

ORDINANCE # _____

AN ORDINANCE AMENDING CHAPTERS 8.04 AND 8.08 OF
THE CHARITON MUNICIPAL CODE AND REPEALING
CHAPTER 8.12 OF THE CHARITON MUNICIPAL CODE

Be It Enacted by the Council of the City of Chariton, Iowa:

Section 1. Purpose. The purpose of this ordinance is to amend Chapters 8.04 and 8.08 of the Chariton Municipal Code and to repeal Chapter 8.12 of the Chariton Municipal Code.

Section 2. Amendment. Chapter 8.04 of the Chariton Municipal Code is hereby amended by adding the following:

Section 8.04.050

h) No owner shall allow a dog to be tethered outside for a period exceeding ten (10) consecutive hours in a twenty-four (24) hour period, or between the hours of 10 p.m. and 7 a.m., or violate any of the following provisions:

- (1) While tethered, a dog shall be able to move about freely. The tether shall be a minimum of ten linear feet and have swivels on at least one end. Tow chains shall not be used.
- (2) While tethered, a dog shall wear a collar, harness, or similar device which fits properly to prevent injury or obstruction or respiration and to which the tether shall be attached. Choke, pinch, prong, or other chain collars shall not be used.
- (3) An enclosure to confine a dog or dogs shall be a minimum of 50 square feet per dog of the toy group and 70 square feet for all other breeds. The enclosure shall be of sufficient height and construction to provide a safe barrier for the dog or dogs.
- (4) A dog shall have access to a shelter which shall be large enough for the dog to stand, turn around, and lie down inside without touching the sides or top. A shelter shall be windproof and

waterproof and the opening shall be large enough for the dog to enter and exit while standing upright.

- (5) A tethered dog shall have access to clean and sanitary shelter. The shelter shall be appropriate for the existing weather conditions.

Section 3. Amendment. Chapter 8.08 of the Chariton Municipal Code is hereby amended by deleting existing Chapter 8.08 in its entirety and replacing it with the following:

CHAPTER 8.08

DANGEROUS DOG ORDINANCE

8.08.010 Definitions. For purposes of this section, the term:

- a) "Dangerous dog" means any dog that:
 - (1) Causes a serious injury to a person or domestic animal; or
 - (2) Has been designated as a potentially dangerous dog and engages in behavior that poses a threat to public safety as described in paragraph (g) of this section or serious injury as defined in Chapter 8.08.010(b).

- b) "Serious injury" means any physical injury to a human being incurred by a dog demonstrating an intent to harm resulting in a major fracture, muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

- c) "Proper enclosure" of potentially dangerous and dangerous dogs requires:
 - (1) Potentially dangerous and dangerous dogs are securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel 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 and at least six feet taller than any internal structure;

- (2) All pens or other structures designed, constructed or used to confine potentially dangerous and dangerous dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom, floor or foundation 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 potentially dangerous or dangerous dog; and
 - (3) All structures erected to house dangerous or potentially dangerous dogs must comply with all zoning and building regulations in their jurisdictions. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No potentially dangerous or dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the potentially dangerous or dangerous dog to exit such building on its own volition.
- d) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of a dog.
 - e) "Impound" means taken into custody by the City of Chariton, Iowa.
 - f) "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.
 - g) "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:
 - (1) Causing an injury to a person or domestic animal on public or private property that is less severe than a serious injury;

- (2) 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;
 - (3) Running at large pursuant to Chapter 8.04.030 of the Chariton Municipal Code, or owner's cited by the City of Chariton, Iowa, to enforce the potentially dangerous or dangerous dog law two (2) or more times for running at large within any 12-month period;
 - (4) Acts in a highly aggressive manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.
- h) "Responsible person" means a person at least 18 years old who is able to keep the dog under complete control at all times.
- i) "Pet safety course" means a course pre-approved by the City consisting of but not limited to instruction in safe management of dogs.

8.08.020 Determination of a potentially dangerous dog.

- a) After an investigation, which must be initiated within two (2) days after the situation becomes known to the City of Chariton, Iowa, the City is authorized to make a determination whether a dog is potentially dangerous based on the factors listed in Chapter 8.08.010(g) 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 the completion of the investigation.
- b) Following attempted notice to the owner, the City of Chariton, Iowa, has probable cause to believe that a dog is a potentially dangerous dog and may pose a public threat, the City may obtain a search warrant pursuant to the Iowa Rules of Civil Procedure and impound the dog pending disposition of the case or until the dog owner has fulfilled the requirements of Chapter 8.08.060. The owner of the dog may be liable

to this jurisdiction for the costs of impounding and keeping the dog.

