

CERRO GORDO COUNTY

ORDINANCE # _____

Dangerous Dog Ordinance

Effective Date: XXXX, XX, 2013

Dangerous Dog Ordinance

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Chapter 1

Dangerous Dog Ordinance

A regulation relating to dangerous dogs that determines what conduct of a dog and owner shall be illegal, establishes consequences for dog and owner, and provides reasonable rights of notice and hearing before the imposition of penalties.

The Cerro Gordo County Board of Health, pursuant to the authority of Iowa Code Chapters 137 and 351, hereby adopts the following ordinance to wit:

1.1 Definitions

- 1.1 (01) "ADMINISTRATIVE AUTHORITY" is the Cerro Gordo County Health Director or his/her authorized representative as authorized by Iowa Code section 137.6.
- 1.1 (02) "AT LARGE" means a dog that is not under restraint as defined below.
- 1.1 (03) "BOARD OF HEALTH" means the Cerro Gordo County Board of Health.
- 1.1 (04) "COUNTY" means Cerro Gordo County, Iowa.
- 1.1 (05) "DANGEROUS DOG" means a dog that has
- A) Engaged in or has been trained to engage in exhibitions of fighting;
 - B) Attacked a person or domestic animal without justification causing serious bodily injury or death;
 - C) Behaved, on two or more occasions, in a manner that a reasonable person would believe posed an unjustified threat of serious injury or death to a person or domestic animal;
 - D) Was declared to be a dangerous dog by an animal control authority, court of another jurisdiction, and/or governing body of another jurisdiction.
- 1.1 (06) "IMPOUND" means taken into custody of law enforcement or the Administrative Authority to enforce the dangerous dog ordinance.
- 1.1 (07) "OWNER" means a person who:
- A) Has the right of property or custody of a dog provided that the right is not merely temporary;
 - B) Keeps or harbors a dog other than temporarily; or
 - C) Knowingly permits a dog to remain indefinitely on or about any premises occupied by that person. If the owner is under the age of eighteen, that person and his or her parents or guardians shall be deemed the owner for the purposes of this Dangerous Dog Law.
- 1.1 (08) "PROVOCATION" means that the threat, injury or damage caused by the dog was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog, or was tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime.
- 1.1 (09) "POTENTIALLY DANGEROUS DOG" means a dog that may reasonably be assumed to

pose a threat to public safety as demonstrated by any of the following behaviors:

- A) Causing an injury to a person or domestic animal on public or private property that is less severe than a serious injury;
- B) Without provocation, chases or approaches a person, a domestic animal or a wheeled conveyance upon the streets, sidewalks, or any public or private property, in an apparent attitude of attack; or has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals;
- C) Acts in a highly aggressive manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.

1.1 (10) "RESTRAINT" means a dog shall be considered under restraint if it is:

- A) Within the real property limits of its owner and securely confined thereon by a physical fence, kennel or confined indoors; or
- B) Secured by a leash or lead no more than 6 feet in length being held by a person capable of controlling that dog.

A dog that frees itself from its owner's real property limits, a leash or lead, and a dog that is in a vehicle in a manner that would not prevent escape or contact with other persons or animals shall be considered to be not under restraint.

1.1 (11) "SERIOUS BODILY INJURY" means a laceration to or avulsion of the face of a human being, laceration to or avulsion of another area of a person's body requiring sutures, broken or dislocated bone, permanent nerve damage, partial or total loss of use of a part of the body for a significant period of time, or disability of fifty percent or more for a significant amount of time.

1.1 (12) "TRESPASS" means the presence of a dog upon real property owned or occupied by another where the latter has not consented explicitly or implicitly to the dog's presence. The intent of the owner of the dog, and whether the dog is under restraint, shall be immaterial.

1.2 Owner Responsibility

1.2 (01) Every dog found to be potentially dangerous or dangerous shall be kept under restraint at all times.

1.2 (02) No dog shall trespass.

1.2 (03) Every dog within Cerro Gordo County shall be identified at all times by an identification tag that, at a minimum, tracks the name and address of the dog owner and current vaccination records as stipulated in Iowa Code Chapter 351.25 through 351.35.

1.2 (04) All dog bites shall be immediately reported to the Cerro Gordo County Department of Public Health by the dog owner and/or local law enforcement as stipulated in Iowa Code Chapter 351.38.

1.2 (05) In determining whether a violation of any of these provisions has occurred, it shall not be a defense that the dog owner was free from negligence or had taken reasonable measures to ensure compliance.

