

Ordinance No. 570

AN ORDINANCE AMENDING CHAPTER 55 OF THE CITY OSCEOLA CODE OF ORDINANCE.

BE IT ENACTED by the City Council of the City of Osceola, Iowa:

SECTION 1. SECTION MODIFIED. Chapter 55 of the City of Osceola, Iowa Code of Ordinances is hereby amended by addition the following sections:

55.17 DISPOSITIONAL PROCEEDINGS. Instances of Animal Neglect or Livestock Neglect pursuant to Chapter 55.02 and 55.03 may be handled in accordance with following:

1. Upon a petition brought by the City, a court in the county where an animal is maintained by a responsible party or a City shall determine if the animal is a threatened animal and order its disposition after a hearing.
 - A. The matter shall be heard within ten days from the filing of the petition for disposition by the City.
 - B. If the animal has been rescued, the court may order that the animal be placed under the custody of the City and maintained in the same manner as a rescued animal under section 717B.5 of the Code of Iowa.
 - C. The court may continue the hearing for up to thirty days upon petition by the responsible party. However, the court shall not grant a continuance unless the animal is maintained by the City. The responsible party must post a bond or other security with the City as a condition of the continuance. The amount of the bond or other security shall be determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for thirty days. The court may grant a subsequent continuance upon petition by the responsible party. The continuance shall be for not more than thirty days. The responsible party must post a new bond or security as a condition of the subsequent continuance in the same manner as the original bond or security or as otherwise ordered by the court. However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.
2. The hearing to determine if the animal is a threatened animal for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of this chapter.

3. If the court determines that an animal is not a threatened animal, the court shall order that the animal be returned to the custody of the responsible party. If the court determines that an animal is a threatened animal, the court shall order the City to dispose of the threatened animal in any manner deemed appropriate for the welfare of the animal. In addition, all of the following apply:

- A. The court may order the responsible party to pay an amount which shall not be more than the dispositional expenses incurred by the City. The court may also award the City court costs, reasonable attorney fees and expenses related to the investigation and prosecution of the case, which shall be taxed as part of the costs of the action.
- B. If a bond or other security was posted as a condition for a continuance of a disposition hearing as provided in this section, the City may use the posted amount to offset the City's dispositional expenses.
- C. If any moneys are realized from the disposition of a threatened animal, the moneys shall be used to offset the City's dispositional expenses before satisfying indebtedness secured by any security interest in or lien on the threatened animal.
- D. If the threatened animal is owned by more than one responsible party, the amount required to offset the City's dispositional expenses shall be prorated among the responsible parties based on the percentage of interest owned in the threatened animal attributable to the responsible parties as the threatened animal's titleholders. For purposes of this paragraph, a responsible party who does not own an interest in the threatened animal shall be deemed to be an owner holding a percentage interest in the animal equal to the largest percentage interest held by a landowner who is attributed an interest as the threatened animal's titleholder. If the responsible party is a landowner, the City may submit the amount to reimburse the City for its dispositional expenses to the clerk of the county board of supervisors who shall report the amount to the county treasurer. If the threatened animal is owned by more than one landowner, the amount shall be prorated among the landowners based on the percentage of interest owned in the threatened animal attributable to each landowner as the animal's titleholders. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. A threatened animal that is ordered by a court to be destroyed under this section shall be destroyed only by euthanasia as defined in section 162.2 of the Iowa Code.

(Code of Iowa, Ch. 717B.4)

55.18 RESCUE OF THREATENED ANIMALS. The City may provide for the rescue of an animal as follows:

1. The rescue must be made by a law enforcement officer having cause to believe that the animal is a threatened animal after consulting with a veterinarian licensed pursuant to chapter 169 of the Code of Iowa. The law enforcement officer may rescue the animal by entering on public or private property, as provided in this subsection. The officer may enter onto property of a person to rescue the animal if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the animal. The local authority may contract with an animal care provider for the maintenance of the animal. The local authority shall provide the responsible party for the animal with notice of the rescue. The notice may be accomplished by doing any of the following:

- A. Delivering written notice to the responsible party's last known address by the United States postal service or personal service.
- B. Posting a notice in a conspicuous place at the location where the animal was rescued.
- C. The notice shall state that the animal has been rescued by the local authority pursuant to this section.

3. Within ten days after the date that an animal is rescued, the City shall initiate a dispositional proceeding pursuant to section 717B.4 of the Code of Iowa.

4. The City shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the disposition of the animal or any reimbursement ordered by a court, pursuant to section 717B.4 of the Code of Iowa.

(Code of Iowa, Ch. 717B.5)

SECTION 2. SEVERABILITY CLAUSE. If any section, provision 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 section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This Ordinance shall be effective upon its final passage, approval, and publication.

First Reading passed by the Council the 17th day of January, 2017.

Second Reading passed by the Council the 17th day of January, 2017.

Third Reading passed by the Council the 17th day of January, 2017.



Thomas J Kedley, Mayor

ATTEST:



Ty Wheeler, City Administrator/Clerk