- c) The owner may request a hearing before the City Council concerning the determination that a dog is a potentially dangerous dog by sending a written notice to the City Clerk within fifteen (15) days after the date of the notice from the City of the determination of a potentially dangerous dog. Upon receipt of a request for hearing, the City Council shall schedule a hearing concerning the determination of a potentially dangerous dog to be held within thirty (30) days after receipt by the City of the request for hearing. The determination regarding a potentially dangerous dog shall be stayed pending the results of the hearing. After the hearing, the City Council may amend or reverse the determination of a potentially dangerous dog. A decision by the City Council overturning the determination shall not affect the City's right to later declare a dog to be a potentially dangerous dog or a dangerous dog, or to determine that the dog poses a threat to public safety, for the dog's subsequent behavior.

8.08.030 Determination of a dangerous dog.

- a) After an investigation, which must be initiated within two (2) days after the situation becomes known to the City of Chariton, Iowa, the City is authorized to make a determination whether a dog is dangerous based upon the factors listed in Chapter 8.08.010(a) and shall notify the owner of the dog in writing by certified mail with signature or hand delivery of that status within five (5) days after completing the investigation.
- b) Following attempted notice to the owner and prior to the hearing, if the City of Chariton, Iowa, has probable cause and believes the dog to be a dangerous dog and that the animal poses an imminent threat to public safety, the City may obtain a search warrant pursuant to Iowa Rules of Civil Procedure and impound the dog pending disposition of the case or until the dog owner has fulfilled the requirements of Chapter 8.08.060. The owner of the dog shall be liable to this jurisdiction for the costs of impounding and keeping the dog if the dog is determined to be a dangerous dog.

c) The owner may request a hearing before the City Council concerning the determination that a dog is a dangerous dog by sending a written notice to the City Clerk within fifteen (15) days after the date of the notice from the City of the determination of a dangerous dog. Upon receipt of a request for hearing, the City Council shall schedule a hearing concerning the determination of a dangerous dog to be held within thirty (30) days after receipt by the City of the request for hearing. The determination regarding a dangerous dog shall be stayed pending the results of the hearing. After the hearing, the City Council may amend or reverse the determination of a dangerous dog. A decision by the City Council overturning the determination shall not affect the City's right to later declare a dog to be a dangerous dog, or to determine that the dog poses a threat to public safety, for the dog's subsequent behavior.

8.08.040 Exceptions. No dog shall be declared a dangerous or potentially dangerous dog if:

- a) The dog was used by a law enforcement or military official 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.

8.08.050 Consequences of a dangerous or potentially dangerous dog determination.

- a) If the City of Chariton, Iowa, determines that a dog is a potentially dangerous dog under Chapter 8.08.020, the owner shall comply with the provisions of Chapters 8.08.010(c), 8.08.050 and 8.08.060(a)(d) and any other special security or care requirements which are reasonable.
- b) If the City of Chariton, Iowa, determines that a dog is a dangerous dog under Chapter 8.08.030, the owner shall comply with the provisions of Chapters 8.08.010(c), 8.08.050 and 8.08.060(b)(c) and any other special security or care requirements which are reasonable.
- c) The City of Chariton, Iowa, may require impoundment of the dog if the owner is unable or unwilling to comply with the requirements of Chapter 8.08.060(a) until the owner of the dog has satisfied all the requirements of the certificate of registration holding permit. The requirements must be met within thirty (30) days. If, after thirty (30) days, the owner has not satisfied all the requirements of the holding permit, the animal may be humanely euthanized on the thirty-first (31) day. The owner of the dog shall be liable to this jurisdiction for the costs of impounding and keeping the dangerous or potentially dangerous dog whether or not they reclaim the dog.

8.08.060 Dangerous dog and potentially dangerous dog registration and handling requirements.

- a) The City of Chariton, Iowa, shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner establishes to the satisfaction of the City that:
 - (1) The owner of the potentially dangerous dog is 18 years of age or older;
 - (2) The owner of the potentially dangerous dog shall present 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 liability amount of \$100,000.00 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 agents, in the keeping or owning of such potentially dangerous dog. The certificate shall require notice to the City, in conformity with general city 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 30 days subsequent to the determination that a dog is potentially dangerous; however, if after 30 days a certificate of insurance or a policy has not been submitted, the dog shall be deemed unlicensed and subject to immediate impoundment or humane euthanasia at the owner's expense;

- (3) A valid license has been issued for the potentially dangerous dog at the owner's expense pursuant to jurisdiction;
- (4) The potentially dangerous dog has a current rabies vaccination at the owner's expense;
- (5) The owner has a proper enclosure to prevent the entry of any person or animal and the escape of said potentially dangerous dog as described in Chapter 8.08.010(c);
- (6) The potentially dangerous dog has been spayed or neutered at the owner's expense;
- (7) The potentially dangerous dog has been implanted with a microchip containing owner identification information at the owner's expense. The microchip information must be registered with the City of Chariton, Iowa;
- (8) The potentially dangerous dog has been photographed for identification purposes; and
- (9) The potentially dangerous dog owner shall satisfactorily complete a pet safety course pre-approved by the City of Chariton, Iowa, at the dog owner's expense.
- (10) The owner of the dangerous dog has written permission of the property owner or homeowner's

association where the dangerous dog will be kept if applicable.