1.2 (06) If at any time a dog is quarantined, impounded, and in the process of appeal, all costs shall be the responsibility of the dog owner.

1.3 Determination of a Potentially Dangerous Dog

1.3 (01) After an investigation, which must be initiated within 48 hours after the situation becomes known, the Administrative Authority, shall determine whether a dog is potentially dangerous as listed

in section 1.1 (09) of this chapter and shall notify the owner of the dog in writing by certified mail or hand delivery with signature of that status within five (5) days after completing of the investigation.

1.3 (02) Following notice to the owner, if the Administrative Authority has probable cause to believe that the dog is potentially dangerous and may pose a threat to public safety, the Administrative Authority shall require one of the following:

A) Quarantine of the dog on the owner's property for a period of ten (10) calendar days.

B) Impound and quarantine the dog to a location as determined by local law enforcement, the Administrative Authority, or his/her designee that provides adequate confinement period for ten (10) calendar days.

The owner of the dog shall be liable for the costs of impounding and keeping the dog. For each of the requirements listed above, the Administrative Authority may require any or all of the following as a condition of release of the dog to its owner:

A) Proof of current vaccinations.

B) An identification microchip installed in the dog by a licensed veterinarian.

C) The dog, while on the owner's property, shall, at all times, be kept indoors, or in a securely fenced yard or enclosure from which the dog cannot escape, and into which children cannot trespass. It may be required that the dog be kept in an enclosure which is enclosed on all sides with a top and a cement floor, and which is locked by padlock. The yard or enclosure must be inspected and approved in writing by the Administrative Authority prior to release of the dog.

D) The dog may be off the owner's premises only if it is:

- 1) Muzzled in a manner that its teeth cannot touch anything outside the muzzle, and
- 2) Restrained by a substantial leash, not exceeding six feet in length, while the leash is held by an adult capable of restraining and controlling the dog. At no time may the dog be left unattended, even if muzzled, leashed, or tied, while off the owner's premises.

E) The owner shall immediately notify the Administrative Authority in the event the dog is

- 1) At large
- 2) Has committed an attack on any person or animal
- 3) Has been sold or otherwise disposed of
- 4) Has died

F) The dog must complete an obedience course at the owner's expense within sixty (60) days after release of the dog to its owner. The course shall be approved by the Administrative Authority. Documentation of course completion must be submitted to the Administrative Authority with ten (10) days of course completion. Instructor must be notified as to the reason for the dog's attendance.

G) The owner of the dog must give written notice of the potentially dangerous dog determination to the United States Postal Service (local branch) and all utility companies which provide services to the premises where the dog is kept. The owner shall provide a copy of such notice to the Administrative Authority within thirty (30) days after the dog has been released.

H) At least five (5) days before the dog is returned to the premises of the owner, the owner must give written notice to the victim, if the victim lives or normally travels within 500 feet of the owner's premises, stating where the dog will be kept in the future, and the date when the dog shall return to the premises. Additionally, the written order of the Administrative Authority shall be attached to said notice.

I) The owner of the dog shall post one or more signs on the premises at a location(s) approved by the Administrative Authority stating that a potentially dangerous dog resides on the premises. The size, wording, color, number and placement of the signs shall be determined and provided by the Administrative Authority.

J) The owner of a dog which has been determined to be dangerous may be prohibited from owning, possessing, controlling, or having custody of any dog for a period of up to three years, if the Administrative Authority finds that:

- 1) The owner previously was in possession of a dog that was determined to be dangerous,
- 2) The owner was in possession of more than one dog declared to be dangerous,
- 3) Ownership or possession of a dog by the owner would create a significant threat to the public health, safety, and welfare.

If the owner is restricted from owning a dog as stated above and is found owning another dog, the dog will be impounded and placed at the discretion of the Administrative Authority. The owner is liable for penalties pursuant to section 1.8 of this ordinance.

1.4 Determination of a Dangerous Dog

1.4 (01) After an investigation, which must be initiated within 48 hours after the situation becomes known, law enforcement, the Administrative Authority, or his/her designee shall determine whether a dog is dangerous based on the factors listed in section 1.1 (05) of this chapter and shall notify the dog owner in writing by certified mail with signature or hand delivery of that status within 5 calendar days after completing the investigation.

1.4 (02) Following owner notification, if law enforcement and/or the Administrative Authority has probable cause and believes the dog to be a dangerous dog and that the animal poses an imminent threat to public safety, law enforcement, the Administrative Authority or his/her designee may take the following action:

A) Impound and quarantine the animal for ten (10) calendar days in an approved location that confines the animal for observation and public safety protection.

