



Agenda

Public Safety Meeting

Oelwein City Hall, 20 Second Avenue SW, Oelwein, Iowa

5:30 PM

September 25, 2023

Oelwein, Iowa

Mayor: Brett DeVore

Mayor Pro Tem: Lynda Payne

Council Members: Karen Seeders, Tom Stewart, Matt Weber, Dave Garrigus, Dave Lenz

Pledge of Allegiance

Discussions

- [1.](#) Consideration of a motion declaring Meike's dog vicious.
- [2.](#) Consideration of a motion declaring Lillibridge's dog vicious.

Adjournment

In compliance with the Americans with Disabilities Act, those requiring accommodation for Council meetings should notify the City Clerk's Office at least 24 hours prior to the meeting at 319-283-5440

Oelwein Police Department

501 Rock Island Road
Oelwein, Iowa 50662

Jeremy P. Logan
Chief of Police

Date: 08/08/2023

Name of Dog Owner: Arthur & Sherry Meike
Address of Dog Owner: 22 3rd Avenue NE Oelwein, IA
Oelwein, Iowa 50662

Dear: Arthur & Sherry

This letter is to formally advise you that your dog that you possess, a mix Great Dane/American Shastina is in violation of Section 19-26 of the Oelwein City Code. This section specifically describes and outlines procedures for the handling of vicious dogs.

On August 7th, 2023 your dog, Charlie, a mix Great Dane and American Shastina got out of your fenced in area and went into the neighbor's yard. During this time, Charlie did bite or attack the neighbor's dog causing injury to the head of that animal. Based on information obtained from your neighbor, this is not the first time Charlie has gone after/attacked the neighbor's dog in which the attack was unprovoked.

Oelwein City Code Section 19-26 describes a vicious dog as any of the following:

1. "Vicious Dog" means:

- A. Any dog which when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or
- B. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
- C. Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or
- D. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

Therefore, you are hereby directed, that within five (5) days of receiving this notice, excluding Saturday & Sunday, you shall:

- A. Register said vicious dogs pursuant to the terms and conditions of Section 19-29, (enclosed) or;
- B. Permanently remove said dogs from the City of Oelwein, and submit adequate proof of such removal, or;
- C. Destroy said dogs in an expeditious and humane manner, and submit adequate written documentation of such act.

You do have the right to appeal this declaration to the Oelwein City Council. That appeal needs to be made, in writing, within five (5) days, exclusive of Saturdays & Sundays and delivered to Oelwein City Hall, 20 2nd Ave S.W., Oelwein, Iowa 50662. If no notice of appeal is received within this time frame, it will be deemed that the appeal is waived. *An appeal of this declaration is separate from any possible pending court action that may be required for charges filed for, including but not limited to, Dog At Large, Disturbing the Public Quiet etc... Citations/charges will be addressed in magistrate court. The appeal of this declaration will be addressed by the Oelwein City Council.

If the vicious dog is not registered, removed or destroyed or if no appeal is received within five days, the City of Oelwein will impound the dogs and assess the costs against you.

Thank you for your time and anticipated expeditious response to this matter.

Respectfully,



2nd Lieutenant Shannon Cox
33-127
Oelwein Police Department

Enc. Vicious Animal Ordinance of the City of Oelwein.

Cc: Chief of Police, City Hall, File 23-050994

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SECTION 19-26. DEFINITIONS.

As used in Sections 19-26 through 19-33, inclusive, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

1. "Vicious Dog" means:

- A. Any dog which when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or
- B. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
- C. Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or
- D. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

Notwithstanding the definition of a vicious dog above, no dog may be declared vicious if an injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful 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.

No dog may be declared vicious if any injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the dog. No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

2. "Enclosure" means a fence or structure of at least six feet "6") in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure. Any gates or access to the enclosure shall be self closing and equipped with a keyed or combination locking device.

3. "Animal Control Officer" means the Animal Control Warden, the Chief of Police or the Chief's designee.

4. "Impounded" means taken into custody by the Animal Control Officer.

5. "Persons" means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.

SECTION 19-27. VICIOUS DOG – DESIGNATION.

In the event that the Animal Control Officer has probable cause to believe that a dog is vicious, said officer shall notify, in writing, by personal service or certified mail, the owner and keeper of said dog, that said dog has been declared a vicious dog.

