

ORDINANCE NO. 749

AN ORDINANCE AMENDING THE JOHNSTON REVISED ORDINANCES OF 1999 BY AMENDING TITLE 17, ZONING ORDINANCE, BY ADDING A NEW SECTION 17.04.305 TO SET LIMITS ON DOMESTIC ANIMALS AND NON-DOMESTIC ANIMALS, AND ALLOW FOR SPECIAL EXCEPTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JOHNSTON, IOWA, that:

Section 1. PURPOSE. The purpose of this ordinance is to amend the Johnston Revised Ordinances of 1999 by amending Title 17, Zoning Ordinance, Section 17.04.050, Definitions, Table 17.08.010, Permitted Uses, and the addition of Section 17.04.305, Domestic and Non-Domestic Animals, as follows:

Section 2. AMENDMENT. Chapter 17.04.050, Definitions, is hereby amended by deleting the current definition of Animals, Domestic, and adopting in lieu thereof the following:

Animals, Domestic. See Section 17.04.305.

Section 3. AMENDMENT. The land use table 17.08.010.2, Permitted Uses is hereby amended by the modification to Animals, Domestic, and the addition of Animals, Non-Domestic, as follows:

Table 17.10.010.2 Permitted Uses	CD	AR	R-E	R-1	R-2	R-3	R-4	R-5
Permitted "P"- by right; "S"-by Special Use Permit; "A"-as an Accessory Use; " SPR"-with site plan review; Blank-not permitted.								
Animals, Domestic, see section 17.04.305	A	A	A	A	A	A	A	A
Animals, Non-Domestic, see section 17.04.305	A	A	A	A	-	-	-	-

Section 4. AMENDMENT. The General Provisions, Chapter 17.04, is hereby amended by the addition of a new section 17.04.305, Domestic and Non-Domestic Animals, to read as follows:

17.04.305. Domestic and Non-Domestic Animals.

A. Definitions.

1. Animals, Domestic. A domestic animal is an animal or fowl that is typically accessory to occupancy in a principal dwelling such as a dog, cat, rabbit or potbellied pig, is tame or domesticated and is not considered dangerous by an ordinance of the city of Johnston. Domestic animals of a smaller nature include gerbils, hamsters, guinea pigs, mice, birds, snakes, ferrets and other similar animals maintained as pets and not for breeding purposes, inside a dwelling.

2. Animals, Non-Domestic. Non-domestic animals are accessory to occupancy in a principal dwelling and may consist of small caged animals and fowl such as falcons, pigeons, pheasants, quail, chickens, ducks, geese, and other small animals and fowl of this nature which are kept outside the dwelling and of such type and nature that state and national associations exist establishing norms for breeding, confining and rearing. Pygmy goats and miniature horses are not included.

B. Domestic Animals Restricted. The maximum number of dogs, cats, rabbits and potbellied pigs or animals or fowl of this nature is four (4) adult animals in any combination belonging to the owner of the principal use. There is no limit to the number of smaller animals that may be kept in the dwelling unit.

C. Non-Domestic Animals Restricted. No non-domestic animals are allowed on a lot of less than 20,000 square feet. The number of non-domestic adult animals is limited to two (2) in total number on any parcel greater than 20,000 square feet.

D. Juvenile Animals. The young or juveniles produced by any animal or fowl and maintained with the parent animals are not limited. However, they should be kept for a period of no more than ten (10) weeks, or for a longer period if appropriate for the specific species.

E. Animal Enclosures. Any enclosure constructed to house any animal that is considered a building shall be setback a distance equal to the setback required for an accessory structure in table 17.04.290. The animal or fowl under this section may not be maintained, enclosed or fenced in the front yard of a dwelling.

F. Domestic and Non-Domestic Animal Exemption. Exempt from this section are animals inclusive of fowl maintained for educational purposes by schools, day care centers, vocational agricultural programs and for other public education programs; animals inclusive of fowl maintained for display at a zoo, science center, circuses; and the bringing in of such animals and fowl on a temporary basis for exhibits or shows, provided all State requirements are met.

G. Property Owners to Document Currently Lawful Animals. Any animals or fowl of this nature which are made non-conforming by the adoption of this section may be lawful or unlawful (Zoning Ordinance sections 17.04.150-190). If the animals were in conformance with this ordinance prior to the adoption of this section, the use is considered lawful and the owner should obtain written verification from the Zoning Administrator to substantiate their conformance or risk not being able to verify their conformance at some future date.

H. Non-conforming Animals. Property which was non-conforming prior to the adoption of this section may make application for a special exception as provided for in paragraph I. and accompanied by the information the Board requires to make a determination, including the following:

1. The length of time and the approximate maximum and minimum number of animals that have been kept on the property historically.
2. The lot size, site conditions, and orientation to adjacent uses.

I. Special Exception. An application to the Board of Adjustment may be made for a Special Exception to the provisions of this section. The application shall include a fee as established by resolution of the City Council. The Board shall utilize its adopted rules and procedures and follow all provisions of Section 17.04.210 in reviewing and making decisions on Special Exceptions allowed by this Section, except that notice may be mailed

to only adjacent property owners, unless in the opinion of the Zoning Administrator, a broader dissemination of notice is appropriate.

1. The Board of Adjustment may consider the following conditions in the review and approval of a special exception, but is not limited to these considerations:

a. That the exception may have a sunset provision. The sunset may be based upon a change in property ownership or an occupancy change, after which a new application for the exception must be made or the number of animals maintained on the property must conform to the ordinance.

b. That adequate setback exists for cages, hutches, coops, cotes, lofts or other confinement from a property line and a minimum of 25 feet from a neighboring dwelling unit.

c. That confinement structures, exercise areas and feeding areas are of sufficient size for the number of animals proposed to meet applicable standards, including those contained in the Iowa Administrative Code Section 67.1 and the Animal Care Guidelines of the American Veterinary Medical Association.

d. That the proposed use would not adversely affect the health or safety of the neighboring properties or adversely affect their use of their property.

e. Failure to meet any of the requirements of this section or any condition imposed by the Board of Adjustment in granting a Special Exception is a violation of this ordinance and the property owner may be subject to revocation of the Special Exception by the Board of Adjustment after notification in writing to the property owner.

f. That the Board may establish a total number of animals, both adult and juvenile, that may be allowed under the exception.

g. The Board may also specify a maximum area and maximum structure that may be used to house the special exception use.

h. The Board may require inspections be performed at specific intervals of time to assure compliance with special exception conditions.

2. Applications for a special exception of an illegal, non-conforming use may take into consideration the duration of time that the use has existed, any complaints made against the animal use, and any features that may distinguish the property and make it suitable for that use, including the size of the property and the surrounding uses.

J. The care of domestic and non-domestic animals shall, at a minimum, meet the standards as contained in the Iowa Administrative Code, Section 67.1 and the Animal Care Guidelines of the American Veterinary Medical Association, and include the following requirements:

1. The area is maintained free of odors, insects and rodents, and disturbing noises such as crowing, cackling and gobbling, causing no safety or health hazards to the general public.

2. Animals and fowl fed in the confines of their outdoor enclosure shall have all grains and food stored in rodent proof containers.

Section 5. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. 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 7. WHEN EFFECTIVE. This ordinance shall be in full effect from and after its final passage, approval, and publication as provided by law.

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