B) If a dog bites a person below the shoulders, has no other record of bites and has a current rabies vaccination, then the dog may be returned to the owner with stipulations for restraint.

C) If the dog has bitten a person below the shoulders and has bitten before, the animal shall be impounded and quarantined for ten (10) calendar days at a location determined by the Administrative Authority and once the quarantine period has expired the dog shall be humanely destroyed.

D) If a dog bites a person above the shoulders, the animal shall be impounded and quarantined for ten (10) calendar days at a location determined by the Administrative Authority, and once the quarantine period has expired the dog shall be humanely destroyed.

The owner of the dog shall be liable to this jurisdiction for the costs of impounding and keeping the dog. In addition, the Administrative Authority may initiate additional requirements on the dog owner including:

A) The owner of a dog which has been determined to be a dangerous dog may be prohibited from owning, possessing, controlling, or having custody of any dog for a period of up to three years, if the Administrative Authority finds that:

- 1) The owner previously was in possession of a dog that was determined to be dangerous,

- 2) The owner was in possession of more than one dog declared to be dangerous,
- 3) Ownership or possession of a dog by the owner would create a significant threat to the public health, safety, and welfare.

If the owner is restricted from owning a dog as stated above and is found owning another dog, the dog will be impounded and placed at the discretion of the Administrative Authority. The owner is liable for penalties pursuant to section 1.8 of this ordinance.

1.5 Liability for Damages

1.5 (01) The owner of a dog shall be liable to an injured party for all damages done by the dog, when the dog is caught in the action of worrying, maiming, or killing a domestic animal, or the dog is attacking or attempting to bite a person, except when the party damaged is doing an unlawful act, directly contributing to the injury. This section does not apply to damage done by a dog affected with hydrophobia unless the owner of the dog had reasonable grounds to know that the dog was afflicted with hydrophobia and by reasonable effort might have prevented the injury.

1.6 Exceptions to the Dangerous Dog Ordinance

1.6 (01) No dog shall be declared a dangerous or potentially dangerous dog if:

- A) The dog was used by a law enforcement or military official(s) for legitimate law enforcement or military purposes;
- B) The threat, injury, or damage was sustained by a person:
 - 1) Who was committing, at the time, a willful trespass or other tort upon the premises lawfully occupied by the owner of the dog; or
 - 2) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
 - 3) Who was committing or attempting to commit a crime; or
- C) The dog was:
 - 1) Responding to pain or injury, protecting its offspring; or
 - 2) Protecting or defending a human being within the immediate vicinity of the dog from an attack or assault.

1.7 Hearings

1.7 (01) In the event that any person or owner is aggrieved by any order made by the Administrative Authority, that person or entity may within ten (10) days of the date of such order, appeal in writing to the Board of Health, stating reasons for requesting the order to be rescinded or modified. The Board of Health shall review the action of the Administrative Authority, shall modify, withdraw, or order compliance with, the order. If such an appeal is initiated, no impounded animal that is the subject of said appeal shall be destroyed until further order of the Board of Health. The dog owner shall be responsible for all costs of impoundment.

1.8 Penalties

1.8 (01) Any person, firm, partnership, corporation, or other entity or responsible person violating

any regulation in or any provision of this Ordinance or of any amendment or supplement thereto, shall be guilty of a simple misdemeanor which is punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment of not more than thirty (30) days and shall be guilty of a county infraction punishable by a civil penalty of not more than seven hundred and fifty dollars (\$750) or if the infraction is a repeat offense by a civil penalty not to exceed one thousand dollars (\$1,000). Each bite constitutes a separate offense.

1.9 Applicability

1.9 (01) Provisions contained herein are applicable to all dog bites in Cerro Gordo County and the municipalities within its borders unless a municipality has a current dangerous dog ordinance in effect.

1.10 Amendments

1.10 (01) Amendments and additions to this ordinance shall be made as required by Iowa Code Chapter 137.6. The Board of Health shall propose amendments and additions to this regulation to the Board of Supervisors whenever the Board of Health determines such changes are necessary to fulfill the purpose of this regulation.

1.11 Separability of Provisions

1.11 (01) If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not effect any of the remaining provision of this ordinance.

1.12 Regulation Effective Upon Publication

1.12 (01) This ordinance being deemed essential and imperative for the preservation of the public health, shall be in force and effect from and after its passage and publication as provided by law.

Adopted by:

Dr. Mark C. Johnson
Cerro Gordo County Board of Health

Date

Approved by:

Phillip Dougherty
Cerro Gordo County Board of Supervisors

Date