosure or yard thereto, shall be deemed the owner and possessor of such dog, cat or animal and shall be deemed to be liable for all such penalties herein prescribed. However, such **OWNER** shall not apply to dogs or cats or animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than 30 days.

(F) To capture and secure all animals found to be in violation of the provisions of this chapter, and to remove the animals in a humane manner to the animal shelter.

(1972 Code, § 6-118) (Ord. 931, passed 12-5-2000; Ord. 2012-16, passed 2-19-2013)

§ 90.19 ENFORCEMENT.

The enforcement of the provisions of this chapter shall be under the direction of the Animal Control Officer, his or her assistants, city police officers, and the Board of Health. For the purpose of enforcing this chapter or abating any nuisance existing hereunder, the Animal Control Officer or any of his or her assistants may enter and go upon premises, public or private.

(1972 Code, § 6-119) (Ord. 931, passed 12-5-2000; Ord. 2012-16, passed 2-19-2013)

§ 90.20 BANNED FROM MUNICIPALITY.

It shall be unlawful for any person to keep, maintain or harbor, within the corporate limits of the city, any horse, mule, sheep, cow, goat, swine, or any livestock.

(1972 Code, § 6-120) (Ord. 931, passed 12-5-2000; Ord. 2012-16, passed 2-19-2013) Penalty, see § 90.99

§ 90.21 FOWLS; BANNED FROM MUNICIPALITY.

It shall be unlawful for any person to keep, maintain, or harbor, within the corporate limits of the city, any poultry, chickens, turkeys, geese, or other fowl.

(1972 Code, § 6-121) (Ord. 869, passed 9-5-1996; Ord. 931, passed 12-5-2000; Ord. 2012-16, passed 2-19-2013) Penalty, see § 90.99

§ 90.22 MAXIMUM NUMBERS ALLOWED.

(A) It shall be unlawful for any person to own, keep or harbor at any time more than three adult dogs or three adult cats per residential or dwelling unit in the city. The total number of adult dogs, adult cats and animals per residential or dwelling unit in the city shall not exceed four adult animals including a maximum of three of any one certain animal. For the purpose of this section, the definition of animals in § 90.01 shall apply and shall include but not be limited to dogs, cats, rabbits or ferrets. For the purpose of this section, an adult dog or cat is a dog or cat that is more than six months old. Provisions of this section shall not apply to catteries, kennels and pet stores, which have been licensed by the city, or veterinarians.

(B) This provision shall not apply to persons keeping, maintaining or harboring adult dogs, adult cats or animals as of January 1, 2013, so long as the number of adult dogs, adult cats or animals is not increased, or area in which they are kept is not expanded. In those cases, the provisions applicable to non-conforming uses and the city zoning regulations shall be applicable to the keeping, maintaining, or harboring of such adult dogs, adult cats or animals.

(Ord. 2012-16, passed 2-19-2013) Penalty see § 90.99

§ 90.23 PERFORMING ANIMAL EXHIBITIONS.

No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through the use of chemical, mechanical, electrical, or manual devices in a manner which will cause, or is likely to cause, physical injury or suffering. All equipment used on a performing animal shall fit properly and be in good working condition.

(1972 Code, § 6-122) (Ord. 931, passed 12-5-2000; Ord. 2012-16, passed 2-19-2013) Penalty, see § 90.99

ANIMAL SHELTER — Any premises designated by City administrative authority for the purpose of impounding and caring for animals held under authority of this article.

AT LARGE — Every animal shall be considered running at large when it is physically off the property of the owner and not under the immediate restraint of a competent person.

EXOTIC ANIMAL — Includes:

- A. Canines, felines and other animals not customarily domesticated in the United States;
- B. Marsupials, primates, bears, and birds of prey;
- C. Any species prohibited and/or regulated by the State of Nebraska by statute; and
- D. Any mix or breed of any of the species mentioned above.

FOWL — Any two-legged, feathered, winged creature.

KENNEL — Any person engaged in the business of breeding, buying, selling or boarding dogs, cats and/or other domestic animals.

LIVESTOCK — All cattle, swine, horses, mules, bison, sheep, goats and other grazing animals.

OWNER — Any person, group of persons, association of persons, partnership or corporation who or which shall own, keep or harbor any animal or permit the same to habitually remain or be fed in or about such owner's premises.

