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<input type="checkbox"/>	Study Session
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**CITY OF SIOUX CITY  
REQUEST FOR CITY COUNCIL ACTION**

**MEETING DATE:** June 28, 2010 **ACTION ITEM #** 19

**FROM:** Andrew W. Mai, City Attorney

**SUBJECT:** Ordinance amending Subsection 7.01.010(14) “High Risk Animal”, Subsection 7.01.010(15) “Irresponsible Animal Owner”, Section 7.03.070 “Regulation of Keeping High Risk Animals” and Section 7.03.075 “Impoundment of High Risk Animals” of the Sioux City Municipal Code by amending various provisions related to animal regulations and repealing Chapter 7.10 entitled “Pit Bulls Prohibited”.

**Reviewed By:**     Department Director                      Finance Department                       City Attorney                       City Manager

**RECOMMENDATION:**

Staff respectfully requests the Council decide whether to make the changes included in the attached ordinance.

**DISCUSSION:**

Pursuant to council direction, the attached ordinance makes changes to the current code of ordinances. This ordinance, if approved, would make the following changes.

- 1) Places pit bulls in the high risk category and removes the pit bull ban.
- 2) Amends the definition of irresponsible animal owner to provide that two violations of licensing laws makes a person an irresponsible animal owner.
- 3) Increases the regulations related to keeping high risk animals in the City by requiring warning signs on properties which have a high risk animal and requiring the animal to be micro chipped.
- 4) Provides for a three step process for high risk animals whereby a high risk animal that is seized for the second time must be removed from the City and a high risk animal that is seized for the third time must be euthanized.

**FINANCIAL IMPACT:**

None

**RELATIONSHIP TO STRATEGIC PLAN:**

Health and Safety Vision

We will enhance public health and safety by maximizing the utilization of technology, improved community engagement, and improved communications and facilities.

**ALTERNATIVES (Optional):**

Choose not to adopt the amendments or adopt some but not all of the amendments.

**ATTACHMENTS:**

Proposed Ordinance

ORDINANCE NO. 2010- \_\_\_\_\_

ORDINANCE AMENDING SUBSECTION 7.01.010(14) "HIGH RISK ANIMAL", SUBSECTION 7.01.010(15) "IRRESPONSIBLE ANIMAL OWNER", SECTION 7.03.070 "REGULATION OF KEEPING HIGH RISK ANIMALS" AND SECTION 7.03.075 "IMPOUNDMENT OF HIGH RISK ANIMALS" OF THE SIOUX CITY MUNICIPAL CODE BY AMENDING VARIOUS PROVISIONS RELATED TO ANIMAL REGULATIONS AND REPEALING CHAPTER 7.10 ENTITLED "PIT BULLS PROHIBITED".

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, IOWA<sup>3</sup>:

Section 1: Subsection 7.01.010(14) of the Sioux City Municipal Code is amended to read as follows:

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14. "High Risk Animal" means any animal that exhibits one or more of the following:
- a. When unprovoked, chases or approaches a person or domestic animal in an apparent attitude of attack, attacks a person or domestic animal or bites, harms or attempts to bite or harm a person or domestic animal; or
  - b. Has been trained to fight other domestic animals; or
  - c. Has been trained as a guard dog for people or property and is not subject to the provisions contained in Chapter 7.07, as may be amended.
  - d. This section shall not apply to law enforcement canines.
  - e. Is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire Terrier, American Pit Bull Terrier or American Staffordshire Terrier as set forth in the standards established by the American Kennel Club or United Kennel Club for any of the aforementioned breeds.

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Section 2: Subsection 7.01.010(15) of the Sioux City Municipal Code is amended to read as follows:

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15. "Irresponsible animal owner" means any animal owner that has:
- a. Been convicted or plead guilty three times or more for separate incidents that occurred in any twelve month period concerning:
    - (1) An animal at large;
    - (2) An animal disturbing the peace;
    - ~~(3) An unlicensed animal;~~
    - (3) (4) An excessive number of animals; or
    - (4) (5) Unsanitary premises due to animals.
  - b. Been convicted or plead guilty two times or more for separate incidents concerning:
    - (1) Animal neglect;
    - (2) Keeping animals covered by section 7.06.010 without obtaining a permit; or
    - ~~(3) An animal declared a vicious animal.~~
    - (4) An unlicensed animal.

