ORDINANCE NO. 08-18-2014 H 02(396)

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ALTOONA, IOWA, 2004, BY MODIFYING CHAPTER 57, DANGEROUS AND VICIOUS ANIMALS

BE IT ORDAINED by the City Council of the City of Altoona, Iowa:

SECTION 1. ORDINANCE MODIFIED. The Code of Ordinances of the City of Altoona, Iowa, 2004, is hereby amended by replacing the existing ordinance with the following:

57.01 DEFINITIONS. For use in this chapter, the following terms are defined:

1. "Animal" means every wild, tame, or domestic member of the animal kingdom other than the genus and species *Homo sapiens.*

2. "Animal control officer" means the individual or individuals appointed by the City to enforce this chapter.

3. "At large" means off the premises of the owner, unless:

   A. The animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and under the control of the person; or

   B. The animal is within a motor vehicle; or

   C. The animal is housed within a veterinary hospital, licensed kennel, pet shop or animal shelter; or

4. "Dangerous animal per se" means:

   A. Badgers, wolverines, weasels, mink and other *Mustelids* (except ferrets);

   B. Black widow spiders and scorpions;

   C. Raccoons, opossums, and skunks;

   D. Wolves and coyotes;

   E. Bears;

   F. All apes (including chimpanzees), baboons and macaques;

   G. Monkeys, except the squirrel monkey, female spider monkey and female woolly monkey;

   H. Elephants;

   I. Wild boar;

J. Snakes that are naturally venomous or poisonous;

K. All cats, except domestic cats (Carnivora of the family Felidae including but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.);

5. "Dog" means and includes members of the *Canine* species, male or female, whether neutered or not.

6. "Dangerous dog" means any dog shall be categorized as a dangerous dog if it fits into any of the following categories:

A. Any dog which, when unprovoked, bites a person or a domestic pet or animal, whether on public or private property.

B. Any uncontrolled dog that chases or approaches a person without provocation in a manner that threatens the safety of humans or domestic pets or animals.

C. Any dog with a demonstrated propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of humans or domestic pets or animals. This category shall include a security dog that has been trained to attack.

D. Acts in a highly aggressive manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.

7. "Provocation" means that the threat, injury or damage caused by the dog was sustained by a person who, at the time, was willfully trespassing upon the premised occupied by the owner of the dog, or the person was tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime.

8. "Vicious animal" means any animal, including a dog, except for a dangerous animal per se, as listed above, if it fits into any of the following categories:

A. Any dog or animal that according to the records of a health department, police department, or humane society or according to any other records available to the Police Department has directly inflicted any physical injury that resulted in broken bones or lacerations requiring sutures on a human being without provocation on public or private property.

B. Any dog or animal that has killed a domestic pet or animal without provocation while off its owner's property.

C. Any dog or animal while off its owner's property without provocation bites, attacks or endangers the safety of humans, domestic pets or animals.

9. Exceptions. A dog shall not be categorized as dangerous or vicious if it bites, attacks or menaces a person, domestic pet or animal in order to:

A. Defend its owner, caretaker or another person from an attack by a person or animal.

B. Protect itself, its young or another animal.

C. Defend itself against any person or animal that has tormented, assaulted or abused it.

D. Defends its owner's or caretaker's property against trespassers.

57.02 KEEPING OF DANGEROUS ANIMALS PER SE PROHIBITED. No person shall keep, shelter, or harbor any dangerous animal per se as a pet, or act as a custodian for such animal, temporarily or otherwise, or keep such animal for any purpose or in any capacity within the City.

57.03 KEEPING OF DANGEROUS DOGS REGULATED. The owner or caretaker of any dog determined to be dangerous pursuant to the provisions of the City Code shall comply with the following regulations:

1. No person owning, harboring or having care of a dangerous dog may permit such dog to go outside of its kennel or pen unless the dog is securely leashed on a leash no longer than 4 feet in length.