RESTRAINT — An animal is under restraint only when controlled by a leash or when in the immediate company of a competent person and obedient to that person's command or when on or within a vehicle being driven or parked on the streets of the City.

WILD ANIMAL — Any live monkey or ape, raccoon, skunk, fox, opossum, coyote, wolf, snake or other reptile, leopard, panther, tiger, lion, lynx or any other animal or any bird of prey which can normally be found in the wild state.

§ 213-3.2. Permit required for certain animals; venomous snakes prohibited; notice requirements.

- A. It shall be unlawful for any person to keep, own or harbor any fowl, livestock, hoofed, exotic or wild animal within the City limits of the City of Seward unless a permit has been obtained. This section shall not apply to educational institutions, exhibitions sponsored by the Seward County Agricultural Society or veterinary clinics.
- B. Permits authorizing the keeping of fowl, livestock, hoofed, exotic or wild animals within the City limits shall be issued by the City Administrator in his sound discretion, with right of appeal to the City Council. The following criteria shall be considered by the City Administrator when issuing such permits:
 - (1) The applicant must comply with all City, state and federal statutes regarding the animal in question.

- (2) The applicant must provide proof that there are no objections from property owners or residents living within 200 feet in all directions from the property lines of the applicant.
 - (3) The applicant must provide a description of the type of enclosure for confinement of the animal, and the same must be suitable for the type of animal and approved by the City Administrator.
 - (4) The applicant, after issuance of the permit, must continue to comply with all City, state and federal statutes or the permit can be revoked by the City Administrator, subject to right of appeal to the City Council.
 - (5) The applicant must provide a certificate from a licensed veterinarian verifying that the animal has no health problems that could adversely affect the health, safety and welfare of the citizens of the City of Seward.
- C. No household or residence shall have more than three animals requiring a permit. This section shall not apply to small caged birds or aquatic or amphibious animals kept solely as pets.
- D. No venomous snakes shall be permitted in the City of Seward.
- E. Upon issuance of a permit authorized under this section, the permit holder shall immediately post a notice provided by the City which states "Animal(s) Requiring City Permit Located on the Premises." Such notice shall be displayed in a conspicuous location visible to the public at the front entrance of the house.

§ 213-3.3. Public nuisances prohibited.

It shall be unlawful for any owner to fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance. Excessive, continuous or untimely barking, molesting passersby, chasing vehicles, habitually attacking other domestic animals, trespassing upon private property, noxious or offensive odors emanating from their living conditions or unsanitary living conditions shall be deemed a nuisance.

§ 213-3.4. Animals running at large prohibited.

It is unlawful for any animal to run at large within the City, except within the confines of an approved dog park. Every animal shall be considered running at large when it is physically off the property of the owner of the animal, and not under immediate restraint of a competent person.

§ 213-3.5. Securing of vicious animals required; destruction by City.

- A. No person shall have, keep, harbor or allow to remain upon his premises any vicious or notoriously cross animal or an animal that may manifest a disposition to bite or attack any person without having the same properly secured and muzzled.

- B. Proof of the fact that the animal has bitten or attacked any person at any place where a person is legally entitled to be is evidence that the animal is vicious within the meaning of this section.
- C. If, after conviction under this section, it appears that the animal is still living, the County Judge may, in addition to any other penalties provided for in this section, order the Chief of Police or his designee to forthwith cause such animal to be destroyed, and for that purpose any such person in charge of such duty shall have the right to enter upon any premises within the City.

§ 213-3.6. Residences with over three pets deemed kennels.

- A. Any residence which shall keep over three pets of the same species, over the age of four months, shall be considered a kennel, and shall be subject to all ordinances covering kennels and all zoning ordinances in connection therewith.¹¹
- B. Subsection A shall not apply to small caged birds or aquatic or amphibian animals kept solely as pets.

§ 213-3.7. Violations and penalties.¹²

Any person who violates the prohibitions or provisions of this article shall be deemed guilty of a violation. The penalty for such violation shall be an amount not to exceed \$500 for any one offense, recoverable with costs, and in default of said payment the offender shall stand committed to the County Jail until such fine and costs are paid. Each period of 24 hours during or on which a violation occurs or continues shall be deemed a separate offense.

