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ORDINANCE 37
ANIMAL PROTECTION AND CONTROL

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37.01 PURPOSE: The purpose of this ordinance is to protect human beings, livestock and domesticated animals from the perils of dangerous and vicious animals within the confines of Benton County, Iowa and to protect animals from the dangers of abuse, cruelty and neglect.

37.02 DEFINITIONS. The following terms are defined for use in the chapters of this Code of Ordinances pertaining to Animal Protection and Control:

1. "Animal" means any nonhuman vertebrate.
2. "At Large" means any animal found off the premises of the animal's owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. "Dangerous Animal" means (a) any animal which is not naturally tame or gentle and which is of a wild nature or disposition and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so; and (b) the following animals, which shall be deemed to be dangerous animals per se:
 - A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
 - B. Wolves, wolf-dog hybrids, coyotes, coyote-dog hybrids, foxes and jackals;
 - C. Badgers, wolverines, weasels, skunks and mink;
 - D. Raccoons;
 - E. Bears;
 - F. Monkeys and chimpanzees;
 - G. Bats;
 - H. Alligators and crocodiles;
 - I. Scorpions;
 - J. Snakes that are venomous, or constrictors;
 - K. Gila monsters.
 - L. Any dog which has the appearances and characteristics of being of the breed of Staffordshire Terrier, American Pit Bull Terrier, American Staffordshire Terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers, or a combination of any of these breeds.

4. "Owner" means any person owning, keeping, sheltering or harboring an animal. (Code of Iowa, Sec. 351.2)

5. "Vicious Animal" means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a 12-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrences; or (d) has attacked any domestic animal or fowl on two separate occasions within a 12-month period.

37.03 CRUELTY TO ANIMALS. No person who impounds or confines, in any place, any domestic animal, or fowl, or dog or cat, shall fail to supply such animal during confinement with a sufficient quantity of food and water, or shall fail to provide the dog or cat with adequate shelter, or shall torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, beat, or kill any such animals by any means which causes unjustified pain, distress or suffering, whether intentionally or negligently. (Code of Iowa, Sec. 717.2)

37.04 ABANDONMENT. A person who has ownership 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. (Code of Iowa, Sec. 717.4)

37.05 EXHIBITIONS AND FIGHTS. No person shall arrange, promote, or stage an exhibition at which any animal is tormented, or any fight between animals or between a person and an animal, or shall keep a place where such exhibitions and fights are staged for the entertainment of spectators. (Code of Iowa, Sec. 717.3)

37.06 INJURIES TO ANIMALS. No person, having no right to do so, shall maliciously kill, maim, or disfigure any animal of another, or maliciously administer poison to any such animal, or expose any poisonous substance with the intent that the same should be taken by any such animal. (Code of Iowa, Sec. 717.1)

37.07 AT LARGE PROHIBITED. It shall be unlawful for any owner to allow an animal to run at large within the unincorporated areas of Benton County.

37.08 DAMAGE OR INTERFERENCE. It shall be unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

37.09 IMMUNIZATION REQUIRED. It shall be unlawful for any person to own or have a dog in the person's possession, six (6) months of age or over, which has not been vaccinated against rabies. Dogs kept in kennels and not allowed to run at large shall not be subject to these vaccination requirements. (Code of Iowa, Sec. 351.33)

37.10 OWNER'S DUTY. It shall be the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It shall be the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies. (Code of Iowa, Sec. 351.38)

37.11 CONFINEMENT. When the County Health Officer receives information that any person has been bitten by any animal or that a dog or animal is suspected of having rabies, it shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after two weeks the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. (Code of Iowa, Sec. 351.39)

37.12 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

37.13 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be given within two days to the owner, if known. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner does not redeem the animal within seven days of the date

of notice, or if the owner cannot be located within seven days, the animal may be humanely destroyed or otherwise disposed of in accordance with law. (Code of Iowa, Sec. 351.37, 351.41)

37.14 IMPOUNDING COSTS. Impounding costs shall be as established by resolution of the Board of Supervisors. (Code of Iowa, Sec. 351.37)

37.15 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any other purpose or in any other capacity within the County except in the following circumstances:

1. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit show or zoo.
2. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
3. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

37.16 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the County a vicious animal except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog," or words of similar import, and the owner of such premises shall inform the County Sheriff that a guard dog is on duty at said premises.