The written notice shall include:

- 1. Description of the dog, to the extent possible;
- 2. State that the dog is vicious pursuant to the provisions of this chapter;
- 3. State that within five (5) days, exclusive of Saturdays and Sundays, from the receipt of notice the owner or keeper of the dog shall:
 - A. Register said vicious dog pursuant to the terms and conditions of Section 19-29 below, or;
 - B. Permanently remove said dog from the city of Oelwein, and submit adequate proof of such removal, or;
 - C. Destroy said dog in an expeditious and humane manner, and submit adequate written documentation of such act.

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4. State that the owner or keeper of the dog may appeal the decision of the Animal Control Officer to the City Council, in writing, within five (5) days, exclusive of Saturdays and Sundays. The notice shall further advise that in the event there is no written notice of appeal filed with the City Clerk within five (5) days, exclusive of Saturdays and Sundays, the right to appeal will be deemed waived and the decision of the Animal Control Officer will be conclusively presumed.

5. State that if the vicious dog has not been registered, removed or destroyed or if no appeal is requested within the five (5) days, exclusive of Saturdays and Sundays, the city will impound the dog and assess the costs against the owner and keeper of the dog.

SECTION 19-28. APPEALS.

Any owner or keeper of a dog that has been declared vicious may appeal to the City Council for review. The appeal must be in writing and received by the City Clerk within five (5) days, exclusive of Saturdays and Sundays, of the Animal Control Officers notice. The City Council shall, within fourteen (14) days of receipt of the appeal, fix the time and place of the hearing, which shall be within thirty days after the filing of the appeal. The City Council, after hearing such testimony and evidence as it may deem proper, shall render its decision. The decision of the City Council shall be final and the Animal Control Officer shall take such action as is necessary to carry out such decision.

In the event that the Animal Control Officer has probable cause to believe that the dog in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, the Animal Control Officer may seize and impound the dog pending the appeal. The owner or keeper of the dog shall be liable to the City of Oelwein for the costs and expenses of keeping such dog if the dog is found to be a vicious dog.

SECTION 19-29. REQUIREMENTS FOR REGISTRATION.

1. No vicious dog shall be licensed by the City of Oelwein for any licensing period commencing after the effective date of this ordinance unless the owner or keeper of such vicious dog shall meet the following requirements:

A. The owner or keeper shall present to the city or town clerk or other licensing authority, proof that the owner or keeper has procured liability insurance issued by an insurance company licensed to do business in the State of Iowa, in the amount of at least one hundred thousand dollars (\$100,000.00) covering any damage or injury which may be caused by such vicious dog during the twelve (12) month period for which licensing is sought, which policy shall contain a provision requiring the city or town to be named as additional insured for the sole purpose of the city or town clerk or other licensing authority where such dog is licensed to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

B. The owner or keeper shall cause the vicious dog to be identified by means of a special blaze orange collar visible from a distance of 100 feet, which the dog must wear at all times.

C. The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. Said sign shall be visible and capable of being read from the public highway.

D. The owner or keeper shall sign a statement attesting that:

1. The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve (12) month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to expiration of such license.

2. The owner or keeper shall, on or prior to the effective date of such license for which application is being made, have an enclosure for the vicious dog on the property where the vicious dog will be kept or maintained.

3. The owner or keeper shall notify the licensing authority and the animal control warden immediately if a vicious dog is on the loose, is unconfined, has attacked another animal or has attacked a human being, or has died or has been sold or given away. If the vicious dog has been sold or given away the owner or keeper shall also provide the licensing authority with the name, address and telephone number of the new owner of the vicious dog.

Oelwein Police Department

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Jeremy P. Logan
Chief of Police

2. The Animal control Officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any such officer is hereby empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof.

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In the event that the owner or keeper of the dog refuses to surrender the animal to the officer, the officer may request a police officer to obtain a search warrant to seize the dog upon execution of the warrant.

Notwithstanding any other provisions of this code, any person in possession of a vicious dog upon the effective date of this ordinance shall have fourteen days to amend any current license application to show compliance with Section 19-29 of this code.

SECTION 19-30. CONTROL OF VICIOUS DOGS.

All vicious dogs shall be confined in an enclosure. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have a locked enclosure.