2. No person may permit a dangerous dog to be kept on a chain, rope, leash or similar restraining device outside its kennel or pen unless a person competent to govern the animal is in physical control of the restraining device and remains in position to control the dog at all times. The dog may not be leashed to inanimate objects such as trees, posts and buildings.

3. No dangerous dog may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the dog to exit the building on its own volition, except through a door leading directly to a pen or kennel.

4. No dangerous dog may be kept in a house or structure when the windows are open or when screen windows or doors are the only obstacle preventing the dog from exiting the structure.

5. The owner of a dangerous dog must successfully complete a dog behavior modification course at owner's expense instructed by a licensed or certified dog behavior specialist within 60 days after receiving notification declaring the dog dangerous. The owner shall be required to provide a copy of proof of successful completion of the course to the Chief of Police and the proof shall include certification or receipt bearing the name of the instructor and the dates of instruction.

6. The owner of a dangerous dog must microchip the dog at the owner's expense within 60 days after receiving notification declaring the dog dangerous in addition to licensing the pet in accordance with Chapter 56 of this Code in order to assist in locating the dangerous dog should it be found at large.

7. The owner shall allow the dog to be photographed for identification purposes

8. The dog shall be spayed or neutered at the owner's expense

57.04 KEEPING OF VICIOUS DOGS REGULATED. The owner or caretaker of any dog determined to be vicious pursuant to the provisions of the City Code shall comply with the following regulations:

1. No person owning, harboring or having care of a vicious dog may permit such dog to go outside of its kennel or pen unless the dog is securely leashed on a leash, no longer than 4 feet in length.

2. No person may permit a vicious dog to be kept on a chain, rope, leash or similar restraining device outside its kennel or pen unless a person competent to govern the animal is in physical control of the restraining device and remains in position to control the dog at all times. The dog may not be leashed to inanimate objects such as trees, posts and buildings.

3. A vicious dog outside the dog's kennel shall be muzzled in a humane way by a muzzling device sufficient to prevent the dog from biting persons or other animals. A vicious dog shall not be required to be muzzled when either shown in a sanctioned American Kennel Club Show or upon prior written approval by the Chief of Police or his designee.

4. All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel on the premises of the owner or caretaker, except when leashed and muzzled. When constructed in an open yard, the pen or kennel must be childproof from the outside and dog proof from the inside. A strong metal double fence with adequate space between fences (at least 2 feet) must be provided so that a child cannot reach into the dog enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the City. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

5. No vicious dog may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the dog to exit the building on its own volition, except through a door leading directly to a pen or kennel meeting all of the requirements of this subsection. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.

6. The owner or caretaker of a vicious dog shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of no less than 2 inches high warning that there is a vicious dog on the property. A similar sign is required to be posted on the kennel or pen of the dog.

7. The owner or caretaker of a vicious dog shall immediately notify the police department if the dog is on the loose, is unconfined, has attacked another animal, has attacked a human being, has died, has been sold or has been given away. If the vicious dog has been sold or given away, the owner or caretaker shall also provide the police department with the name, address and telephone number of the new owner of the vicious

dog. If the vicious dog is sold or given away to a person residing outside the City, the owner or caretaker shall present evidence to the police department showing that he or she has notified the police department or other law enforcement agency of the dog's new residence.

8. An owner or caretaker of any dog declared vicious found to be in violation of any section of this Code related to vicious dogs shall be ordered in writing to safely remove the dog from the City or destroy the animal within 10 days.

9. The owner of a vicious dog must successfully complete a dog behavior modification course at owner's expense instructed by a licensed or certified dog behavior specialist within 60 days after receiving notification declaring the dog vicious. The owner shall be required to provide a copy of proof of successful completion of the course to the Chief of Police and the proof shall include certification or receipt bearing the name of the instructor and the dates of instruction.

10. The owner of a vicious dog must microchip the dog at the owner's expense within 60 days after receiving notification declaring the dog vicious in addition to licensing the pet in accordance with Chapter 56 of this Code in order to assist in locating the vicious dog should it be found at large.

11. The owner of a vicious dog shall be denied a permit for the dog to enter any park designated as a dog park in the City of Altoona.

