

An Ordinance to amend Section 4-20 Vicious Dog, of the Carthage Code by replacing with 4-20 Dangerous Dogs, in the City of Carthage Missouri.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CARTHAGE, JASPER COUNTY, MISSOURI as follows:

SECTION I: Section 4-20 of the Carthage Code is hereby repealed and replaced with the following Chapter 4 Section 20 Dangerous Dogs:

Sec 4-20 Dangerous Dogs

(A) Definitions as applied to Section 4-20:

1) Potentially dangerous dog means a dog that when unprovoked:

Has inflicted a bite on a human being or domestic animal or other animal protected under federal, state or local rules, either on public or private property; or

Has chased or approached a person upon a street or a public grounds in a menacing fashion or apparent attitude of attack, or

Is a dog with a known propensity, tendency, or disposition to attack without provocation, or

Has caused injury or otherwise threatened the safety of humans, domestic animals, or other animals protected under federal, state or local rules; or,

2) Dangerous dog means a dog that been declared a dangerous dog under this section and said declaration has become final.

3) Primary enclosure means any enclosed structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, run, cage,

4) Secure enclosure to confine the dog means:

i) A securely confined indoor area of the owner's or keeper's premises, or

ii) a securely enclosed and locked pen, kennel or other exterior structure on the premises, suitable to prevent the entry of young children or human extremities; and,

iii) designed to prevent a dangerous dog from escaping; and,

iv) A pen, kennel or other structure having secure sides and a secure top, and providing adequate shelter from the elements for the dog; and,

v) If a pen, kennel or structure has no bottom secured to the sides, the sides are embedded not less than two feet into the ground; and,

vi) Doors, windows or other openings enclosed solely by wire or mesh screening shall not be considered a proper enclosure as defined in this subsection.

5) Provocation means taunting, teasing, knowingly causing undue pain, or unlawfully entering upon or into the property of the owner or keeper.

- 6) *Owner, Keeper, Harbore* means, one who provides feed or shelter to an animal for three (3) or more consecutive days, or a person who keeps an animal, or a person who professes to be owning, keeping or harboring an animal, or person providing temporary care and control of an animal no matter how brief.

(B) *Registration and licensure required.*

- 1) No person shall own, keep, harbor or allow to be upon any premises occupied by him or her or under his or her charge or control a dog or dangerous dog without first having obtained a certificate of registration and a license within 30 days of the date of declaration provided for by this section.
- *Issuance of certificate of registration.* A certificate of registration for a and a dangerous dog shall be issued by the city upon a showing of compliance with all of the following:
 - *Secure Enclosure.* Placement of a proper enclosure on the owner's or keeper's property to confine the dog; and,
 - *Notice.* A conspicuous notice, which shall be at least two feet by three feet, posted at the place of confinement stating "Dangerous Dog," in at least two-inch block letters, so as to warn the public of the nature of the dog therein confined; and,
 - *Insurance.* For a dangerous dog, a surety bond issued by a surety company authorized to do business in the state in a sum of not less than \$100,000.00 payable to a person injured by the dog or a policy of liability insurance issued by an insurer authorized to do business in the state in an amount not less than \$100,000.00 insuring the owner or keeper for personal injuries inflicted by the dog; or, for a dangerous dog, a surety bond issued by a surety company authorized to do business in the state in a sum of not less than \$250,000.00 payable to a person injured by the dog or a policy of liability insurance issued by an insurer authorized to do business in the state in an amount not less than \$250,000.00 insuring the owner or keeper for personal injuries inflicted by the dog. An insurance policy issued to satisfy the insurance requirements of this section shall provide for written notice to the city within 30 days of cancellation, reduction of limits, or termination of coverage; and
 - *Microchip.* That a microchip has been placed into the dog by animal health and public safety for the purpose of registering such dog with animal health and public safety. The microchip shall contain the owner's, keeper's or harbore's animal health and animal control officer generated and assigned "dangerous dog registration number" and such other information as required pursuant to the rules and regulations of animal health and public safety. Animal health and public safety shall keep records of the microchip placement and of the registration number.
2. This section on registration does not apply when using a dog as a guard dog or when a commissioned officer is using a dog for law enforcement or when a dog is being held in quarantine pursuant to law by a licensed veterinarian,

(C) *Declaration.* The Animal Control Officer may declare an animal a dangerous dog if he/she has probable cause to believe that the animal falls within the definition set forth in this chapter.