It shall be unlawful for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or keeper or outside of the enclosure unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog or to sell or give away the vicious dog or to comply with commands or directions of the animal control warden with respect to the vicious dog, or to comply with the provisions of Section 19-27(3) of this Chapter. In such event, the vicious dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three feet (3') in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog.

SECTION 19-31. PURPOSE OR INTENT - - HARBORING.

No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals. No person shall possess with intent to sell, or offer for sale, breed, or buy or attempt to buy within the city any vicious dog.

SECTION 19-32. PENALTIES FOR VIOLATION.

1. Any owner or keeper of a dog violating any of the provisions of this chapter shall, upon conviction, be guilty of a municipal infraction. Each day that a violation occurs or is permitted to exist by the violator, constitutes a separate offense.

2. If any dog previously declared to be a vicious dog, shall, when unprovoked, attack, assault, bite or otherwise injure any human being or assist in attacking, assaulting, biting or otherwise injuring any human being while out of or within the enclosure of the owner or keeper of such vicious dog, or while otherwise, on or off the property of the owner or keeper whether or not such vicious dog was on a leash and securely muzzled or whether the vicious dog escaped without fault of the owner or keeper, the owner or keeper of such dog shall be guilty of a municipal infraction. It is rebuttably presumed as a matter of law that the owning, keeping or harboring of a vicious dog in violation of this chapter is a nuisance. It shall not be necessary, in order to sustain any such action, to prove that the owner or keeper of such vicious dog knew that such vicious dog possessed the propensity to cause such damage or that the vicious dog had a vicious nature. Upon such attack or assault, the Animal Control Officer is empowered to confiscate and, after expiration of a five (5) day waiting period exclusive of Sundays and holidays, shall destroy said vicious dog.

Jennifer Lamphier's Statement

Item 1.

On 8-7-23, my son Nolan, daughter Rylee, and myself were sitting in my driveway while my dogs enjoyed the outside. my 13 year old Teddybear Wapoo, 18 lbs, was hooked up on her cord. my German Shepard had her Shock Collar on. The neighbors dog came running out of their house and went under fence and grabbed my little dog by her head and bit. She started crying. my son and I ran over while the guy dog sitting pulled him off our dog. He got their dog back in the house while we took ours in to look them over. we found a hole that was bleeding on the top of her head. I called the police, then our vet. we ended up taking her in and they glued her head. They didn't want to stitch cause they didn't want to take

the chance for an infection. The vet said our dog was lucky he didn't bite under her neck.

This is not the first time the dog has bitten. Their dog got out the front door once and ran to our front yard and bit my German Shepard and she was only a few months old.

The second time he got out from under their fence and bit my German Shepard on her paw and drew blood that time. We told the neighbors if it happens again we will call the cops.

If you have any questions,
please contact me.
563-608-2585

City Council:

I would like to request an appeal of the five day limit to remove our dog. We can't find a suitable home for Charlie in that short time frame. Charlie was ~~pe~~ provoked by the neighbors white German Shepard numerous times. We understand that Charlie was wrong in going under our chain link fence and biting their dog.

We fully intend to remove Charlie but 5 days is an undesirable length of time. Please give us more time to complete this process. Charlie will be with me when he is in our back yard at all times.

Charlie is not a vicious dog. He loves people and will let anyone pet him whether he is on a walk or in the car or at home, including when officer 2nd liett. Shannon Cox met Charlie during the serving of our papers.

Thank You

Sherry Wike

319-238-2899

City of Delwein

We, Arthur & Sherry Meike want to appeal the charge of vicious dog. Our dog, Charlie is not a mean dog the neighbors white german shepherd charges our fence to provoke Charlie and runs away leaving the little shitzue ~~is left~~ on a chain. We know that Charlie is in the wrong but does not deserve to die. We are reinforcing our fence so he can't get under it and have purchased a fence covering to prevent the dogs from seeing each other. We will always be out with Charlie. We have been in the

past since the last time Charlie
bit neighbors dog. But we were
not home on the last incident
do to Arthur having surgery.

Thank You
Arthur and Sherry
Mike

Deputy Clerk

From: J Lightninglegs <jlightninglegss@gmail.com>
Sent: Sunday, September 3, 2023 9:41 PM
To: Deputy Clerk
Subject: Vicious dog appeal

Hi my name is Josh Lillibridge and I was wondering if I could make an appeal, because my dog jumped the fence at a dog park and attacked another dog. Before that their dog was charging at the fence trying to intimidate my dog, my dog not usually aggressive but since I got 2 pups he became more defensive. I took him to the dog park before and he gets a long well with bother dogs, this is the first incident that I had with him being aggressive.