<sup>3</sup> Proposed additions to text of Municipal Code are indicated by underline; proposed deletions from text of Municipal Code are indicated by ~~strikethrough~~.

- c. Been convicted or plead guilty of:
  - (1) Animal abuse;
  - (2) Animal torture.

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Section 3: Section 7.03.070 of the Sioux City Municipal Code is amended to read as follows:

**7.03.070 Regulation of keeping high risk animals.**

1. All owners of an animal, whether licensed or unlicensed, which ~~have been declared~~ are a high risk animal as defined in subsection 7.01.010(14) are required to keep such high risk animal:

- a. From running at large;
- b. From going into the streets and other public or private place within the city unless muzzled and unless on a leash six foot or less in length;
- c. Under control so as to prevent such high risk animal from attacking or injuring persons, domestic animals, or fowl lawfully on the premises of the owner;

2. While on the owner's property a high risk animal must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the high risk animal from escaping. Such pen or structure must have minimum dimensions of 5' x 10' with height of 6 feet, and must have secure sides and be capped if need be. The enclosure must also provide the high risk animal protection from the elements. Warning signs must be placed on all sides of the property and at least two feet from any entrance to the property. The warning signs must say "Dangerous Dog" or similar language adequate to warn those approaching.

3. A representative of the city or animal control may, in their discretion, prior to the high risk animal's authorized use, inspect the securely enclosed locked pens, signage and/or structures.

4. The owner or caretaker of the high risk animal must be 18 years of age or older.

5. ~~Once an animal is declared~~ A high risk animal's owner must spay or neuter and microchip the animal. The spay or neuter procedure must be done by a veterinarian at the owner's expense. The data attached to the microchip must be kept current. The spay or neuter provisions shall not apply to an animal classified as high risk solely because the animal is a pit bull.

Section 4: Section 7.03.075 of the Sioux City Municipal Code is amended to read as follows:

**7.03.075 Impoundment of high risk animals.**

1. The poundmaster shall immediately seize and impound any high risk animal if:

- a. ~~After 14 days after the owner has received notice that the animal is a high risk animal,~~ The animal is not licensed as required by Chapter 7.02; or
- b. The owner does not secure the animal in a proper enclosure; or
- c. The animal is outside the proper enclosure and not under physical restraint of a responsible person by a leash not longer than six feet or not muzzled.

2. Impoundment and Disposition

First Offense: The first time that a high risk animal is seized under this section it may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to the appropriate poundmaster that the requirements of section 7.03.065 will have been met. An animal not reclaimed within seven days may be disposed of as provided under section 7.03.035, and the owner is liable to the poundmaster for costs incurred in confining and disposing of the animal.

Second Offense: The second time that a high risk animal is seized under this section it may be reclaimed by the owner upon payment of impounding and boarding fees, and presenting proof to the appropriate poundmaster that the animal will be removed from the City. An animal not reclaimed within seven days may be disposed of as provided under section 7.03.035, and

the owner is liable to the poundmaster for costs incurred in confining and disposing of the animal.

Third Offense: The third time that a high risk animal is seized under this section it shall be euthanized and the owner shall be liable to the poundmaster for the costs incurred in confining and disposing of the animal.

3. Any animal believed by the city manager, the city manager's designee, or the poundmaster to be a high risk animal will be impounded, at the owner's expense, until such time as a final resolution is reached or until such time the animal is reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to the appropriate poundmaster that the requirements of section 7.03.065 will have been met.

Section 5: Chapter 7.10 of the Sioux City Municipal Code is hereby repealed in its entirety.