1. *Probable cause to declare.* For the purposes of this section, probable cause includes:
- A prior court conviction that indicates the dog has acted in a manner causing it to fall within the definition of a a dangerous dog; or
 - Actions of the dog witnessed by any animal control officer or law enforcement officer; or

- A verified report that the animal previously has been found to-a dangerous dog or a dangerous dog by any animal control authority; or
 - Other substantial evidence admissible in a court of law.
 - *Service of declaration.* The declaration shall be in writing, and shall be served on the owner or keeper either by regular United States mail to the owner's, keeper's or harbinger's last known address or by personal service.
2. *Contents of declaration.* The declaration shall state at least:
- A description of the animal; and,
 - The name and address of the owner, keeper or harbinger of the animal, if known; if there is no last known address notice shall be posted at city hall and,
 - The whereabouts of the animal if it is not in the custody of the owner, keeper or harbinger; and,
 - The facts upon which the declaration is based; and,
 - The availability of a hearing in case the person objects to the declaration, if a request is made in writing within five days of the date of receipt or posting of the declaration; and,
 - The restrictions placed on the animal as a result of the declaration; and
 - The penalties for violation of the restrictions, including the possibility of the destruction of the animal, and imprisonment or fining of the owner, keeper or harbinger.
3. *Appeal of declaration.* The owner, keeper or harbinger may, within five days of receipt of the declaration, file a written request for a hearing. The request must be sent the Animal Control Officer. The appeal will be heard by the City Judge. Following a decision pursuant to this subsection, the owner, keeper or harbinger shall be considered to have exhausted such owner's, keeper's or harbinger's administrative appeal. If the City Judge finds that there is insufficient evidence to support the declaration, it shall be rescinded, and the restrictions imposed thereby annulled. If the City Judge, director or hearing officer finds sufficient evidence to support the declaration then it shall be affirmed.
- (D) *Licensure.* The owner, keeper or harbinger of a dangerous dog shall obtain a license from the Animal Control Officer for any such dog.
- (E) *Licensure fees.* The owner, keeper or harbinger shall pay the fee for a dangerous dog license in the amount set forth in this subsection. In addition, the owner, keeper or harbinger of such dog shall pay an annual renewal fee for such license in the amount set forth in this subsection. Annual renewal of any license shall be conditioned on compliance with the requirements of this chapter. Animal Control Officer is authorized to pro rate the license fee for the remainder of the first year during which an animal becomes subject to the registration requirements of this subsection.
- (F) *Licensure information.* The owner, keeper or harbinger of a dog that is subject to a dangerous dog license shall furnish the following information along with the appropriate license fee:
1. The animal's age, weight, coloring, breed, and any other special identifying characteristics; and
 2. Two 3" x 5" color photographs of the animal; and
 3. Proof of current rabies vaccination for the animal; and
 4. For dangerous dogs, a certification under penalty of perjury that the animal has not been previously found to be a dangerous dog; or, for dangerous dogs, a certification under penalty of perjury that the animal has not been removed from another jurisdiction to avoid any penalties arising from the animal's previous status.
 5. *Fee amounts.* The license fee for each dangerous dog to be licensed pursuant to this subsection is \$250.00. The annual renewal fee for each dangerous dog licensed pursuant to this subsection is \$50.00.

