CITY OF FREEPORT
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ORDINANCE NO. 2005-03

AN ORDINANCE ESTABLISHING ANIMAL CONTROLS IN THE CITY OF FREEPORT, AND REPEALING FREEPORT CITY CODE SECTION 910 – ANIMALS: PETS (1995)

THE CITY COUNCIL OF THE CITY OF FREEPORT ORDAINS:

Section 1. Definitions. As used in this Ordinance, unless the context otherwise indicates, the following words shall be defined to mean:

Subd. A. Animal. "Animal" shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:

1. Domestic. "Domestic animals" shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

2. Non-Domestic. "Non-Domestic animals" shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

    a. Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

    b. Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

    c. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

    d. Any member or relative of the rodent family including any skunk (whether or not descented), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

    e. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

    f. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish.

3. Farm. "Farm animals" shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family

(horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.

Subd. B. Cat. "Cat" shall be intended to mean both the male and female of the felidae species commonly accepted as domesticated household pets.

Subd. C. Dog. "Dog" shall be intended to mean both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.

Subd. D. Owner. "Owner" shall be intended to mean any person or persons, firm, association or corporation owning, keeping, or harboring an animal.

Subd. E. At Large. "At Large" shall be intended to mean off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.

Subd. F. Release permit fee. "Release Permit" shall mean a permit issued by the Clerk-Treasurer for the release of any animal that has been taken to the Animal Shelter. A release permit may be obtained upon payment of a fee in accordance with that regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established from time to time by resolution of the City Council, but not less than fifty dollars ($50.00) the first time an animal is impounded, seventy-five dollars ($75.00) the second time it is impounded, and one-hundred dollars ($100.00) for the third and each subsequent time the same animal is impounded. For the purpose of a release permit, any change in the registered ownership of an animal subsequent to its impoundment and release shall reset that animal's impoundment count to the beginning of the fee scale.

Section 2. Dogs and Cats.

Subd. A Running at Large Prohibited. It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, or the parents or the guardians of any such person under 18 years of age, to run at large.

Subd. B License Required.

1. Each and Every dog and cat over the age of six months kept, harbored, or maintained by their owners in the City, shall be licensed and registered with the City. Dog and cat licenses shall be issued by the Clerk-Treasurer upon payment of the license fee. The owner shall state, at the time application is made for the license and upon forms provided for such purpose, his or her name and address and the name, breed, color, and sex of each dog and cat owned or kept by him or her. No license shall be granted for a dog or cat which has not been vaccinated against distemper and rabies, as provided in this Section. Vaccination shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog or cat is vaccinated. A veterinarian who vaccinates a dog or cat to be licensed in the City shall complete a certificate of vaccination. One copy shall be issued to the dog or cat owner for affixing to the license application.

2. It shall be the duty of each owner of a dog or cat subject to this Section to pay to the Clerk-Treasurer the license fee of $5 as imposed by the Council by resolution.

3. Upon payment of the license fee, the Clerk-Treasurer shall issue to the dog or cat owner a license.

4. The licensing provisions of this Subdivision shall not apply to dogs or cats whose owners are non-residents temporarily within the City, nor to dogs or cats brought into the City for the purpose of participating in any dog or cat show, nor shall this provision apply to "seeing eye" dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.

5. The funds received by the Clerk-Treasurer from all dog or cat license fees shall first be used to defray any costs incidental to the enforcement of this Ordinance; including, but not restricted to, the costs of licenses, impounding, and maintenance of the dogs.

Subd. C. Cats. Cats shall be included as controlled by this Section insofar as running-at-large, pickup, impounding, boarding, and all other areas no different than dogs. All other provisions of this Ordinance except licensing shall also apply to cats unless otherwise provided.

Subd. D. Vaccination.

1. All dogs and cats kept harbored, maintained, or transported within the City shall be vaccinated regularly by a licensed veterinarian for:

    a. Rabies - with a live modified vaccine bi-annually

    b. Distemper - annually

2. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the Clerk-Treasurer or a peace officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the Clerk-Treasurer or peace officer. Failure to do so shall be deemed a violation of this Section.

Section 3. Non-Domestic Animals. It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the City limits.

Section 4. Farm Animals. Farm animals shall only be kept in an agricultural district of the City.

Section 5. Impounding.

Subd. A. Running at Large. Any animal running at large is hereby declared a public nuisance. The city animal control officer or a peace officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of such dog or other animal, if known. In case the owner is unknown, the officer shall post notice at the City office that if the dog or other animal is not claimed within the time specified in Subd. C below, it will be sold or otherwise disposed of. Except as otherwise provided in this Ordinance, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

Subd. B. Biting Animals. Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the Animal Shelter designated by the City Council for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of such time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for such confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of Stearns County, Minnesota, and provide immediate proof of such confinement in such manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

Subd. C. Reclaiming. All impounded animals shall be kept, with humane treatment and sufficient food and water for their comfort, at the Animal Shelter at least five regular business days, unless the animal is a dangerous animal as defined under Section 11 in which case it shall be kept for seven regular business days or the times specified in Section 11, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this Section. In case the owner or keeper shall desire to reclaim the animal, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

A. Licensed animals within the city will be impounded when found to running at large and fees as outlined in this ordinance will be applied.