Section 6: Penalty Clause. Except as herein provided, any person who violates any of the provisions of this title is guilty of a municipal infraction and shall upon conviction, be punished as provided in section 1.04.100 of this municipal code. Alternatively, any person who violates any of the provisions of this title is guilty of a misdemeanor and shall upon conviction be punished as provided in section 1.04.100 of this code. A peace officer may issue a criminal citation for such violations. No person shall be charged with both a municipal infraction and a misdemeanor for the same violation.

Section 7: Severability Clause. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

Section 8: Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are: Subsection 7.01.010(14); Subsection 7.01.010(15), Section 7.03.070; Section 7.03.075 and Chapter 7.10 of the Sioux City Municipal Code.

Section 9: Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as provided by law.

PASSED BY THE CITY COUNCIL ON, AND APPROVED ON: June 28, 2010

\_\_\_\_\_  
Michael M. Hobart, Mayor

ATTEST: \_\_\_\_\_  
Lisa L. McCardle, City Clerk

I hereby certify that the foregoing was published in the Sioux City Journal on July 3, 2010

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Lisa L. McCardle, City Clerk

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**CITY OF SIOUX CITY  
REQUEST FOR CITY COUNCIL ACTION**

**MEETING DATE:** June 28, 2010 **ACTION ITEM #** 20

**FROM:** Andrew W. Mai, City Attorney

**SUBJECT:** Ordinance amending Subsection 7.01.010(5) “At Large”, Section 7.01.020 “Penalties”, Section 7.02.040 “Display of Tag”, Section 7.03.030 “Impoundment and Ticketing”, Section 7.03.035 “Disposition of Impounded Animals”, Section 7.03.065 “High Risk Animals”, Section 7.03.070 “Regulation of Keeping High Risk Animals”, Section 7.03.075 “Impoundment of High Risk Animals”, and Section 7.03.095 “Vicious Animals-Duty of Owner”, and by adding new Section 7.03.036 “Disposition of Vicious or High Risk Animals” of the Sioux City Municipal Code to amend and add various provisions related to animal regulations.

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<b>Reviewed By:</b>	<input checked="" type="checkbox"/> Department Director	Finance Department	<input checked="" type="checkbox"/> City Attorney	<input checked="" type="checkbox"/> City Manager
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**RECOMMENDATION:**  
Staff respectfully requests the Council decide whether to make the changes included in the attached ordinance.

**DISCUSSION:**  
Pursuant to council direction the attached ordinance proposes changes to the title on animal control. The ordinance was developed based upon Council and staff input.

The ordinance cleans up sections as well as providing for a new process related to disposition of vicious and high risk animals. The ordinance:

- 1) In Section 7.01.010(5), deletes unintended provisions which would make animals in vehicles and veterinary hospitals at large and in violation of the code.
- 2) In Section 7.01.020, corrects a typographical error.
- 3) In Section 7.02.040, removes language which allowed an exception to the leash law for exercise control and training.
- 4) In Section 7.03.030, removes duplicative language which is already contained in other sections of the code.
- 5) In Section 7.03.035, removes a fee process for adoption of animals, this process is controlled by our contractor so this language is not necessary.
- 6) In Section 7.03.036, provides a process for disposition of vicious and high risk animals under a new system which will be utilized if a person is found in violation of owning a high risk or vicious animal in non conformity with the code.
- 7) In Section 7.03.065, provides that high risk animals are illegal unless kept in accor-

dance with the additional requirements of Section 7.03.070.

- 8) In Section 7.03.070, increases the regulations related to keeping high risk animals in the City by requiring warning signs on properties which have a high risk animal and requiring the animal to be micro chipped.
- 9) In Section 7.03.075, provides for a three step process for high risk animals whereby a high risk animal that is seized for the second time must be removed from the City and a high risk animal that is seized for the third time must be euthanized.
- 10) In Section 7.03.095, provides that vicious animals are illegal and requires the owner to either relocate the animal outside the City or authorize euthanasia. Also, it gives the Court discretion to lower the charge from vicious to high risk.
- 11) The ordinance also provides that owners of dogs may take back their dogs while awaiting an appeal as long as they comply with the protections required. Therefore if a dog is deemed high risk the owner may take the dog if they comply with the fencing and microchipping requirements etc.. If the dog is deemed vicious the owner may take the dog outside the City while the appeal is pending.