501 Rock Island Road
Oelwein, Iowa 50662

Jeremy P. Logan
Chief of Police

Date: 08/28/2023

Name of Dog Owner: Joshua Lillibridge
Address of Dog Owner: 102 8th Ave NW Apt 12C
Oelwein, Iowa 50662

Dear Joshua Lillibridge:

This letter is to formally advise you that your dog that you possess, a black lab mix is in violation of Section 19-26 of the Oelwein City Code. This section specifically describes and outlines procedures for the handling of vicious dogs.

Narative: On 08/26/2023 at approximately 19:05 hours, Todd Fisher was at the City Dog Park located at the Oelwein City Park. While in one of the enclosures with his small dog, you and your three dogs were in a separate enclosure. One of your dogs, a black lab mix, hopped over one of the fenced enclosures at the City Dog Park and attacked Todd Fisher and his small dog. Todd's dog suffered a puncture wound and scratches on its body from your dog. While attempting to shield his dog from your black lab, Todd's shirt was torn and he suffered two scratch wounds which drew blood.

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1. "Vicious Dog" means:

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Therefore, you are hereby directed, that within five (5) days of receiving this notice, excluding Saturday & Sunday, you shall:

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- B. Permanently remove said dogs from the City of Oelwein, and submit adequate proof of such removal, or;
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If the vicious dog is not registered, removed or destroyed or if no appeal is received within five days, the City of Oelwein will impound the dogs and assess the costs against you.

Thank you for your time and anticipated expeditious response to this matter.

Respectfully,

Officer: Ward, 33-130
Oelwein Police Department

501 Rock Island Road
Oelwein, Iowa 50662

Jeremy P. Logan
Chief of Police

Enc. Vicious Animal Ordinance of the City of Oelwein.

Cc: Chief of Police, City Hall, File 23-051262

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2. "Enclosure" means a fence or structure of at least six feet "6') in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure. Any gates or access to the enclosure shall be self closing and equipped with a keyed or combination locking device.

3. "Animal Control Officer" means the Animal Control Warden, the Chief of Police or the Chief's designee.

4. "Impounded" means taken into custody by the Animal Control Officer.

5. "Persons" means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.

SECTION 19-27. VICIOUS DOG – DESIGNATION.

In the event that the Animal Control Officer has probable cause to believe that a dog is vicious, said officer shall notify, in writing, by personal service or certified mail, the owner and keeper of said dog, that said dog has been declared a vicious dog.

The written notice shall include:

- 1. Description of the dog, to the extent possible;
- 2. State that the dog is vicious pursuant to the provisions of this chapter;
- 3. State that within five (5) days, exclusive of Saturdays and Sundays, from the receipt of notice the owner or keeper of the dog shall:
 - A. Register said vicious dog pursuant to the terms and conditions of Section 19-29 below, or;

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- B. Permanently remove said dog from the city of Oelwein, and submit adequate proof of such removal, or;
- C. Destroy said dog in an expeditious and humane manner, and submit adequate written documentation of such act.
- 4. State that the owner or keeper of the dog may appeal the decision of the Animal Control Officer to the City Council, in writing, within five (5) days, exclusive of Saturdays and Sundays. The notice shall further advise that in the event there is no written notice of appeal filed with the City Clerk within five (5) days, exclusive of Saturdays and Sundays, the right to appeal will be deemed waived and the decision of the Animal Control Officer will be conclusively presumed.
- 5. State that if the vicious dog has not been registered, removed or destroyed or if no appeal is requested within the five (5) days, exclusive of Saturdays and Sundays, the city will impound the dog and assess the costs against the owner and keeper of the dog.

SECTION 19-28. APPEALS.

Any owner or keeper of a dog that has been declared vicious may appeal to the City Council for review. The appeal must be in writing and received by the City Clerk within five (5) days, exclusive of Saturdays and Sundays, of the Animal Control Officers notice. The City Council shall, within fourteen (14) days of receipt of the appeal, fix the time and place of the hearing, which shall be within thirty days after the filing of the appeal. The City Council, after hearing such testimony and evidence as it may deem proper, shall render its decision. The decision of the City Council shall be final and the Animal Control Officer shall take such action as is necessary to carry out such decision.