- (G) Violations, impoundment and exemptions for dangerous dogs.
1. Confinement and posting, violation. An owner, keeper or harbinger of a dangerous dog who fails to comply with the requirements of this subsection related to confinement in a proper enclosure or posting of warning notices shall be guilty of a violation of this chapter.
 2. Noncompliance violation, dangerous dog. An owner, keeper or harbinger of a potentially dangerous dog who fails to obtain a license and certificate of registration, or renewal, for such dog as required in this subsection shall be guilty of a violation of this chapter; provided, however, that no prosecution shall be commenced until five days have elapsed from the date such owner, keeper or harbinger is notified by Animal Control Officer that such license or renewal for such dangerous dog is required, or until any appeal has been completed, whichever is later.
- (H) Noncompliance violation, dangerous dog. An owner, keeper or harbinger of a dangerous dog who fails to obtain a license and certificate of registration, or renewal, for such dog as required in this subsection shall be guilty of a violation of this chapter.
- (I) Restraint and muzzling, violation. An owner, keeper or harbinger of a dangerous dog or a dangerous dog shall not allow such animal to be outside the proper enclosure, unless the dog is muzzled and restrained by a substantial leash not longer than 48 inches and under the physical control of a person 18 years of age or older who is capable of restraining such animal. The muzzle shall be constructed so that it will not cause injury to the dog or interfere with its vision or respiration. Such muzzle shall be constructed so that it will prevent the dog from biting any person or animal. Such dogs shall not be leashed or otherwise tied tethered to inanimate objects, such as trees, posts, buildings, mail boxes, and the like. Dogs subject to the provisions of this subsection shall wear a bright orange collar not less than two inches in width, at all times.
- (J) Age, violation. It is a violation of this chapter for any person under the age of 18 years to own, keep or harbor a potentially dangerous or dangerous dog within the city limits.
- (K) Number of dogs allowed, violation. It is a violation of this chapter for any person to own, keep or harbor more than one dangerous dog within the city limits.
- (L) Transfer of dogs, violation. It is a violation of this chapter to transfer ownership or possession of a dangerous dog or dangerous dog within the city limits unless the recipient has complied with the registration and licensing requirements of this subsection for such animal.
- (M) Failure to report injury, violation. It is a violation of this chapter for the owner, keeper or harbinger of any animal which is subject to the licensing requirements of this subsection to fail to report any bites or injuries suffered by any person or domestic animal as a result of an attack incident or other contact with such animal, regardless of the geographical location where such attack, incident or other contact occurs.
- (N) Noncompliance, impoundment. Any dangerous dog, for which a license and certificate of registration, or renewal, has not been obtained by its owner, keeper or harbinger pursuant to this subsection, is subject to being impounded by the Animal Control Officer. The owner, keeper or harbinger of any dangerous dog or dangerous dog so impounded shall be subject to any impoundment fees. Any potentially dangerous dog or dangerous dog which is impounded due to the failure of the owner, keeper or harbinger of such dog to obtain the required license or certificate of registration, and which remains impounded for a period of at least five days due to the failure of the owner, keeper or harbinger to obtain such license or certificate of registration, or renewal, may be destroyed in an expeditious and humane manner by Animal Control Officer.
- (O) Impoundment, immediate. The Animal Control Officer may immediately impound a dangerous dog or dangerous dog if:
1. The dog is not validly licensed or registered pursuant to this subsection; or
 2. The owner, keeper or harbinger does not secure or maintain the surety bond or liability insurance coverage required pursuant to this subsection; or
 3. The dog is not maintained in a proper enclosure; or