This ordinance will remove the City from the hearing process. A person will be cited for violating the code. If the person does not feel their dog is vicious or high risk under the definitions contained in the code they have the opportunity to appeal the citation in court. This will impact the courts and City legal is cognizant of this fact. However, the impact should be slight as we have only had six hearings this year. This change will free up police staff time and make the decision maker a Judge who is more adept at handling what is in essence a judicial process. Timing of when these cases are heard will depend on the Court. Currently, citations are heard on average in about sixty days. However, in Cedar Rapids where this process is already in place the Court usually hears the cases within a few weeks to keep impounding fees minimal. This option takes control from the City because the City will no longer be able to determine the decision maker for these cases. This ordinance's process has been used successfully in Cedar Rapids and Iowa City is considering moving toward this process and away from a process similar to our current process.

The legal department recommends this option but is not opposed to maintaining our current process with modifications. This is new territory and although this option is in place in Cedar Rapids and has worked well, it is possible that we have not looked at everything and this may require additional changes to the ordinance in the future.

**FINANCIAL IMPACT:**

This process would likely reduce staff time because the Police department would no longer need to devote personnel to the hearing process.

**RELATIONSHIP TO STRATEGIC PLAN:**

Health and Safety Vision

We will enhance public health and safety by maximizing the utilization of technology, improved community engagement, and improved communications and facilities.

**ALTERNATIVES (Optional):**

Adopt or amend as Council sees fit.

**ATTACHMENTS:**

Proposed Ordinance

**ORDINANCE NO. 2010-\_\_\_\_\_**

ORDINANCE AMENDING SUBSECTION 7.01.010(5) "AT LARGE", SECTION 7.01.020 "PENALTIES", SECTION 7.02.040 "DISPLAY OF TAG", SECTION 7.03.030 "IMPOUNDMENT AND TICKETING", SECTION 7.03.035 "DISPOSITION OF IMPOUNDED ANIMALS", SECTION 7.03.065 "HIGH RISK ANIMALS", SECTION 7.03.070 "REGULATION OF KEEPING HIGH RISK ANIMALS", SECTION 7.03.075 "IMPOUNDMENT OF HIGH RISK ANIMALS", AND SECTION 7.03.095 "VICIOUS ANIMALS-DUTY OF OWNER", AND BY ADDING NEW SECTION 7.03.036 "DISPOSITION OF VICIOUS OR HIGH RISK ANIMALS" OF THE SIOUX CITY MUNICIPAL CODE TO AMEND AND ADD VARIOUS PROVISIONS RELATED TO ANIMAL REGULATIONS.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, IOWA:

Section 1: Subsection 7.01.010(5) of the Sioux City Municipal Code is amended to read as follows:

5. "At large" means any licensed or unlicensed animal found off the premises of its owner and not under the control of a person physically capable of controlling the animal, ~~restrained within a vehicle, housed in a veterinary hospital or kennel,~~ or on a leash longer than sixteen feet in length.

Section 2: Section 7.01.020 of the Sioux City Municipal Code is amended to read as follows:

**7.01.020 Penalties.** Except as herein provided, any person who violates any of the provisions of this title is guilty of a municipal infraction and shall upon conviction, be punished as provided in section 1.04.100 of this municipal code. Alternatively, any person who violates any of the provisions of this ~~chapter~~ title is guilty of a misdemeanor and shall upon conviction be punished as provided in section 1.04.100 of this code. A peace officer may issue a criminal citation for such violations. No person shall be charged with both a municipal infraction and a misdemeanor for the same violation.