Fees are as follows:

1. Impound Release fee of $50 for first impound, $75 for second impound of the same animal, and $100 for the third and each consecutive impound thereafter. This fee schedule shall be applied per household/pet owner an not per licensed animal.

2. Payment of maintenance costs, as provided by the Animal Shelter, per day or any part of day while animal is in said Animal Shelter either the city shelter or the Tri-County Humane Society.
   City Fees: $8.00 per day for boarding.

3. If an animal is unlicensed, payment of a regular license fee of $5 and valid certificate of vaccination for rabies and distemper shots is required.

Subd. D. Unclaimed Animals. At the expiration of the times established in Subd. C. above, if the animal has not been reclaimed, the City Animal Control Officer may let any person claim the animal by complying with all provisions in this Section, or the animal may be taken to the Tri-County Humane Society to be placed up for adoption, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this Section shall be payable to the Clerk-Treasurer.

Section 6. Kennels.

Subd. A. Definition of Kennel. The keeping of five or more dogs or cats on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel;" except that a fresh litter of pups or kittens may be kept for a period of three months before such keeping shall be deemed to be a "kennel."

Subd. B. Kennel as a Nuisance. Because the keeping of five or more dogs or cats on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of five or more dogs or cats on the premises is hereby declared to be a nuisance and no person shall keep or maintain a commercial kennel within the City limits.

Section 7. Nuisances.

Subd. A. Habitual Barking. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries.
Subd. B. Damage to Property. It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage
Subd. C. Cleaning up litter. The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner whether on their own property, on the property of others or on public property.
Subd. D. Other. Any animals kept contrary to this Ordinance are subject to impoundment as provided in Section 5.

Section 8. Seizure of Animals. Any City Animal Control officer or peace officer may enter upon private property and seize any animal provided that following exist:

1. There is an identified complainant other than the peace officer making a contemporaneous complaint about the animal;

2. The officer reasonably believes that the animal meets either the barking dog criteria set out in Section 7, subd. A; the criteria for cruelty set out in Section 13; or the criteria for an at large animal set out in Section 1 subd. E;

3. The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

4. The officer has made a reasonable attempt to contact the owner of the property and those attempts have either failed or have been ignored;

5. The seizure will not involve the forced entry into a private residence. Use of a pass key obtained from a property manager, landlord, innkeeper, or other authorized person to have such key shall not be considered unauthorized entry; and

6. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the dog is not possible.

Section 9. Animals Presenting a Danger to Health and Safety of City. If, in the reasonable belief of any peace officer or the City Animal Control Officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the officer may destroy the animal in a proper and humane manner. Otherwise the peace officer or City Animal Control Officer may apprehend the animal and deliver it to the Animal Shelter for confinement under Section 5. If the animal is destroyed, a charge of seventy-five dollars ($75.00) to dispose of the animal is payable by the owner of the animal. If the animal is found not to be a danger to the health and safety of the City, it may be released to the owner or keeper in accordance with Section 5, Subd. C.

Section 10. Diseased Animals.

Subd. A. Running at Large. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the City, any animal which is diseased so as to be a danger to the health and safety of the City, even though the animal is properly licensed under this Ordinance.

Subd. B. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in an Animal Shelter by any peace officer or the Animal Control Officer. The City Animal Control Officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in such a manner so as to be a danger to the health and safety of the City, the City Animal Officer shall cause such animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this Section shall be responsible for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

Subd. C. Release. If the animal, upon examination, is not found to be diseased within the meaning of this Section, the animal shall be released to the owner or keeper free of charge.

Section 11. Dangerous Animals.

Subd. A. Attack by an animal. It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

Subd. B. Destruction of dangerous animal. The City Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this ordinance.

Subd. C. Definitions.

1. A dangerous animal is an animal which has:

    a. Caused bodily injury or disfigurement to any person on public or private property; or

    b. Engaged in any attack on any person under circumstances which would indicate danger to personal safety; or

    c. Exhibited unusually aggressive behavior, such as an attack on another animal; or

    d. Bitten one (1) or more persons on two (2) or more occasions; or

    e. Been found to be potentially dangerous and/or the owner has personal knowledge of the same; the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

2. A potentially dangerous animal is an animal which has:

    a. Bitten a human or a domestic animal on public or private property; or

    b. When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or

    c. Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

3. Proper enclosure. Proper enclosure means securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

4. Unprovoked. Unprovoked shall mean the condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

Subd. D. Designation as potentially dangerous animal. The City Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or a domestic animal as stated in Subdivision C, clause 2. When an animal is declared potentially dangerous, the City Animal Control Officer shall cause one (1) owner of the potentially dangerous animal to be notified in writing that such animal is potentially dangerous.