- b) The City of Chariton, Iowa, shall issue a certificate of registration to the owner of a dangerous dog if the owner, in addition to satisfying the requirements for registration of a potentially dangerous dog pursuant to paragraph (a) of this section, establishes to the satisfaction of the City that:
 - (1) The owner will maintain the dangerous dog exclusively on the owner's property except for medical treatment or examination; and
 - (2) The owner of the dangerous dog has posted on the premises a clearly visible written warning sign that there is a dangerous dog on the property with a conspicuous warning symbol that informs children of the presence of a dangerous dog. The sign shall be very visible from the public roadway or 50 feet, whichever is less.
- c) The City of Chariton, Iowa, may order the immediate impoundment or humane euthanasia of a dangerous dog if the owner fails to abide by the conditions for registration or confinement or handling of a dangerous or potentially dangerous dog.
- d) If any dog previously determined to be a potentially dangerous dog has not exhibited any of the behaviors specified in Chapter 8.08.010(g) within twelve (12) months since the date of the potentially dangerous dog determination, then that dog is eligible for a review of the determination with the potential for lifting the requirements of this section; provided, however, then that same dog may again be declared a dangerous or potentially dangerous dog if it again exhibits any of the specified behaviors. Such a review shall be completed by a review committee appointed by the City Council consisting of a minimum of three people including a member of the public and a dog professional.

8.08.070 Dangerous or potentially dangerous dog owner responsibility. It shall be unlawful to:

- a) Keep a dog determined to be dangerous or potentially dangerous without a valid certificate of registration issued under Chapter 8.08.060.
- b) Permit a potentially dangerous dog to be outside a proper enclosure unless the potentially dangerous dog is under the control of a responsible person as defined in Chapter 8.08.010, muzzled, and restrained by a substantial lead not exceeding six (6) feet in length. The muzzle shall be made in a manner that will not cause injury to the dog or obscure its vision or interfere with its respiration but shall prevent it from biting any human being or animal.
- c) Fail to maintain a dangerous dog exclusively on the owner's property as required except for medical treatment or examination. When removed from the owner's property for medical treatment or examination, the dangerous dog shall be caged or under the control of a responsible person as defined in Chapter 8.08.010, muzzled and restrained with a substantial lead not exceeding six (6) feet in length. The muzzle shall be made in a manner that will not cause injury to the dog or obscure its vision or interfere with its respiration but shall prevent it from biting any human being or animal.
- d) Permit a dangerous or potentially dangerous dog to be kept on a chain, rope or other type of leash affixed to inanimate objects such as trees, posts, buildings, or any other object or structure. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.
- e) Fail to notify the City of Chariton, Iowa, immediately in person or by telephone upon escape if a dangerous or potentially dangerous dog is on the loose, is unconfined, has attacked another domestic animal, or has attacked a human being.
- f) Fail to notify within seven (7) days the City of Chariton, Iowa, with the name, address, and telephone number of the new owner of the dangerous or potentially dangerous dog if the dog has been sold or has been given away to an owner inside or outside the jurisdiction; and

- (1) If requested by the City of Chariton, Iowa, the owner must execute an affidavit under oath setting forth the complete name, address, and telephone number of the person to whom the dog has been transferred.
- g) Fail to notify within seven (7) days the City of Chariton, Iowa, of a change of address or telephone number by the owner of the dangerous or potentially dangerous dog.
- h) Fail to notify within seven (7) days the City of Chariton, Iowa, if the dangerous or potentially dangerous dog has died; and
 - (1) If requested by the City of Chariton, Iowa, the owner must execute an affidavit under oath setting forth the circumstances of the dog's death.
- i) Fail to surrender a dangerous or potentially dangerous dog to the City of Chariton, Iowa, for safe confinement pending a disposition of the case when there is a reason to believe that the dangerous or potentially dangerous dog poses an imminent threat to public safety.
- j) Fail to comply with any reasonable special security or care requirements for a dangerous or potentially dangerous dog, the City of Chariton, Iowa, may have established pursuant to the finding that the dog was potentially dangerous or dangerous.

8.08.080 Penalties. An owner of a dangerous or potentially dangerous dog who violates the provisions of Chapters 8.08.060 and 8.08.070 shall be guilty of a serious misdemeanor, and, upon conviction, shall be punished by a fine not to exceed \$500 or imprisonment not to exceed 90 days, or both, for a first offense and not more than \$1,000 or imprisonment not to exceed 90 days, or both, for a second offense.

Section 4. Amendment. Chapter 8.12 of the Chariton Municipal Code is hereby deleted in its entirety.

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

Section 6. Severability. 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. Effective Date. This ordinance shall be in effect after its final passage, approval, and publication as provided by law.

Passed by the Council the _____ day of _____, 2013, and approved this _____ day of _____, 2013.

Roger D. Manser, Mayor

ATTEST:

Ruth A. Ryun, City Clerk