

ORDINANCE NO. 217

AN ORDINANCE AMENDING THE CODE OF ORDINANCES FOR THE CITY OF QUASQUETON, IOWA, BY ESTABLISHING REGULATION OF POTENTIALLY VICIOUS DOGS.

SECTION 1. Chapter 56 is adopted as set forth below:

**Chapter 56.1. Potentially Vicious Dog:**

A "potentially vicious dog" is a dog that:

- (1) When unprovoked, on two (2) separate occasions, has engaged in any behavior that has required a defensive action by any person to prevent bodily injury when the person and dog were off the property of the owner or keeper of the dog;
- (2) When unprovoked, has attacked or bitten a person;
- (3) When unprovoked, has inflicted a serious injury or caused the death of a domestic animal, either on public or private property other than the property of the owner or keeper; or
- (4) When unprovoked, chases or approaches a person or domestic animal upon the streets, sidewalks, or any public or private property other than the property of the owner or keeper, in a menacing fashion or apparent attitude of attack.

**Chapter 56.2. Procedure for Declaration of Potentially Vicious Dog:**

(a) The Mayor may find and declare an animal potentially vicious based upon the following:

- (1) The written complaint of a citizen that the animal has acted in a manner set forth in this article;
- (2) Dog bite reports filed with the Mayor or City Clerk;
- (3) Actions of the dog witnessed by any law enforcement officer; or
- (4) Other substantial evidence.

(b) The declaration of a potentially vicious dog shall be in writing and shall be served on the owner in one of the following methods: personally, by certified mail to the owner at the

owner's last known address, or if the owner cannot be served personally or by mail, by publication in a newspaper of general circulation in the county.

c) The declaration shall state:

- (1) The description of the animal;
- (2) The name and address of the owner of the animal, if known;
- (3) The whereabouts of the animal, if not in the custody of the owner;
- (4) The facts upon which the declaration of potentially vicious dog is based;
- (5) The owner's right to a hearing if the person objects to the declaration;
- (6) The restrictions placed upon the animal as a result of the declaration of potentially vicious dog; and
- (7) The penalties for a violation of such restrictions.

(d) The owner may object to the declaration of potentially vicious dog by requesting a hearing before the City Council by submitting a written request to the City Clerk within ten (10) days of the date of mailing of the declaration, or within ten (10) days of the publication of the declaration.

(1) If the City Council finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled.

(2) If the City Council finds sufficient evidence to support the declaration, the City Clerk shall provide the owner with written notice of such determination within five (5) working days after the hearing.

(3) Upon service of notice and pending hearing, the owner shall confine the dog in a fenced enclosure on the owner's premises. It shall be unlawful for the owner of the potentially vicious dog to allow or permit such dog to go beyond the premises of the owner unless such dog is securely leashed and humanely muzzled or otherwise securely restrained.

(4) If it is determined by the Mayor or law enforcement officer that probable cause exists to believe the dog in question poses an immediate threat to public safety, then the law enforcement officer may seize and impound the dog pending the hearing to be held pursuant to this article. The owner or keeper of the dog shall be liable to the city or county where the dog is impounded for the costs and expenses of keeping the dog if the dog is later determined to be potentially vicious. When a dog has been impounded and it is not contrary to public safety, the animal control officer shall permit the animal to be confined at the owner's expense in a city-approved kennel or veterinary facility.

### **Chapter 56.3. Notification of Status of Potentially Vicious Dog:**

The owner shall immediately notify the City Clerk when a dog which has been classified as potentially vicious:

- (1) Is loose or unconfined;
- (2) Has bitten a human being or attacked another animal;
- (3) Is sold or given away, or dies; or
- (4) Is moved to another address.

Prior to a potentially vicious dog being sold or given away, the owner shall provide the name, address and telephone number of the new owner to the City Clerk. The new owner shall comply with all the requirements of this chapter.

### **Chapter 56.4. Exceptions to Classification:**

(a) No dog may be declared potentially vicious if:

- (1) Any injury or damage was sustained by a person who, at the time of the injury or damage was sustained, was committing a wilful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime;
- (2) The dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault; or
- (3) The injury or damage was sustained by a person or a domestic animal, which at the time of the injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog.

(b) No dog may be declared potentially vicious if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

### **Chapter 56.5. Disposition of Potentially Vicious Dog:**

(a) A potentially vicious dog shall be properly licensed and vaccinated. The potentially vicious designation shall be included in the registration records of the dog. The city may charge a potentially vicious dog fee in addition to the regular licensing fee to provide for the increased costs of maintaining the records of the dog.

(b) A potentially vicious dog, while on the owner's property, shall at all times be kept

indoors or in a securely fenced yard from which the dog cannot escape and into which children cannot trespass. A potentially vicious animal may be off the owner's premises only if restrained by a substantial leash, of appropriate length, and if the dog is under the control of a responsible adult and is humanely muzzled.

c) If a potentially vicious dog dies, or is sold, transferred or permanently removed from the city, the owner of the dog shall notify the City Clerk of the changed condition and new location of the dog in writing within two (2) working days.

#### **Chapter 56.6. Penalties:**

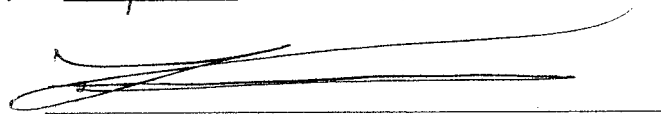
A person who violates an order of the Mayor or City Council entered pursuant to the terms of this chapter shall be guilty of a simple misdemeanor.

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 14<sup>th</sup> day of May, 2007, and approved this 14<sup>th</sup> day of May, 2007.



Lee Bossom, Mayor

ATTEST:

Cody B. Kimball  
Cody Kimball, City Clerk