37.17 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS OR VICIOUS ANIMAL.

1. 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, such animal may, in the discretion of the County Sheriff or his designee, be destroyed if it cannot be safely confined or captured. The County shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the County, the County Sheriff or his designee shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal or vicious animal in the County, the Sheriff shall order the person named in the complaint to safely remove such animal from the County, permanently place the animal with an organization or group allowed to possess dangerous or vicious animals, or destroy the animal, within seven days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious 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.
3. The order to remove a dangerous or vicious animal issued by the Sheriff or his designee may be appealed to the Benton County Board of Supervisors. In order to appeal such order, written notice of appeal must be filed with the Auditor within seven days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the County Sheriff or his designee.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Auditor. The hearing of such appeal shall be scheduled within seven days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Board of Supervisors may affirm or reverse the order of the officer. Such determination shall be

contained in a written decision and shall be filed with the Auditor within three days after the hearing or any continued session thereof.

5. If the Board of Supervisors affirms the action of the Sheriff or his designee, the Board shall order in its written decision that the person owning, sheltering, harboring, or keeping such dangerous or vicious animal remove such animal from the County, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Sheriff or his designee is not appealed and is not complied with within seven days or the order of the Board of Supervisors after appeal is not complied with within seven days of its issuance, the County Sheriff or his designee is authorized to seize, impound or destroy such animal. Failure to comply with an order of the Sheriff or his designee issued pursuant hereto and not appealed, or of the Board of Supervisors after appeal, shall constitute a simple misdemeanor.

6. Any person aggrieved by the decision of the Board of Supervisors shall be entitled to seek further appeal by filing an action to the Iowa District Court within 7 days of said decision. No person shall be entitled to appeal to the District Court without exhausting their remedies under this ordinance.

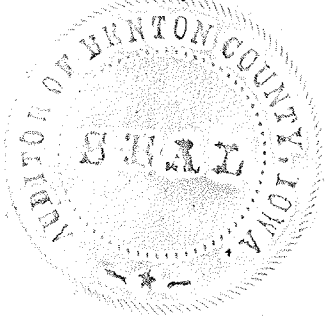
37.18 PENALTIES. A violation of any provision of this ordinance shall constitute a County infraction. Penalties shall be all those available under Iowa Code Section 331.302(15), and all subsequent amendments and revisions thereto. If a violator of this ordinance fails to pay the civil penalty or violates the terms of any other order imposed by the court, such failure shall constitute contempt.

37.19 VARIANCES. Variances to the requirements of this ordinance with respect to the keeping of dangerous or vicious animals may be granted by the Board of Supervisors provided that the individual's request for variance is submitted in writing and the individual's request is consistent with the purpose of this ordinance. Requests for variances shall be heard by the Board of Supervisors at their regularly scheduled meetings. In ruling on a variance request the Board of Supervisors is entitled to consider the applicant's experience with regard to the handling and keeping of similar animals, the type and quality of the facilities provided for the confinement of the animal, and any prior documented problems or complaints concerning any animal owned by or in the custody of the applicant.

37.20 LIABILITY. Nothing in this ordinance absolves the keeper of an animal that inflicts injury to a person or property from financial responsibility for the animal's actions.

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

Dated this 21st day of March 2000.



BENTON COUNTY BOARD OF SUPERVISORS

Dell Hanson
Dell Hanson, Chairman

Edward E. Sass
Edward E. Sass

Edwin J. Brecht
Edwin J. Brecht

Attest: *Jill Marlow*
Jill Marlow, Auditor

March 21, 2000 – Waived requirement for further readings
March 21, 2000 - Adopted Ordinance #37
March 29, 2000 – Published Ordinance #37

I, Jill Marlow, do hereby certify the above to be a true and correct copy of Ordinance #37 and the date of consideration and publication are correct.

Jill Marlow
Jill Marlow, Benton County Auditor