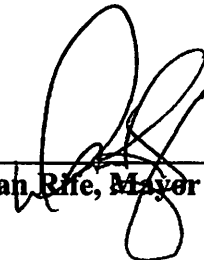
4. The dog is outside of the dwelling of the owner or keeper, or outside of the proper enclosure, and not muzzled and under proper physical restraint by the responsible person; or
 5. The dog is otherwise in violation of the licensure or registration provisions of this subsection.
- (P) Redemption and Euthanasia: The owner, keeper or harbinger of any dog immediately impounded pursuant to this subsection may redeem such dog from Animal Control Officer only upon proof of a valid license and registration pursuant to this subsection and payment of all applicable fees each day such dog has been in the control of the supervisor, provided however, that in the event the owner, keeper or harbinger has not redeemed such dog within five days of being notified of the immediate impound, the dog may be destroyed in an expeditious and humane manner.
- (Q) Impoundment for biting. If a dog classified as a dangerous dog bites a person or another domestic animal, such dog shall be immediately impounded by Animal Control Officer and destroyed in an expeditious and humane manner. Any such animal which is deemed uncatchable by the supervisor or an animal health and animal control officer, may be by such supervisor or official if no other reasonable means of capture is available or such animal continues to be a threat to persons or domestic animals. Reasonable means of capture may include the use of tranquilizers which, depending upon the animal's age, size, and physical condition, may cause death.
- (R) Exceptions. A dog shall not be declared dangerous if the threat, injury, or damage otherwise giving rise to action pursuant to this subsection was sustained, or a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner, keeper or harbinger of the dog or was tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.
- (S) Guard dogs. Any guard dog (for the purpose of this chapter, defined as a dog not owned by a governmental unit which dog is used to guard private commercial property or public property used in the city by virtue of such use is hereby declared to be subject to the license requirements of this chapter; must be vaccinated against rabies by a licensed veterinarian; must, if brought into the city from outside the state, be accompanied by the official health certificate required by the state, which certificate shall be exhibited upon the request of any city animal health and public safety or police officer; must be effectively physically restrained to the premises guarded; must be controllable by its keeper; and must not be used in a manner which, as determined by Animal Control Officer, endangers individuals not on the premises guarded. Any person operating a guard dog service in the city shall register such business with Animal Control Officer and shall list all premises to be guarded with Animal Control Officer before such service begins.
- (T) Biting dogs running at large. It shall be unlawful for any person owning, keeping or harboring any dog to permit, suffer or allow the dog to run at large within the city. If the dog causes injury to a human by biting or scratching while running at large, the owner, keeper or harbinger shall upon conviction be punished pursuant to this section.
- (U) Destruction of dogs in custody of Animal Control Officer. Any dog which is in the custody of Animal Control Officer, and which in the judgment of Animal Control Officer would constitute a menace to the health, safety or welfare of the public if released from such custody, may be humanely of the Animal Control Officer.
- (V) Penalty; authority to order destruction of dog. Any violation of this section shall be a minimum fine for violation of any provision of this section shall be \$250.00. Upon conviction of failure to comply with any provision of this section, in addition to the usual judgment on conviction, if it shall appear to the municipal judge that such dog is still living, he may order that such dog to be immediately removed from the city and direct Animal Control Officer to enforce that order, and the police department shall assist as may be required by Animal Control Officer.
- (W) Property Owners not in possession; Owner(s) of real property that is occupied by other person(s) who have knowledge of the existence of an unregistered dog that is not in

compliance with this Code shall be in violation of this code subject to a civil administrative fine.

1. This section does not apply to any person or company who has sought and executed a judicial eviction,
2. Any person or company in violation shall be issued a fine stated fine amount in the amount of \$250 per violation per month until remedied.
3. The notice of violation shall include.
 - i. The name and address of the owner, keeper or harbinger of the animal, if known; if there is no last known address notice shall be posted at city hall and,
 - ii. The address of the property where the dog is kept; and,
 - iii. The facts upon which the violation is based; and,
 - iv. The date of a hearing if the person/company objects to the stated fine amount, and may appear in front of the City Judge to dispute the civil penalty; and,
4. The person or company may simply pay the stated fine or they may object and come to the court hearing.
5. To be found civilly liable for violating this section, the standard of proof is based upon "the preponderance of the evidence." This means that the evidence presented is convincing and more likely to be true than not true. Effectively, the standard is satisfied if there is a greater than 50 percent chance that the evidence is true.
6. If the person or company fails to appear for hearing then default shall issue.
7. The City may file a special tax lien for any fine and cost against the property.
8. Following a decision or default, pursuant to this sub-subsection, the owner of the property shall be considered to have exhausted such owner's administrative process.

SECTION II: This Ordinance shall take effect and be in force from and after its passage and approval.

PASSED AND APPROVED THIS 23rd DAY OF MARCH, 2021.



Dan Rife, Mayor

ATTEST:



Traci Cox, City Clerk

Sponsored by: Public Safety Committee