Section 3: Section 7.02.040 of the Sioux City Municipal Code is hereby amended to read as follows:

**7.02.040 Display of tag.** The tag as described in Section 7.02.020-7 shall be attached by the owner to a substantial collar during the term of the license, or it must be displayed at the demand of a health officer, police department official, or poundmaster or his designee. Dogs in fenced kennels, fenced exercise yards, on pickets, in buildings or automobiles, ~~or under effective control for exercise, work or training~~ will not be required to wear tags or collars, or leashes, if the stated conditions of training, work or exercise are incompatible with the wearing of such articles. Upon the expiration of the license, the owner shall remove the tag from the dog or cat.

Section 4: Section 7.03.030 of the Sioux City Municipal Code is hereby amended to read as follows:

**7.03.030 Impoundment and ticketing.**

1. An animal found at large shall be seized and impounded; or, at the discretion of the poundmaster or his designee, the owner may be served a citation and/or complaint to appear before the district associate court to answer charges made thereunder.

2. Unlicensed dogs and cats and other household animals without a collar and valid rabies tag and any animals in excess of the number allowed by subsection 25.92.030(10) may be im-

pounded. Unlicensed animals shall be selected for impoundment first. Thereafter, the owner shall designate the animals to be impounded. If the owner does not make a selection, the poundmaster shall select the animals to be impounded that are in excess of the number allowed.

3. If the owner of an impounded animal can be identified, the owner shall be notified within two days that, upon payment of impounding fees, plus cost of food and care, the animal will be returned. If an impounded animal is not recovered by its owner within seven days, the animal shall be disposed of in a humane manner as authorized by law or made available for adoption.

~~4. An impounded, unlicensed animal or an animal with no identification may be redeemed to the owner thereof upon:~~

~~— a. proof of ownership.~~

~~— b. payment of the board and keep fee, impoundment fee, and any other related costs incurred by the city.~~

~~— c. presentation of the city license for the current year, if required by law, or by purchasing such license which shall not be issued until proof of a current rabies vaccination is presented.~~

~~— d. showing proof in the form of a certificate issued and signed by a licensed veterinarian that such animal has been properly vaccinated for rabies, if required by law, or by posting a twenty-dollar vaccination bond which will be refunded if a rabies vaccination is obtained. Application for vaccination bond redemption and for refund of the bond must be made within five business days of the posting of the bond. Failure of the owner to redeem such bond shall be prima facie proof that vaccination has not been obtained as required by Section 7.04.010.~~

Section 6: Section 7.03.035 of the Sioux City Municipal Code is hereby amended to read as follows:

### **7.03.035 Disposition of impounded animals.**

1. After the expiration of the applicable impoundment period of quarantine, except as otherwise provided, an unredeemed animal, whether licensed or unlicensed, may, at the discretion of the city manager or the poundmaster, be disposed of in the following manner:

a. Be humanely destroyed; or

b. Upon the payment of an adoption fee, be adopted to a person other than the animal's owner.

~~2. The fees for adoption of animals shall be as provided in the prevailing schedule of fees adopted by the city council.~~

2. ~~3.~~ Any animal which appears to be suffering from rabies or infected with disease, or which is mortally injured, or which in the opinion of the administrative authority is a vicious animal, shall not be adopted, or released, but shall be immediately destroyed in a humane manner. If the animal appears to have suffered from rabies or infected with disease, the body of said animal shall be subject to autopsy and disposal by local or state health officials.

Section 7: Chapter 7.03 of the Sioux City Municipal Code is amended by adding the following new section:

### **7.03.036 Disposition of Vicious or High Risk Animals**

1. Any animal suspected of being vicious or high risk shall be seized by an Animal Control Officer and impounded in the animal shelter. In the event the animal cannot be caught by the Animal Control Officer without exposing the officer and/or citizens to danger or personal injury the animal may be humanely destroyed. An animal suspected of being high risk may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to the appropriate poundmaster that the requirements of section 7.03.065, with the exception of the spay and neuter requirement, will have been met. An animal suspected of being vicious may be reclaimed by the owner of the animal upon payment of impounding and boarding

fees, and presenting proof to the appropriate poundmaster that the requirements of section 7.03.095 will have been met.

