

**ORDINANCE NO. 272
CITY OF OKOBOJI**

**AN ORDINANCE AMENDING THE CITY'S MUNICIPAL CODE BY AMENDING CHAPTER 55.11
PERTAINING TO VICIOUS DOGS**

WHEREAS, the Council ("Council") of the City of Okoboji, Dickinson County, Iowa ("CITY") is consider an amendment to Section 55.11 of the City of Okoboji Municipal Code.

WHEREAS, the current language reads as follows:

55.11 VICIOUS DOGS. It is unlawful for any person to harbor or keep a vicious dog within the City. A dog is deemed to be vicious when it has attacked or bitten any person without provocation, or when propensity to attack or bite persons exists and is known or ought reasonable to be known to the owner.

WHEREAS, the proposed amendment reads as follows:

55.11 VICIOUS DOGS. It is unlawful for any person to harbor or keep a vicious dog within the City. A dog is deemed to be vicious when it (1) has attacked or bitten any person without provocation causing serious injury or when it (2) has more than once injured, without provocation, a domestic animal while off the owner's property; and a dog is vicious if it has once killed, without provocation, a domestic animal while off the owner's property, or when it (3) has been used primarily or in part for the purpose of dog fighting or the dog is training for dog fighting, or when it (4) has been deemed a vicious or dangerous dog due to any of the aforementioned criteria by any other governmental subdivision.

55.11.1. PROCEDURE FOR DECLARING A DOG VICIOUS

55.11.1.1. An Animal Control Officer or any adult person may file a complaint alleging that a particular dog is vicious as defined in this chapter. Upon receipt of such complaint, the Chief of Police or their designee shall notify in writing the owner of the dog that a complaint has been filed and that an investigation into the allegation as set forth in the complaint will be conducted.

55.11.1.2. At the conclusion of the investigation, the Chief of Police or their designee may:

55.11.1.2.1. Determine that the dog is not vicious and the Chief of Police or their designee will notify the owner in writing.

55.11.1.2.2. Determine that the dog is vicious, the Chief of Police will notify the owner in writing and notify the owner of the appeal process, and order the dog be removed from the City limits within 72 hours unless otherwise determined by the Chief of Police or their designee.

55.11.1.2.2.1. Dogs declared vicious may be immediately impounded without an impoundment appeal hearing if the Chief of Police or their designee determines that such immediate impoundment is necessary for the protection of public health or safety.

55.11.1.2.2.2. The owner of the dog impounded shall be notified of the impoundment in writing. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on the premises if no adult is present to accept service.

55.11.1.2.2.3. The owner of the dog will be responsible for all fees associated with impoundment.

55.11.1.2.2.4. In the event the dog is not immediately impounded, failure to remove a vicious dog from the City limits within 72 hours will constitute a fine of \$500.00 per day starting immediately after a vicious dog determination is made by the Chief of Police or their designee.

55.11.1.2.2.5. The Chief of Police, or their designee, may evaluate each vicious dog determination on a case-by-case basis. If the Chief of Police, or their designee, determine that adequate precautions have been made to safely and securely harbor the vicious dog on the owner's property for more than 72 hours the time frame may be amended as determined by the Chief of Police or their designee.

55.11.1.3. TO APPEAL the determination that a dog is vicious, written notice must be filed with the City Administrator within three (3) business days after receipt of the vicious dog determination. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Chief of Police or their designee.

55.11.1.3.1. The appeal hearing shall be scheduled within 30 days of the receipt of the notice of appeal.

55.11.1.3.2. If the City Council affirms the action of the Chief of Police or their designee, the City Council shall order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such a vicious dog shall remove the dog from the City limits if not already removed.

BE IT ENACTED by the City Council of the City of Okoboji, Iowa:

SECTION 1. Chapter 55.11 of the City of Okoboji Municipal Code is amended as detailed above;

SECTION 2. REPEALER. All Ordinances or part of Ordinances in conflict with the provision of this Ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalidated or unconstitutional.

SECTION 4. PUBLICATION. The City Clerk / Administrator is hereby authorized and directed to publish this Ordinance in the newspaper of general circulation in Dickinson County, Iowa, in conformance with Iowa Law.

A motion was made on October 11, 2022 at a regular meeting of the Council after a public hearing by Councilmember Andres and a second by Councilmember Mendenhall to consider approval of this Ordinance on its first consideration and upon roll call the following vote was recorded:

AYE: Andres, Delperdang, Hentges, Sanders, Mendenhall

NAY:

Motion approved.

A motion was made on October 11, 2022 at a regular meeting of the Council by Councilmember Delperdang and a second by Councilmember Mendenhall to waive the second and third readings of this Ordinance and upon roll call the following vote was recorded:

AYE: Andres, Delperdang, Hentges, Sanders, Mendenhall

NAY:

Motion approved.

A motion was made on October 11, 2022 at a regular meeting of the Council by Councilmember Mendenhall and a second by Councilmember Sanders to adopt Ordinance No. 272 and upon roll call the following vote was recorded:

AYE: Andres, Delperdang, Hentges, Sanders, Mendenhall

NAY:

Motion approved.

THEREUPON, the Mayor declared this Ordinance, passed and approved on the date shown below.

NOW, THEREFORE, BE IT ENACTED by the City Council of the City of Okoboji, Iowa:

PASSED AND APPROVED this 11th day of October, 2022.



Mayor Mary VanderWoude

ATTEST:



Michael Meyers, City Administrator