

AN ORDINANCE RELATING TO DOGS, INCLUDING POLICE DOGS, DOGS - AT-LARGE, VICIOUS DOGS, AND DOGS CAUSING SERIOUS INJURY OR DEATH TO HUMAN BEINGS OR DOMESTIC ANIMALS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:

Section 1. The Code of Ordinances, City of Marshalltown, Iowa is hereby amended by adding the following new section:

Sec. 6-7. No Applicability to Police Dogs.

Articles 2 and 3 of this Chapter do not apply to police dogs on active status with the Marshalltown Police Department.

Section 2. The Code of Ordinances, City of Marshalltown, Iowa, is hereby amended by adding the following new section:

Sec. 6-8. Failure to comply with an Order of the Animal Warden, City Administrator, or Hearing Officer.

Failure to comply with an order of the animal warden issued pursuant to this chapter and not timely appealed, or of the City Administrator or hearing officer after appeal, constitutes a violation of this chapter.

Section 3. The Code of Ordinances, City of Marshalltown, Iowa is hereby amended by striking Section 6.22 and substituting the following:

Sec. 6-22. Dogs at large.

It shall be unlawful for the owner or keeper of any dog to permit such dog to run at large, whether such dog be licensed or unlicensed. In addition to the penalties, remedies, and relief as provided in this Municipal Code of Ordinances in addition to being a simple misdemeanor, a violation of this section shall also be a municipal infraction punishable as a civil penalty with the following schedule of civil penalties:

1. First offense by the owner or keeper, \$25.00.
2. Second offense by the owner or keeper, \$100.00.
3. Third offense and subsequent offenses by the owner or keeper, forfeiture of the dog found at - large.

A dog found at-large shall be sterilized, spayed, or neutered, at the owner's expense, if and upon the owner or keeper of the dog being found guilty of a second or subsequent dog-at-large violation under this chapter regardless of whether the charges are filed as a simple misdemeanor or as a municipal infraction. In determining what is a second, third or subsequent offense, multiple counts or charges for more than one dog at large by the owner or keeper resulting from the same event or release, shall be considered one offense. Likewise counting of offenses for a second offense for sterilization, spaying, or neutering, or for forfeiture for a third or subsequent offense shall be included whether the charges are filed as a simple misdemeanor or as a municipal infraction.

Notwithstanding Section 1-9, concerning repeat offenses, there is no time limitation from the prior offense in determining whether an offense under this section is a second, third, or a subsequent offense after three.

Section 4. The Code of Ordinances, City of Marshalltown, Iowa is hereby amended by striking Section 6.39 and substituting the following:

Sec. 6-39. Dogs at public events.

Dogs, other than police dogs as provided in Section 6-7, and service and assistance dogs, are prohibited from the immediate vicinity of certain public events in Marshalltown, Iowa. The list of applicable events shall be set out by City Council Resolution, which shall be effective until repealed or modified. The City Administrator is authorized to establish rules implementing this ordinance, including but not limited to the criteria for a service and assistance dogs, the distances allowed from the event, and the exceptions for possible participation of dogs that have an official function for the event.

Section 5. The Code of Ordinances, City of Marshalltown, Iowa is hereby amended by striking Section 6-51.1 and substituting the following:

Sec. 6-51.1. Unprovoked dog biting.

a) The owner of a dog, whose dog without provocation bites a human being or domestic animal, shall surrender that dog to the Animal Rescue League within twenty-four hours or one business day of such bite. Such dog shall be declared or deemed a vicious animal for purposes of this chapter, and will be released upon meeting the respective requirements of Section 6-51.2, and upon paying the charges incurred and fees established by the Animal Rescue League, unless the circumstances are such as described in subsections d or e of this section.

b) The owner of a dog, whose dog is classified as a vicious animal under subsection a or as a repeat biter under subsection d, or as causing serious injury or death to a human being or domestic animal under subsection e, or held by the Animal Rescue League under this section, may appeal the vicious animal status, number of bite status, or the seriousness of the injury to the human being or domestic animal, to the City Administrator, within three business days of the dog's surrender to the Animal Rescue League. The appeal will be heard by the City Administrator or by a hearing officer appointed by the City Administrator.

c) Such notice of appeal:

1) Shall be in writing and served on the City Clerk or the City Clerk's designee. Failure to file such timely written notice of appeal shall constitute a waiver of right to appeal.

2) Shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Clerk. Within seven days of receipt by the City Clerk, a date of hearing for such appeal will be set. After such hearing, the City Administrator or the hearing officer, if so appointed, may affirm or reverse the

decision as to the vicious animal status, the number of bites status, or the seriousness of the injury to the human being or domestic animal. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three days after the hearing or any continued session thereof. The decision and order shall be served upon the person who appealed.

d) The owner of a dog, whose dog is previously declared or deemed a vicious animal under this chapter, and whose dog without provocation bites a human being or domestic animal, shall surrender that dog to the Animal Rescue League within twenty-four hours or one business day of such bite. Such dog shall be euthanized, and the owner shall be responsible for the charges incurred and fees established by the Animal Rescue League.

e) The owner of a dog, whose dog bites a human being or domestic animal, causing serious injury or death to that human being or domestic animal, shall surrender that dog to the Animal Rescue League within twenty-four hours or one business day of such bite. Such dog shall be euthanized, and the owner shall be responsible for the charges incurred and fees established by the Animal Rescue League.

f) Fees under this section shall be paid to the Animal Rescue League for services rendered, regardless of the success or failure of any such appeal pursuant to this section.

Section 6. The Code of Ordinances, City of Marshalltown, Iowa is hereby amended by striking Section 6-51.2 and substituting the following:

Sec. 6-51.2. Protocol For Dogs-at-Large and Dogs Subject to Vicious Animal Procedures. Procedures or protocol shall be adopted by the Animal Rescue League in the holding, processing, release, and euthanization, and by the City Administrator for appeals, for dogs-at-large, dogs suspected or deemed to be vicious animals, and for dogs suspected or deemed to have caused serious injury or death, including, but not limited to, the following:

a) A dog required to be licensed as a vicious animal under this chapter shall be micro chipped and sterilized, spayed, or neutered. All dogs, which are micro chipped or sterilized, spayed, or neutered, or both, through the Animal Rescue League, will be charged a fee to be determined by the Animal Rescue League for such procedure.

b) A dog found at-large owned or kept by someone with two or more dog-at-large violations shall be sterilized, spayed, or neutered at the owner's expense. All such dogs sterilized, spayed, or neutered through the Animal Rescue League, will be charged a fee to be determined by the Animal Rescue League.

c) Dogs captured or surrendered to the Animal Rescue League under the provisions of this chapter, will not be released by the Animal Rescue League, until all applicable requirements including, but not limited to, proof of insurance, micro chipping, sterilization, spaying, or neutering, licensing, and payment of fees are met. Owners of dogs sent to the Animal Rescue League pursuant to this chapter, have five days from the date of surrender of the dog or from notification that the Animal Rescue League holds the dog, to pick up the dog, and pay all

applicable fees. This time may be extended by the Animal Rescue League pending the time needed to hold an appeal hearing.

d) It shall be a violation of this chapter for an owner to refuse to surrender a dog requested or required to be surrendered to the Animal Rescue League pursuant to this chapter.

Section 7. The Code of Ordinances, City of Marshalltown, Iowa is hereby amended by striking Section 6-53 and substituting the following:

Sec. 6-53. Confinement of fierce, dangerous or vicious animals.

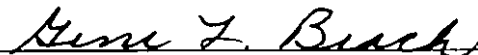
a) No animal known to be vicious, as the term is defined in section 6-51, shall be permitted off the premises of the owner except when such animal is confined in a boarding kennel, a veterinary hospital, or while being transported to such boarding kennel or veterinary hospital. If any such animal is not confined as required by this section, it shall be impounded and shall not be released without meeting the applicable procedures or protocol established by the Animal Rescue League pursuant to Section 6-51.2.

b) Notwithstanding subsection a of this section, any animal may be taken up and impounded when the animal has attacked any person or domestic animal and inflicted such serious and grievous injury to the person or domestic animal as to cause the animal warden, in his or her sole discretion, to believe the animal is vicious, and the animal shall not be released until the animal warden shall authorize release upon any terms and conditions under procedures and protocol established pursuant to Section 6-51.2.

Section 8. That this ordinance shall be in full force and effect after its passage and publication as by law.

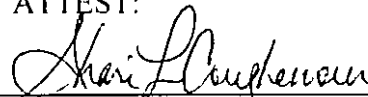
Passed this 14th day of September, 2009, and signed this 18th day of September, 2009.

CITY OF MARSHALLTOWN, IOWA



Gene L. Beach, Mayor

ATTEST:



Shari L. Coughenour, CMC, City Clerk