2. If an owner refuses the Animal Control Officer entry upon property to view an animal suspected of being vicious or high risk, the officer may request a search warrant from a magistrate. Such requests shall detail the reason why the warrant is necessary and why the Animal Control Officer has reason to believe a violation of this title exists.

3. In connection with such seizure, the owner of the animal shall be charged with the appropriate violation of this title.

a. If the owner is ultimately found not guilty of violating Section 7.03.065 or Section 7.03.095, High Risk Animals and Vicious Animals of this title, the animal involved shall be returned to the owner and the owner shall bear no costs of the confinement unless the confinement was a result of any other violation of a rule or law including quarantine. If after the conclusion of the court case, the owner does not redeem the animal, it will be held 15 days and thereafter put up for adoption or humanely destroyed as deemed appropriate by the poundmaster.

b. If the owner is found guilty of or pleads guilty to a violation of Section 7.03.065 or Section 7.03.95 the owner is subject to all of the penalties set forth in Section 364.22, Iowa Code (2009)(as may be amended), which may include an order to abate the violation by any means necessary including having the animal humanely destroyed by the Poundmaster or a designee.

4. If the owner is found guilty of or pleads guilty to a violation Section 7.03.065 or Section 7.03.95, the owner shall pay all confinement expenses of the animal.

Section 8: Section 7.30.065 of the Sioux City Municipal Code is amended to read as follows:

### **7.03.065 High risk animals.**

1. No person shall own keep or harbor a high risk animal within the city unless the high risk animal is kept in accordance with this title. The determination of a "high risk animal" shall be in accordance with the following procedures:

— a. The city manager or the city manager's designee or the poundmaster, upon being satisfied that an animal is a high risk animal shall cause to be served upon the owner of the animal, if known, a written notice of said determination.

— b. The written notice shall contain:

— (1) A finding that the animal is a high risk animal.

— (2) A description of the animal.

— (3) A description of the acts relied upon in determining the animal to be a high risk animal.

— (4) A copy of municipal code sections 7.03.065 and 7.03.070.

— (5) A statement advising the owner of the right to request a hearing as provided by subsection 7.03.065(1)(d) within a stated time which shall be reasonable under the circumstances.

— c. Notice. Notice shall be by personal service or certified mail to the owner of the animal.

— d. Request for hearing and appeal. Any owner advised that the owner's animal is declared a high risk animal may have, upon request, a hearing with the officials making said determination as to whether the animal is a high risk animal. A request for a hearing must be made in writing and delivered to the office of the city manager or the city manager's designee within the time stated in the notice or it will be conclusively presumed that the animal is a high risk animal.

— 2. The city manager or the city manager's designee will act as hearing officer. At the conclusion of the hearing or within three days thereafter, the hearing officer shall render a written decision as to whether the animal is a high risk animal. The findings of the city manager or the city manager's designee shall be conclusive.

— 3. With the exception of animals meeting the definition of high risk pursuant to section 7.01.010(14)(e), any animal previously determined to be a high risk animal has not exhibited any of the behaviors specified in subsection 7.01.010(14) within the twenty-four (24) months since the date of the high risk animal determination, then the animal is eligible for a review of the determination with the potential for lifting the requirements of this section; provided, however, then that same animal may again be declared a high risk animal if it again exhibits any of

~~the specified behaviors. The city manager or the city manager's designee will act as hearing officer and will take into consideration evidence presented and information obtained about the animal from neighborhood interviews and canvassing.~~

~~—4. If an animal is declared to be a high risk animal it shall be micro chipped, at the owner's expense, for positive future identification. The microchip must be installed at the offices of poundmaster before the animal is released.~~

~~—5. The city manager or the city manager's designee or the poundmaster shall cause the animal to be impounded if an animal has been declared a high risk animal and is found at large within the city, or if an animal has actually bitten or attacked a person or a domestic animal or fowl and is still at large within the city.~~

~~—6. The city manager or the city manager's designee may, after notice and hearing, order the destruction of a high risk animal if the animal has actually bitten or attacked a person because of the failure of the person owning such animal to comply with the provisions of this chapter.~~