12. The owner shall allow the dog to be photographed for identification purposes

13. The dog shall be spayed or neutered at the owner's expense

57.05 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor for any reason within the City a vicious animal except in the following circumstances:

1. Dogs used while in the line of duty by the police department, any other law enforcement agency or unit of the United States Military Service.

2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 57.04. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the Police Chief that a guard dog is on duty at said premises.

57.06 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF DANGEROUS ANIMALS OR VICIOUS DOGS.

1. Upon investigation, an animal control officer may determine whether a dog fits into any of the categories of dangerous dog or vicious dog. The officer shall immediately inform the owner or caretaker in writing, by personal service or by certified mail, of said determination.

2. In the event that a dangerous or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the animal control officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

3. Any animal in violation of 57.04 may be issued an Order of Removal by the animal control officer. The order to remove a vicious animal or dog issued by the animal control officer may be appealed to the Police Chief. In order to appeal such order, written notice of appeal must be filed with the City Clerk within five (5) business days after receipt of the order contained in the notice to remove the dangerous animal or vicious dog. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the animal control officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. Upon receiving a notice of appeal, a hearing shall be convened, chaired by the Chief of Police or designee, to receive any testimony or other evidence that is deemed appropriate concerning the Removal Order.

5. When an appeal has been filed, the animal control officer shall make a reasonable effort to notify any persons who would have had direct involvement in the situation which led to the Order of Removal, including those persons who were injured or who are owners or keepers of any animals which were injured by the animal.

6. The appeal shall be heard by a committee appointed by the Chief of Police and consisting of a minimum of three people, including a member of the public, a dog professional, and an animal control director from another agency or his/her designee. The hearing of such appeal shall be scheduled within ten (10) days of the receipt of notice of appeal. After such hearing, the committee may affirm or reverse the order of the animal control officer. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three (3) days after the hearing or any continued session thereof.

7. Pending the outcome of the hearing, the dog must be securely confined in a humane manner either on the premises of the owner or caretaker pursuant to 57.04 or with a licensed veterinarian.

8. If the committee affirms the action of the animal control officer, the committee shall order in its written decision that the person owning, sheltering, harboring, or keeping such dangerous animal or vicious dog remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the animal control officer is not appealed and is not complied with within three (3) days of its issuance, the animal control officer is authorized to seize and impound such dangerous or vicious animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the committee was issued has not petitioned the District Court for a review of said order,

the City shall cause the animal to be disposed of by sale or destroy such animal in a humane manner. Failure to comply with an order of the City issued pursuant hereto constitutes a misdemeanor offense.

57.07 INSURANCE. Every person keeping or maintaining a dangerous or vicious dog as provided in this chapter, or a guard dog as provided in this chapter, shall accompany any application or display upon request by the animal control officer a certificate of insurance from an insurance company authorized to do business in the State with coverage of at least one hundred fifty thousand dollars ($150,000.00) combined single limit liability for bodily injury. Such certificate of insurance shall provide that no cancellation of the insurance will be made unless ten (10) days' written notice is first given to the City Clerk. Failure to provide or display such certificate of insurance shall be determined to be in violation of the vicious dog code as provided in this chapter.

57.08 PENALTY. Violation of any provision of this chapter by an owner of an animal may be enforced as a municipal infraction within the meaning of Section 364.22 of the *Code of Iowa,* pursuant to Chapter 4 of this Code of Ordinances. Enforcement pursuant to this section shall be undertaken by the enforcement officer upon the advice and consent of the City of Attorney.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. 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 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed by the Council the 15th day of September, 2014, and approved this 15th day of September, 2014.

J. M. Skip Conkling, Mayor

ATTEST:

Randy Pierce, City Clerk

First Reading: 8/18/14 Second Reading: 9/2/14 Third Reading: 9/15/14

Council Vote:

	Ayes	Nays	Absent	Abstain
Boka	✓			
Harmeyer	✓			
Mertz			✓	
O'Connor	✓			
Sloan	✓			