BOISE COUNTY
VICIOUS ANIMAL ORDINANCE
2018-01

April 24th, 2018

VICIOUS ANIMAL ORDINANCE
DANGEROUS ANIMAL ORDINANCE

AN ORDINANCE A BOISE COUNTY ORDINANCE, REGARDING PROHIBITED ACTS WITH REGARD TO DANGEROUS ANIMALS; PROVIDING INFRACTION AND MISDEMEANOR PENALTIES FOR VIOLATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, state statutes do not provide misdemeanor penalties for owning dangerous animals or for animals at large; and

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BOISE COUNTY, IDAHO THAT A NEW ORDINANCE BE ENACTED AS FOLLOWS:

SECTION I: VIOLATIONS – EXCEPTIONS – DEFINITIONS

A. It is unlawful for any person to own an animal that, when unprovoked, attacks, assaults, bites, or otherwise injures any person, or assists in attacking, assaulting, biting or otherwise injuring any human being without justified provocation.

B. It is unlawful for any person to own an animal, when unprovoked, that kills, wounds, harasses, or assists in killing or wounding, any sheep, lamb, cattle, horse, hog, swine, fowl or other domestic animal, belonging to or in the possession of any person without justified provocation.

C. It is unlawful for a person to own any animal primarily or in part for the purpose of fighting or any animal trained for fighting.

D. It is unlawful for a person to not abide by the temporary restrictions set by the Boise County Sheriff's Office regarding the animal during the pendency of proceedings under this ordinance, or to relocate the animal without written approval from the Boise County Sheriff's Office during the pendency of proceedings under this ordinance. Temporary restrictions that the Boise County Sheriff's Office may impose are (1) placing the animal in a secure, locked enclosure from which the animal cannot escape or be released accidentally; (2) placing a properly fitted collar or harness on the animal which is to be connected to a chain or other type of rope which the animal cannot chew through or otherwise destroy; (3) placing a muzzle capable of preventing the animal from biting if the animal is in any public area in which contact between the animal could occur; (4) posting the premises on which the animal is kept with signs that are clearly visible from the closest roadway which state "Beware of Dog" and/or have a warning symbol that informs children of the presence of an animal that may be dangerous; or (5) requiring a combination of these temporary restrictions.

E. It is unlawful for any person, who, after complaint has been made by any person to the sheriff, who shall serve a copy of said notice upon such person complained of, willfully or negligently permits any dog owned or possessed or harbored by him to be, or run, at large without a competent and responsible attendant or master, within the limits of any city, town, or village or in the vicinity of any farm, pasture, ranch, dwelling house, or cultivated lands of another, or who willfully or negligently fails, neglects or refuses to keep any such dog securely confined within the limits of his own premises when not under the immediate care and control of a competent and responsible attendant or master.

F. The following shall not be a defense, except as otherwise provided in this ordinance, to allegations of violations of Section I(A), (B), (C), and (D) of this ordinance:

1. The animal that acted in violation of this ordinance was on the property of the owner;

2. The animal that acted in violation of this ordinance was on a leash; or

3. The animal that acted in violation of this ordinance was securely muzzled; or

4. The animal that acted in violation of this ordinance escaped without fault of the owner or keeper.

5. The animal attacked a law enforcement officer while the officer was acting in the course of the officer's duties.

G. It is not unlawful for a person to own an animal that acts contrary to Section I(A) or I(B) of this ordinance if any of the following exceptions apply:

1. The alleged victim was committing a willful trespass or other tort upon the premises occupied by the owner of the animal when the alleged victim sustained injury or damages;

2. The alleged victim was teasing, tormenting, abusing or assaulting the animal;

3. The alleged victim was committing or attempting to commit a crime;

4. The animal was protecting or defending a human being within the immediate vicinity of the animal from an attack or assault.

5. The animal was responding to pain or injury or protecting its offspring.

6. The exception in Idaho Code § 25-2808 applies.

H. For the purposes of this ordinance, the following terms shall have the following definitions:

1. "Fighting" means attempting to harm or gain power over an adversary by physical force or contact for profit or entertainment of any person, including the owner.

2. "Justified provocation" means any act or omission that a reasonable person would conclude is likely to precipitate a bite or attack by an animal.

I. In the event that the owner of the animal is a minor, the parent or guardian of such minor shall be liable for all injuries, medical and veterinary-related expenses, property damage, fines and impoundment fees caused or incurred by said animal.

SECTION II: PENALTIES FOR VIOLATION

A. A person found guilty of a first violation of this ordinance shall be guilty of a misdemeanor punishable by a fine of not less than two hundred and fifty dollars ($250) and not more than one thousand dollars ($1,000).

B. A person found guilty of a second violation of this ordinance within five (5) years of the first conviction shall be guilty of a misdemeanor punishable by a jail sentence of not more than six (6) months or by a fine of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000), or by both such fine and imprisonment.

C. A person found guilty of a third or subsequent violation of this ordinance within fifteen (15) years of the first conviction shall be guilty of a misdemeanor punishable by a jail sentence of not more than six (6) months or by a fine of not less than eight hundred dollars ($800) and not more than one thousand dollars ($1,000), or by both such fine and imprisonment.

D. The court may also, in its discretion, order any individual found guilty of violating this ordinance to pay the victim restitution related to medical and veterinary-related expenses, property damage, property repair and replacement costs, and impoundment fees, if any, incurred as a result of individual's violation of these provisions.

SECTION III: DETERMINATION OF A DANGEROUS ANIMAL

Court proceedings to designate an animal to be dangerous, to put an animal to death humanely, or to place restrictions and requirements shall be conducted in accordance with Idaho Code § 25-2810. Court proceedings for a court to determine whether an animal is dangerous, and if so, what disposition of the animal shall be must be held no earlier than seven (7) days but no later than thirty (30) days after notice of hearing is delivered to the last known address of the owner.

The effective date for this ordinance shall be May 24th, 2018.

DATED this 24th, day of April, 2018.

BOARD OF BOISE COUNTY COMMISSIONERS

ALAN D. WARD, Chairman

ABSENT

LAURA L. BAKER, Commissioner

Roger B. Jackson

ROGER B. JACKSON, Commissioner

ATTEST:

Mary Prisco

Mary T. Prisco, Clerk to Board