In the event that the Animal Control Officer has probable cause to believe that the dog in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, the Animal Control Officer may seize and impound the dog pending the appeal. The owner or keeper of the dog shall be liable to the City of Oelwein for the costs and expenses of keeping such dog if the dog is found to be a vicious dog.

SECTION 19-29. REQUIREMENTS FOR REGISTRATION.

- 1. No vicious dog shall be licensed by the City of Oelwein for any licensing period commencing after the effective date of this ordinance unless the owner or keeper of such vicious dog shall meet the following requirements:
 - A. The owner or keeper shall present to the city or town clerk or other licensing authority, proof that the owner or keeper has procured liability insurance issued by an insurance company licensed to do business in the State of Iowa, in the amount of at least one hundred thousand dollars (\$100,000.00) covering any damage or injury which may be caused by such vicious dog during the twelve (12) month period for which licensing is sought, which policy shall contain a provision requiring the city or town to be named as additional insured for the sole purpose of the city or town clerk or other licensing authority where such dog is licensed to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.
 - B. The owner or keeper shall cause the vicious dog to be identified by means of a special blaze orange collar visible from a distance of 100 feet, which the dog must wear at all times.
 - C. The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. Said sign shall be visible and capable of being read from the public highway.
 - D. The owner or keeper shall sign a statement attesting that:
 - 1. The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve (12) month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to expiration of such license.
 - 2. The owner or keeper shall, on or prior to the effective date of such license for which application is being made, have an enclosure for the vicious dog on the property where the vicious dog will be kept or maintained.
 - 3. The owner or keeper shall notify the licensing authority and the animal control warden immediately if a vicious dog is on the loose, is unconfined, has attacked another animal or has attacked a human being, or has died or has

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been sold or given away. If the vicious dog has been sold or given away the owner or keeper shall also provide the licensing authority with the name, address and telephone number of the new owner of the vicious dog.

2. The Animal control Officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any such officer is hereby empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof.



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In the event that the owner or keeper of the dog refuses to surrender the animal to the officer, the officer may request a police officer to obtain a search warrant to seize the dog upon execution of the warrant. Notwithstanding any other provisions of this code, any person in possession of a vicious dog upon the effective date of this ordinance shall have fourteen days to amend any current license application to show compliance with Section 19-29 of this code.

SECTION 19-30. CONTROL OF VICIOUS DOGS.

All vicious dogs shall be confined in an enclosure. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have a locked enclosure.

It shall be unlawful for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or keeper or outside of the enclosure unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog or to sell or give away the vicious dog or to comply with commands or directions of the animal control warden with respect to the vicious dog, or to comply with the provisions of Section 19-27(3) of this Chapter. In such event, the vicious dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three feet (3') in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog.

SECTION 19-31. PURPOSE OR INTENT - - HARBORING.

No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals. No person shall possess with intent to sell, or offer for sale, breed, or buy or attempt to buy within the city any vicious dog.

SECTION 19-32. PENALTIES FOR VIOLATION.

1. Any owner or keeper of a dog violating any of the provisions of this chapter shall, upon conviction, be guilty of a municipal infraction. Each day that a violation occurs or is permitted to exist by the violator, constitutes a separate offense.
2. If any dog previously declared to be a vicious dog, shall, when unprovoked, attack, assault, bite or otherwise injure any human being or assist in attacking, assaulting, biting or otherwise injuring any human being while out of or within the enclosure of the owner or keeper of such vicious dog, or while otherwise, on or off the property of the owner or keeper whether or not such vicious dog was on a leash and securely muzzled or whether the vicious dog escaped without fault of the owner or keeper, the owner or keeper of such dog shall be guilty of a municipal infraction. It is rebuttably presumed as a matter of law that the owning, keeping or harboring of a vicious dog in violation of this chapter is a nuisance. It shall not be necessary, in order to sustain any such action, to prove that the owner or keeper of such vicious dog knew that such vicious dog possessed the propensity to cause such damage or that the vicious dog had a vicious nature. Upon such attack or assault, the Animal Control Officer is empowered to confiscate and, after expiration of a five (5) day waiting period exclusive of Sundays and holidays, shall destroy said vicious dog.