Section 9: Section 7.03.070 of the Sioux City Municipal Code is amended to read as follows:

### **7.03.070 Regulation of keeping high risk animals.**

1. All owners of an animal, whether licensed or unlicensed, which ~~have been declared~~ are a high risk animal as defined in subsection 7.01.010(14) are required to keep such high risk animal:

- a. From running at large;
- b. From going into the streets and other public or private place within the city unless muzzled and unless on a leash six foot or less in length;
- c. Under control so as to prevent such high risk animal from attacking or injuring persons, domestic animals, or fowl lawfully on the premises of the owner;

2. While on the owner's property a high risk animal must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the high risk animal from escaping. Such pen or structure must have minimum dimensions of 5' x 10' with height of 6 feet, and must have secure sides and be capped if need be. The enclosure must also provide the high risk animal protection from the elements. Warning signs must be placed on all sides of the property and at least two feet from any entrance to the property. The warning signs must say "Dangerous Dog" or similar language adequate to warn those approaching.

3. A representative of the city or animal control may, in their discretion, prior to the high risk animal's authorized use, inspect the securely enclosed locked pens, signage and/or structures.

4. The owner or caretaker of the high risk animal must be 18 years of age or older.

5. ~~Once an animal is declared~~ A high risk animal's owner must spay or neuter and microchip the animal. The spay or neuter procedure must be done by a veterinarian at the owner's expense. The data attached to the microchip must be kept current.

Section 10: Section 7.03.075 of the Sioux City Municipal Code is amended to read as follows:

### **7.03.075 Impoundment of high risk animals.**

1. The poundmaster shall immediately seize and impound any high risk animal if:

- a. ~~After 14 days after the owner has received notice that the animal is a high risk animal,~~ The animal is not licensed as required by Chapter 7.02; or
- b. The owner does not secure the animal in a proper enclosure; or
- c. The animal is outside the proper enclosure and not under physical restraint of a responsible person by a leash not longer than six feet or not muzzled.

2. Impoundment and Disposition

First Offense: The first time that a high risk animal is seized under this section it may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to the appropriate poundmaster that the requirements of section 7.03.065 will have

been met. An animal not reclaimed within seven days may be disposed of as provided under section 7.03.035, and the owner is liable to the poundmaster for costs incurred in confining and disposing of the animal.

Second Offense: The second time that a high risk animal is seized under this section it may be reclaimed by the owner upon payment of impounding and boarding fees, and presenting proof to the appropriate poundmaster that the animal will be removed from the City. An animal not reclaimed within seven days may be disposed of as provided under section 7.03.035, and the owner is liable to the poundmaster for costs incurred in confining and disposing of the animal.

Third Offense: The third time that a high risk animal is seized under this section it shall be euthanized and the owner shall be liable to the poundmaster for the costs incurred in confining and disposing of the animal.

3. Any animal believed by the city manager, the city manager's designee, or the poundmaster to be a high risk animal will be impounded, at the owner's expense, until such time as a final resolution is reached or until such time the animal is reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to the appropriate poundmaster that the requirements of section 7.03.065 will have been met.

Section 11: Section 7.30.095 of the Sioux City Municipal Code is amended to read as follows:

### **7.03.095 Vicious animals - duty of owner.**

1. No person shall own, keep or harbor a vicious animal within the City. All owners of an vicious animals, whether licensed or unlicensed, ~~which have been declared a vicious animal~~ as defined in subsection 7.01.010(21) are required to remove the animal from the city or authorize the euthanasia of the animal. If the owner refuses to remove the animal from the city or authorize the euthanasia of the animal, the city shall euthanize the animal at the owner's expense. This chapter shall not apply to dogs owned by a law enforcement agency or other federal, state or local government agency.

2. The Court may, in its discretion, reduce a charge brought under this section to a violation of section 7.03.065, which is a violation for owning a high risk animal.