Subd. E. Evidence justifying designation. The City Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

1. That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in Subdivision C, clause 1.

2. That the animal has been declared potentially dangerous and such animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in Subdivision C, clause 1.

Subd. F. Authority to order destruction. The City Animal Control Officer, upon finding that an animal is dangerous, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one (1) or more of the following findings of fact:

1. The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

2. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

Subd. G. Procedure. The City Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner:

1. The City Animal Control Officer shall cause one (1) owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make such orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given fourteen (14) days to appeal this order by requesting a hearing before the City Council for a review of this determination.

a. If no appeal is filed, the orders issued will stand or the City Animal Control Officer may order the animal destroyed.

b. If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three (3) weeks after demand for the hearing. The records of the City Animal Control Officer or city clerk's office shall be admissible for consideration by the City Council without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the City Animal Control Officer take the animal into custody for destruction, if such animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the animal control officer.

c. No person shall harbor an animal after it has been found by the city animal control officer to be dangerous and ordered into custody for destruction.

Subd. H. Stopping an attack. If any peace officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

Subd. I. Notification of new address. The owner of an animal which has been identified as dangerous or potentially dangerous must notify the City Clerk-Treasurer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification must be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification must include the current owner's name and address, the relocation address, and the name of the new owner, if any.

Section 12. Dangerous animal requirements.

Subd. A. Requirements. If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

1. That the owner provide and maintain a proper enclosure for the dangerous animal as specified in Section11, Subd. C, clause 3;

2. Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statute 347.51;

3. Provide and show proof annually of public liability insurance in the minimum amount of three hundred thousand dollars ($300,000.00);

4. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six (6) feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

5. If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minnesota Statute 347.51;

6. All animals deemed dangerous by the City Animal Control Officer shall be registered with Stearns County within fourteen (14) days after the date the animal was so deemed and provide satisfactory proof thereof to the City Clerk-Treasurer.

7. If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.

Subd. B. Seizure. A peace officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within fourteen (14) days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the City and filing it with the district court.

Subd. C. Reclaiming animals. A dangerous animal seized under Subd. B above, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to the City Clerk-Treasurer that each of the requirements under Subd. A. above is fulfilled. An animal not reclaimed within fourteen (14) days may be disposed of as provided under Section 11, Subd. F and the owner is liable to for costs incurred in confining the animal.

Subd. D. Subsequent offenses. If an owner of an animal has subsequently violated the provisions under Section 11 with the same animal, the animal must be seized by a peace officer. The owner may request a hearing as defined in Section 11, Subd. F. If the owner is found to have violated the provisions for which the animal was seized, the City Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of Subd. C. If the animal is not reclaimed by the owner within fourteen (14) days after the date of impound the owner is notified that the animal may be disposed of as provided under Section 11, Subd. F. The owner is also liable for the costs incurred in confining, impounding, and disposing of the animal.

Section 13. Basic Care. All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in such a humane manner will be subject to the penalties provided in this ordinance.

Section14. Breeding Moratorium. Every female dog or female cat in heat shall be confined in a building or other enclosure in such manner that it cannot come in contact with another male dog or cat.

Section 15. Enforcing Officer. The Council is hereby authorized to appoint an Animal Control officer(s) to enforce the provisions of this Ordinance. The City Animal Control Officer may, with the consent of the Council, designate assistants.

Section 16. Animal Shelter. The City Council shall designate an official Animal Shelter to which animals found in violation of this ordinance shall be taken for safe treatment, and if necessary, for destruction.

Section 17. Interference with Officers. No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the Animal Shelter while engaged in such operation. Nor shall any unauthorized person break open the Animal Shelter, or attempt to do so, or take or attempt to take from the Animal Shelter any animal taken up in compliance with this Chapter, or in any other manner to interfere with or hinder peace officers or the City Animal Control Officer in the discharge of his or her duties under this ordinance.

Section 18. Violations and Penalties.

Subd. A. Separate Offenses. Each day a violation of this ordinance is committed or permitted to continue shall constitute a separate offense and shall be punishable as such under this ordinance.

Subd. B. Misdemeanor. Unless otherwise provided, violation of this ordinance shall constitute a misdemeanor.

Section 19. Repealer. Section 910 of the Freeport City Code of 1995, entitled "Animals: Pets," is hereby repealed and Ordinance 2005-01 passed on January 12, 2005 is hereby replaced and amended as a whole.

Section 20. Effective Date. This Ordinance shall take effect and be in force from and after its passage and publication according to law.

Adopted the City Council of the City of Freeport this 13th day of July 2005.