ARTICLE IV
Dangerous Dogs¹³

§ 213-4.1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ANIMAL CONTROL AUTHORITY — The entity authorized to enforce the City's animal control laws and includes any local law enforcement agency or other agency designated by the City to enforce the City's animal control laws.

ANIMAL CONTROL OFFICER — Any individual employed, appointed, or authorized by an animal control authority for the purpose of aiding in the enforcement of this article or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other

11. Editor's Note: See Ch. 410, Zoning and Subdivision. Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

13. Editor's Note: Adopted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 7 - ANIMALS AND FOWL

Footnotes:

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Cross reference— *Health and sanitation, Ch. 17; animals at large in mobile home parks prohibited, § 21-21; application of traffic regulations to persons riding animals, § 36-25.*

ARTICLE I. - IN GENERAL

Sec. 7-1. - Cruelty to animals.

It shall be unlawful for any person to unnecessarily or cruelly beat, injure, overload, overwork, insufficiently feed, turn out to die, abandon or otherwise abuse any animal within the limits of this city.

(Code 1955, § 2-202)

State Law reference— Cruelty to animals generally, R.R.S. 1943, § 28-550 et seq.

Sec. 7-2. - Animals and fowl running at large.

No person in charge, custody or control thereof, shall permit any horse, mule, cow, sheep, or any other animal to go loose or run at large in any of the public ways, or upon the property of another, in city, or to be tethered or staked out in such a manner as to allow said animal to reach to or pass into any public way, or upon the property of another; and the running at large within the corporate limits of city, except in enclosed places on private property, of poultry, chickens, turkeys, ducks, geese or other like fowl, is hereby declared to be a common nuisance and the same is hereby prohibited.

(Code 1955, § 2-201)

State Law reference— Regulation of animals and fowl running at large, R.R.S. 1943, § 16-235.

Sec. 7-3. - Proximity of animals and fowl to residences.

- (a) No person, whether as owner, bailee, keeper or custodian shall keep or maintain any horse, mule, sheep, goat, or rabbit within one hundred (100) feet of any part of any building used by another as a residence or place of dwelling or place of business; provided, no swine or bovine shall be kept or maintained within the corporate limits of the city.
- (b) No person, whether as owner, bailee, keeper or custodian shall keep or maintain any chickens, ducks, turkeys, geese, or any similar fowl within fifty (50) feet of any building used by another as a residence, a place of dwelling or a place of business.
- (c)

The restrictions set forth in subsections (a) and (b) of this section shall not be construed to apply to the use or employment of any building or premises now or hereafter erected or existing in the city if temporarily used for the weighing, loading or unloading of fowls of any description, immediately preceding or during transportation; nor shall the foregoing restrictions be construed to prevent the processing of animals or fowls for commercial purposes; nor shall the foregoing restrictions apply to animals kept or maintained on any school property.

(d) Any use of property within the city that complied with the requirements of this section and any amendments to the section shall be allowed to continue as long as the use of such property complies with any applicable requirements contained in the city zoning ordinance. However, the use of such property shall only be allowed to continue to the extent that the property was used at the time of the enactment of this ordinance or amendment of the ordinance, and no expansion of such use shall be permitted.

(Code 1955, § 2-203; Ord. No. 2149, § 1, 3-3-16; Ord. No. 2296, § 1, 8-19-21)

Sec. 7-4. - Dangerous animals.

It shall be unlawful for any person to permit any bear, wolf or other noxious or dangerous animals to run at large, or to lead any such animal with a chain or rope or other appliances, whether such animal be muzzled or unmuzzled, in any street, avenue, lane, highway, or public place, within limits of city.

(Code 1955, § 11-435)

Secs. 7-5—7-15. - Reserved.

ARTICLE II. - DOGS AND CATS

Footnotes:

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State Law reference— *Regulation of dogs generally, R.R.S. 1943, § 16-206.*

DIVISION 1. - GENERALLY

Sec. 7-16. - Terms defined.

The following terms used in this article shall be defined as follows:

Animal rescue organization shall be a person or entity designated by the animal shelter to house or contain animals for the purpose of providing temporary kenneling and finding permanent adoptive homes for the animals. Only one animal rescue organization may be designated by the animal shelter. Such facility