

ORDINANCE NO. 173

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF AFTON, IOWA, 1998, BY REDEFINING “DANGEROUS ANIMALS” AND ADDING A NEW SUBSECTION REGARDING VICIOUS DOGS.

BE IT ENACED by the City Council of the City of Afton, Iowa:

SECTION 1. SUBSECTION MODIFIED. Chapter 85, Section 01, Number 3, of the Code of Ordinances of the City of Afton, Iowa, 1998, is repealed and the following adopted in lieu thereof:

85.01 DEFINITIONS. The following terms are defined for use in this chapter.

3. “Dangerous animal” means any animal, including a dog that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious propensities in present or past conduct, including such that said animal
 - (a) has bitten or clawed a person or persons on two separate occasions within a twelve-month period; or
 - (b) did bite or claw once causing injuries above the shoulders of a person; or
 - (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or
 - (d) has attacked any domestic animal or fowl on three separate occasions within a twelve-month period.

SECTION 2. NEW SUBSECTION. The Code of Ordinances of the City of Afton, Iowa, 1998 is amended by adding a new Subsection in Chapter 85 Section 09 number 5, entitled VICIOUS DOGS, which is hereby adopted to read as follows:

85.09 POTENTIALLY DANGEROUS ANIMALS AND DANGEROUS ANIMALS.

5. Vicious Dogs. Notwithstanding any other provision of this chapter, no person owning, possessing, harboring or having the care of a vicious dog shall permit such animal within the City except as provided in this section of the Code.

A. Definition. For purpose of this subsection a “vicious” dog means:

- (1) Any dog which has attacked a human being or domestic animal one or more times, without provocation; or
- (2) Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
- (3) Any dog that snaps, bites, or manifests a disposition to snap or bite; or

- (4) Any dog that has been trained for dog fighting, animal fighting or animal baiting, or is owned or kept for such purposes; or
- (5) Any dog trained to attack human beings upon command or spontaneously in response to human activities except dogs owned by and under the control of the police department, a law enforcement agency of the State of Iowa or the United States or a branch of the armed forces of the United States; or
- (6) The American pit bull terrier breed of dog; or
- (7) The American Staffordshire terrier breed of dog; or
- (8) Any dog which has the appearance and characteristics of being predominantly of the breeds of American Pit Bull Terrier or American Staffordshire Terrier.

B. Vicious Animal Exceptions. The owner of any dog defined as a vicious dog shall comply with the following:

- (1) Present to the City Clerk a certificate of insurance issued by an insurance company licensed to do business in the State of Iowa, providing personal liability insurance coverage as in a homeowner's policy, with a minimum amount of liability of \$100,000 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or his or her other agents, in the keeping or owning of such vicious dog. The certificate shall require notice to the City, in conformity with general standards for certificates of insurance, if the underlying policy of insurance is cancelled for any reason. In lieu of such a certificate, a copy of a current homeowner's policy designating these requirements shall be sufficient proof of insurance for purposes of this subsection. If a certificate of insurance or policy is not immediately available, a binder indicating the coverage may be accepted for up to thirty (30) days subsequent to the determination that a dog is vicious; however, if after thirty (30) days a certificate of insurance or a policy has not been submitted, the dog shall be removed from the City within ten (10) days.

C. Confinement of Vicious Dogs.

- (1) All vicious dogs shall be securely confined within an occupied house or residence or in a secured, enclosed and locked pen or structure. Such a pen or structure must have secure sides and a secure top attached to the sides, or in lieu of a top, walls at least six feet in height or at least six feet taller than an internal structure, such as a doghouse.
- (2) All pens or structures designed, constructed or used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a four inch thick concrete bottom, attached to the sides of the pen, or the sides of the pen must be

embedded in the ground no less than two feet so as to prevent digging under the walls by the confined vicious dog.

(3) All structures erected to house vicious dogs must comply with the City zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition.

(4) No person shall permit a vicious dog to go outside its pen or structure unless such dog is securely leashed with a leash no longer than six (6) feet in length. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its pen or structure unless both the dog and leash are under the actual physical control of a person eighteen (18) years of age or older.

(5) Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

(6) Violation of this section is a misdemeanor

D. Seizure, Impoundment and Disposition of Vicious Animals.

(1) In the event that a vicious animal, as defined in this subsection, is found at large, such animal may, in the sole discretion of the Mayor be destroyed rather than captured and impounded. The City shall not be under any duty to attempt the capture and impoundment of a vicious animal as defined in this subsection nor shall the City have a duty to notify any person of the vicious animal at large prior to its destruction.

(2) The Mayor, either upon receipt of a complaint or upon his or her action may initiate proceedings to determine whether or not an animal being kept, sheltered or harbored within the City limits is a vicious animal as defined in this subsection.

(3) If the Mayor concludes the animal is a vicious animal as defined in this subsection, then the Mayor shall order the person owning, keeping, sheltering, or harboring the animal to comply with this subsection or remove the vicious animal from the corporate limits of the City or to destroy the vicious animal in a humane manner. This order shall be served upon the person or entity by personal service or registered mail.

(4) Unless appealed, the order of the Mayor shall be deemed final for all purposes three (3) days after the order is served as provided by subparagraph (3) above.

(5) The person or entity against whom the order of the Mayor is issued shall have the right to appeal the order to the City Council. The order shall be stayed pending Afton City Council action on the appeal. The appeal shall be filed in writing with the office of the City Clerk, within three (3) days of the date of the service of the order as above provided. Failure to timely

file such written appeal shall constitute a waiver of the right of appeal and the order of the Mayor shall be then deemed final for all purposes. The notice of appeal shall state the grounds for appeal. The appeal hearing shall be held as expeditiously as reasonably possible. The appellant shall be entitled to at least one (1) day notice of the date of the hearing. Following the hearing, the City Council may affirm or reverse the order of the Mayor. The City Council shall cause notice of its decision to be served upon the appellant by personal service or certified mail. The City Council decision shall be deemed final for all purposes three (3) days after the appellant's receipt of the City Council notice of decision.

(6) If the City Council affirms the Mayor, then the notice of decision shall order the person or entity owning, keeping, sheltering or harboring such vicious animal to comply with this subsection or to remove such animal from the corporate limits of the City or to destroy the animal in a humane manner.

(7) The person or entity owning, keeping, sheltering, or harboring the vicious animal shall comply with the order of the City Council on or before the date the order becomes final. In the event the person or entity does not timely comply with the order, then the Mayor is authorized to seize and impound such vicious animal and such animal shall be impounded for a period of seven (7) days. If at the end of the impoundment period the person or entity against whom the order has been entered has not petitioned the Iowa District Court of Union County for further review of the order, the Mayor shall then cause the vicious animal to be destroyed in a humane manner.

(8) The failure to comply with a final order issued pursuant to this section shall constitute a municipal infraction.

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. 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 5. 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 10th day of April, 2007, and approved this 10th day of April, 2007.

Michelle Burger, Mayor

ATTEST: _____
Toni Landers, City Clerk

I certify that the foregoing was published as Ordinance No. 173 on the 19th day of April, 2007.

Toni Landers, City Clerk

First Reading: March 13, 2007
Second Reading: March 28, 2007
Third Reading: April 10, 2007