

ORDINANCE NO. 2.06

AN ORDINANCE RELATING TO THE REGULATION OF VICIOUS ANIMAL

THE CITY OF CRYSTAL FALLS ORDAINS:

Section 1. Definitions: As used herein, the following words and terms shall have the following meanings, unless the context shall indicate another of different meaning or intent.

A. Vicious Animal means:

- 1. Any animal which in the vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks or any public grounds or places; or**
- 2. Any animal with a know propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or**
- 3. Any animal which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or**
- 4. Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.**

Notwithstanding the definition of a vicious animal above, no animal may be declared vicious if any injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime. If a minor is under the age of 7 years of age at the time the damage or injury was sustained, it shall be rebuttably presumed that such minor was not committing a trespass or other tort or teasing, tormenting or abusing the animal.

No animal may be declared vicious if any injury or damage was sustained by a domestic animal which at the time the injury or damage was sustained, was teasing, tormenting, abusing or assaulting the animal. No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

The burden of proof thereon shall be upon the owner or keeper of the animal.

- B. Animal Officer means any person employed or elected by the people of the state, or by any municipality, county or township, whose duty it is to preserve peace or to make arrests or to enforce the law, and includes conservation officers and members of the state police and the Iron County Animal Control officers.**

- C. Impounded means taken into the custody of the public pound of Iron County.**
- D. Person means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.**

Section 2. Action for damages – Destruction of offending vicious animal.

- A. If any vicious animal shall, when unprovoked, kill or wound, or assist 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, or shall, when unprovoked, attack, assault, bite, or otherwise injure any human being or assist in attacking, assaulting, biting or otherwise injuring any human being while out of or within the enclosure of the owner or keeper of such vicious animal, or while otherwise, on or off the property of the owner or keeper whether or not such vicious animal was on a leash and securely muzzled or whether the vicious animal escaped without fault of the owner or keeper, the owner or keeper of such animal shall be liable to the person aggrieved as aforesaid, for all damage sustained, to be recovered in a civil action, with costs of suit. It is rebuttably presumed as a matter of law that the owning, keeping or harboring of a vicious animal in that the owning, keeping or harboring of a vicious animal in violation of this chapter is nuisance. It shall be not necessary, in order to sustain any such action, to prove that the owner or keeper of such vicious animal knew that such vicious animal possessed the propensity to cause such damage or that the vicious animal had a vicious nature. Upon such attack or assault, the animal officer in the city or town where the attack or assault occurred is hereby empowered to confiscate and destroy such vicious animal if the conduct of such vicious animal or its owner or keeper constituted a violation of the provisions of this chapter, punishable by the confiscation and destruction of the animal.**

Section 3. Exemptions.

- A. The provisions of this ordinance shall not apply to K-9 or other animals owned by any police department or any law enforcement officer which are used in the performance of police work.**

Section 4. Penalties for violation.

- A. If any vicious animal shall, when unprovoked, kill, wound, or worry or assist in killing or wounding any animal described in Section 2(a) of this Ordinance, the owner or keeper of said animal shall pay a one hundred dollar (\$100.00) fine and the animal office is empowered to confiscate and, after expiration**

of a five (5) day waiting period exclusive of Sundays and holidays shall destroy said vicious animal.

- B. If any vicious animal shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner or keeper shall pay a one hundred dollar (\$100.00) fine and the animal officer is empowered to confiscate and after expiration of a five (5) day waiting period exclusive of Sundays and holidays, shall destroy said vicious animal.
- C. If the owner or keeper of a animal impounded for an alleged violation of Section 4 (a) or 4 (b) of this Ordinance, shall believe that there shall not have been a violation of such sections hereof, such owner or keeper may petition the district court which has jurisdiction praying that the impounded animal not be destroyed. The impounded animal shall not be destroyed pending resolution of such owner's or keeper's petition if the petition shall have been filed within five (5) days of impoundment of such animal and notice shall have been served within five (5) days of the filing of the petition upon the animal officer or keeper of the animal pound. The hearing shall be conducted within seven (7) days from serving of the notice, unless continued to a later date by the court. The decision of the district may be appealed to the circuit court by any aggrieved party within forty-eight (48) hours of the decision. The animal shall remain impounded pending the appeal. A hearing de novo, without a jury, shall be conducted within seven (7) days of the appeal, unless adjourned to a later date by the court. The decision of the circuit court shall be final and conclusive upon all parties thereto. However, the animal officer or any law enforcement officer shall have the right to declare an animal to be vicious for any actions of the animal subsequent to the date of the violation. If the court shall find that there shall not have been a violation of Section 4(a) or 4(b), such animal may be released to the custody of the owner or keeper upon payment to the pound keeper or animal officer of the expense of keeping such animal. All issues herein shall be decided by the preponderance of evidence.

Section 5. Liability of parents for damages caused by animal owned by minor. In the event that the owner or keeper of the vicious animal is a minor, the parent or guardian of such minor shall be liable for all injuries and property damage sustained by any person or domestic animal caused by an unprovoked attack by said vicious animal.

Section 6. Severance Clause. Sections of this Ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the

courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part so declared to be unconstitutional or invalid.

ORIGINAL ADOPTION DATE: 06/08/87

Amendment proposed: 09/13/04 (to change “Vicious Dog” to read “Vicious Animal”)

Public Hearing for amendment: 10/11/04

Amendment adopted: 10/11/04

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