

Ordinance No. _____

VICIOUS ANIMALS ORDINANCE

1. Purpose

1.1 The purpose of this ordinance is to protect human beings and domesticated animals from the perils of vicious animals in Greene County, Iowa.

2. Definitions

- 2.1 "Animal" means any member of the animal kingdom except human beings.
- 2.2 "At Large" means off an owner's premises and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
- 2.3 "Board" means the Board of Supervisors for Greene County, Iowa.
- 2.4 "Covered Area" means the unincorporated areas of Greene County and any municipality in Greene County that has not enacted its own municipal ordinance regulating the keeping of vicious animals.
- 2.5 "Euthanize" means to kill in a humane manner by an authorized veterinarian.
- 2.6 "Keeping" means confining, harboring, maintaining, owning, or sheltering.
- 2.7 "Owner" means any person keeping an animal.
- 2.8 "Sheriff" means the elected Sheriff of Greene County or his or her designee.
- 2.9 "Vicious Animal" means any animal that has either:
- 2.9.1 Attacked or bitten a person on two separate occasions without provocation, bitten a person on one or more occasions without provocation causing an injury above the person's shoulders, or bitten or attacked a person on one or more occasions without provocation while the animal was running at large, excluding:
- 2.9.1.1 A dog used in security or police work if the attack or bite occurred while the dog was actually performing in its capacity as a security or police dog; and
- 2.9.1.2 An animal that attacked or bit a person who, at the time of the attack or bite, was engaged in a criminal act against the person or property of another; or
- 2.9.2 Attacked a domestic animal or fowl without provocation:

- 2.9.2.1 On two separate occasions within a twelve-month period; or
- 2.9.2.2 On three or more separate occasions within the lifetime of the attacking animal.

3. Seizure, Impoundment, and Disposition of Vicious Animals

- 3.1 No person shall keep a vicious animal in the covered area.
- 3.2 If the Sheriff determines that an owner is keeping a vicious animal in the covered area, the Sheriff shall personally serve the owner written notice of the Sheriff's determination, and the owner shall immediately surrender the vicious animal to the Sheriff.
- 3.3 Unless written consent for euthanasia is signed by every owner of a vicious animal at the time of the vicious animal's surrender, the Sheriff shall hold the vicious animal for ninety-six hours, and the cost of maintaining the animal shall be assessed equally to all non-consenting owners.
- 3.4 If no owner of the animal appeals the Sheriff's determination within ninety-six hours of the vicious animal's surrender, the Sheriff may euthanize the vicious animal, and the non-consenting owners shall be equally assessed the cost incurred in euthanizing the animal.

4. Right of Appeal

- 4.1 The Sheriff shall in writing inform every owner of an animal surrendered to the Sheriff in the effectuation of the provisions of this ordinance of an owner's right to appeal the Sheriff's determination that the animal is a vicious animal being kept in violation of this ordinance.
- 4.2 The Sheriff shall inform every owner of both the method by which an appeal may be taken and an owner's right to represent him- or herself or to be represented by another person in the appeal.
- 4.3 The Sheriff shall also inform every owner that an owner has ninety-six hours from the time of the animal's surrender to appeal the Sheriff's determination that the animal is a vicious animal being kept in violation of this ordinance.
- 4.4 Any appeal must be made in writing and must be received by the Sheriff within ninety-six hours of the animal's surrender.

- 4.5 Any written appeal timely received by the Sheriff shall be immediately placed on the agenda for the next regular Board meeting in accordance with Chapter 21 of the Code of Iowa, provided that such appeal shall not be heard sooner than five days after the appeal is taken.
- 4.6 The appellant shall be informed by certified mail of the date and time of the hearing before the Board and shall be granted access to any records in the possession of the Sheriff relevant to the Sheriff's determination.
- 4.7 During the pendency of the appeal, the Sheriff shall maintain the allegedly vicious animal, and if the Sheriff's initial decision is ultimately upheld, the costs incurred in maintaining the animal may be assessed to the owner making the appeal.

5. Appeal Hearing

- 5.1 On appeal, the Board shall review the Sheriff's decision de novo at the time scheduled for the appeal, unless a continuance is requested by the appellant.
- 5.2 The appellant shall be permitted to present whatever evidence is desired in support of his or her appeal, including his or her own testimony, the testimony of other witnesses, and documentary evidence.
- 5.3 At the appeal hearing, the technical rules of evidence shall not apply, and the Board may set reasonable time limits for the parties to present their evidence.
- 5.4 The Board may question the appellant, and the Sheriff shall present the Board with the grounds for his or her determination.
- 5.5 The appeal hearing shall be audio recorded.
- 5.6 When the Board deliberates on the appeal, no parties shall be present.
- 5.7 The Board's decision shall be based solely on the evidence submitted to the Board at the hearing
- 5.8 Within five days of the appeal hearing, the Board shall mail the appellant its decision in writing by certified mail.
- 5.9 The Board's written decision shall include the reasons for its decision, as well as the method by which the appellant may appeal the Board's decision.
- 5.10 A person aggrieved by the Board's decision may appeal the decision as if it were a contested case before an agency and as if the person had exhausted administrative

remedies in accordance with the procedures and standards in Section 17A.19 and 17A.20 of the Code of Iowa.

5.11 An appeal of the Board's decision must be made within seven days of receipt of the Board's decision, after which the Sheriff may euthanize the animal.

6. Liability

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

7. Penalties

7.1 A violation of this ordinance shall constitute a County civil infraction and is subject to a civil penalty of \$750 for the first violation and a civil penalty of \$1,000 for each subsequent violation.

8. Repealer Clause

8.1 All ordinances or parts thereof that are in conflict with this ordinance are hereby repealed.

9. Severability

9.1 If any section, provision, sentence, clause, phrase, 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 provision, section, clause, phrase, or part hereof not adjudged invalid or unconstitutional.

10. Variances

10.1 Variances to this ordinance with respect to the keeping of vicious animals may be granted by the Board provided that the application for the variance is submitted in writing to the Board, the request is consistent with the purpose of this ordinance, and the application contains sufficient information to substantiate the need and propriety for such action.

10.2 A request for a variance shall be heard by the Board at a regularly scheduled meeting.

10.3 In ruling on a variance request the Board 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 complaints or problems concerning the animal for which the variance is being requested.

11. Effective Date

11.1 This ordinance shall be in full force and effect from and after its final passage, approval, and publication as provided by law.

Passed by the Greene County Board of Supervisors on this 13th day of January, 2020.

John Muir, Chair
Greene County Board of Supervisors

Peter Bardole, Supervisor

Mick Burkett, Supervisor

Tom Contner, Supervisor

Dawn Rudolph, Supervisor

Attest:

January 13, 2020

Jane Heun
Greene County Auditor