~~2. The determination of a "declared vicious animal" shall be in accordance with the following procedures:~~

~~a. The city manager or the city manager's designee or the poundmaster, upon being satisfied that an animal is a vicious animal, shall cause to be served upon the owner of the animal, if known, a written notice of said determination.~~

~~b. The written notice shall contain:~~

~~(1) A finding that the animal is a vicious animal~~

~~(2) A description of the animal~~

~~(3) A description of the acts relied upon in determining the animal to be a vicious animal.~~

~~(4) A copy of the municipal code section 7.03.095~~

~~(5) A statement advising the owner of the right to request a hearing as provided by section 7.03.095(2)(d) within a stated time which shall be reasonable under the circumstances.~~

~~c. Notice. Notice shall be by personal service or by certified mail to the owner of the animal.~~

~~d. Request for hearing and appeal. Any owner advised that the owner's animal is declared a vicious animal may have, upon request, a hearing with the officials making said determination as to whether the animal is a vicious animal. A request for a hearing must be made in writing and delivered to the office of the city manager within the time stated in the notice or it will be conclusively presumed that the animal is a vicious animal. The city manager or the city manager's designee will act as hearing officer. At the conclusion of the hearing or within three days thereafter, the hearing officer shall render a written decision as to whether the animal is a vicious animal. An appeal from this decision may be had by filing a written notice with the hearing officer. This appeal will be heard before the city council at a time and place fixed by the council. However, the city council may appoint a special hearing officer to hear the appeal and decide~~

~~whether the animal is vicious. The findings of the city council or hearing officer shall be conclusive.~~

3. The city manager or the city manager's designee or the poundmaster, may cause the animal to be destroyed without previous notice to the owner if an animal has previously been declared a removed from the City as a vicious animal and is found at large within the city, ~~or if~~ an animal has actually bitten or attacked a person or a domestic animal or fowl the poundmaster ~~shall immediately~~ may send the head of the animal to an appropriate facility for the purpose of determining if it was rabid. The cost of transportation and the report shall become an obligation of the owner and the city may seek reimbursement in any lawful manner.

~~4. The city manager or the city manager's designee may, after notice and hearing, order the destruction of a vicious animal if the animal is found in the city limits running loose and/or has actually bitten or attacked a person because of the failure of the person owning such animal to comply with the provisions of this chapter.~~

~~4. 5.~~ Subsequent to the summary destruction of any animal, the poundmaster shall make a concerted effort to determine whether persons have had contact with the destroyed animal and, where appropriate, advise them of any unfavorable report concerning the animal's condition.

~~5. 6.~~ Any animal believed by the city manager, the city manager's designee, or the poundmaster to be a vicious animal will be impounded, at the owner's expense, until such time as a final resolution is reached or until the animal is reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presenting proof to the appropriate poundmaster that the requirements of section 7.03.095 will have been met.

Section 12: Penalty Clause. Except as herein provided, any person who violates any of the provisions of this title is guilty of a municipal infraction and shall upon conviction, be punished as provided in section 1.04.100 of this municipal code. Alternatively, any person who violates any of the provisions of this title is guilty of a misdemeanor and shall upon conviction be punished as provided in section 1.04.100 of this code. A peace officer may issue a criminal citation for such violations. No person shall be charged with both a municipal infraction and a misdemeanor for the same violation.

Section 13: Severability Clause. If any of the provisions of this ordinance are for any reason illegal or void, then the lawful provisions of this ordinance, which are separable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

Section 14: Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are: Subsection 7.01.010(5); Section 7.01.020; Section 7.02.040; Section 7.03.030, Section 7.03.035, Section 7.03.065, Section 7.03.070, Section 7.03.075, and Section 7.03.095 of the Sioux City Municipal Code.

Section 15: Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as provided by law.

PASSED BY THE CITY COUNCIL ON, AND APPROVED ON: June 28, 2010

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Michael M. Hobart, Mayor

ATTEST: \_\_\_\_\_  
Lisa L. McCardle, City Clerk

I hereby certify that the foregoing was published in the Sioux City Journal on July 3, 2010

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Lisa L. McCardle, City Clerk