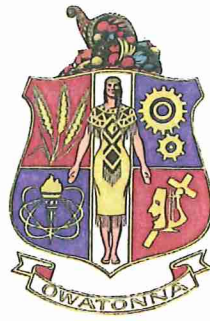


# THE CITY OF



# OWATONNA

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## **PURPOSE MEMO**

TO: Mayor, City Council, City Administrator, Chief of Police  
FROM: Mark M. Walbran  
DATE: June 15, 2021  
RE: "Dog Ordinance" Ordinance

### **Purpose:**

The purpose of the proposed ordinance is (1) to adopt by reference the provisions of Minnesota Statutes entitled "Regulation of Dangerous Dogs", as codified in Minn. Stat. § 347.50 to § 347.565; (2) to provide local restrictions for keeping and maintaining a dog which has been deemed to be "Potentially Dangerous"; and (3) provide for registration of both potentially dangerous dogs and dangerous dogs.

### **Background:**

Since 2008, the City has enforced the State statute on dangerous dogs set out in Minn. Stat. § 347.50 to § 347.565. The statute requires cities to enforce the statute regardless of whether a City has adopted the statute as a local ordinance or not. The statute also authorizes cities to adopt additional local restrictions regarding *potentially* dangerous dogs or dangerous dogs. (Minn. Stat. § 347.53).

The state statute defines a "dangerous dog" to mean any dog that has: (1) without provocation, inflicted *substantial* bodily harm on a human being on public or private property; (2) killed a domestic animal without provocation while off the owner's property; or (3) after notice to the owner that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of persons or domestic animals.

A “*potentially* dangerous dog” means any dog that: (1) when unprovoked, inflicts bites on a human or domestic animal on public or private property; (2) when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner’s property, in an apparent attitude of attack; or (3) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Under the statute, the owner of a “dangerous dog” is subject to strict regulations, summarized in the attached Exhibit A. But the only statutory requirement for the owner of a *potentially* dangerous dog is to have a microchip implanted in the dog for identification. However, the statute does give the City the authority to adopt additional restrictions on “potentially dangerous dogs.”

**Recommendation:**

The proposed Ordinance fills the gap where a dog is *potentially* dangerous but where a microchip implant alone is not sufficient to protect the public, but where the strict requirements for a “dangerous dog” are more than reasonably necessary.

The City staff deems it advisable to: (1) adopt the State statute by reference and (2) provide certain additional restrictions for dogs deemed to be “*potentially* dangerous”. These include providing that for a *potentially* dangerous dog: (a) the definition of “proper enclosure” would be expanded to include a fenced-in yard that prevents the dog from leaving the property and to which the public cannot gain access; (b) requiring the owner of a *potentially* dangerous dog to have a policy of liability insurance in the amount of \$50,000, if the dog bit someone; (c) the dog be sterilized if the panel determines from the evidence it is necessary; and (d) that no person shall allow a dog that has been declared to be dangerous or “*potentially* dangerous” in any City park, including the dog park, or on any City trail *unless* the dog is muzzled and restrained by a substantial chain or leash and is under physical restraint.

The Ordinance also establishes a registration requirement with a registration fee and annual fees thereafter for dangerous dogs and *potentially* dangerous dogs. The Ordinance also continues the City’s current practice of giving owners of dogs the right to appeal the declaration of a dog as a dangerous dog or *potentially* dangerous dog.

Request Council approve the first reading of Proposed Ordinance 21-8.

## EXHIBIT A

### STATUTORY REQUIREMENTS FOR OWNERS OF DOGS DEEMED TO BE DANGEROUS DOGS

- (1) The dog must be kept in a proper enclosure which means an enclosure securely confined indoors or in a securely enclosed and locked pen or structure.
- (2) When out of the enclosure, the dog must be muzzled and restrained by a substantial chain or leash under the physical restraint of a responsible person.
- (3) The dog must be registered annually with the Animal Control Authority.
- (4) The owner must notify the Animal Control Authority in writing on the death of the dog or if the dog is transferred to a new location.
- (5) The dog must be sterilized at the owner's expense.
- (6) If the owner of the dangerous dog is a tenant, the owner must disclose to the landlord before entering into a lease agreement or at any time at a renewal that the tenant is the owner of a dangerous dog.
- (7) If the owner transfers ownership of the dog, the new owner must notify the Animal Control Authority where the new owner resides that the dog is dangerous.
- (8) The owner must provide evidence of a surety bond or liability insurance with limits not less than \$300,000 to insure the owner against claims for injuries inflicted by the dangerous dog. In addition, the owner must pay an annual fee of no more than \$500 for the annual certification for dangerous dog.
- (9) The owner must have the microchip ID implanted in the dangerous dogs.
- (10) The dangerous dog must have tag identifying the dog as a dangerous dog.
- (11) The owner of the dangerous dog must obtain from the Animal Control Authority a warning symbol which must be posted on the owner's property to inform children there is a dangerous dog on the premises.

Proposed Ordinance No. 21-8

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE IX OF THE 2015 ORDINANCE CODE OF THE CITY OF OWATONNA, AS AMENDED, BY AMENDING CHAPTER 90 RELATING TO ANIMALS, PROVIDING FOR REGULATION OF DANGEROUS DOGS

THE CITY COUNCIL OF THE CITY OF OWATONNA DO ORDAIN:

Section 1. Chapter 90 entitled “Animals” of Title IX of the 2015 Ordinance Code of the City of Owatonna, as amended, is hereby amended by adding § 90.15, to provide as follows:

**§ 90.15 STATE LAW ADOPTED.**

**(A) *Potentially Dangerous Dogs.***

The provisions of Minn. Stat. § 347.50 to § 347.565 entitled “Regulation of Dangerous Dogs”, as currently enacted and as may hereafter be amended, relating to the regulation of Dangerous Dogs and Potentially Dangerous Dogs, are hereby adopted and made a part of this Chapter as if set out in full. Unless the context clearly indicates otherwise, the words, combination of words, terms and phrases, as used in this Chapter shall have the meanings set forth herein and in Minn. Stat. § 347.50 to § 347.565.

In addition to the regulations provided in Minn. Stat. § 347.50 to § 347.565, pursuant to Minn. Stat. § 347.53, owners of Dangerous Dogs and Potentially Dangerous Dogs are subject to the following regulations:

(1) The “Animal Control Authority” is the Owatonna Police Department located at 204 East Pearl Street, Owatonna, Minnesota.

(2) “Proper enclosure” with respect to a “Dangerous Dog” is defined to mean securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from existing.

(3) “Proper enclosure” with respect to a Potentially Dangerous Dog shall be expanded to include a fenced-in yard that prevents the dog from leaving the property and to which the public cannot gain access.

(4) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog. A person keeping or harboring a dog for five (5) consecutive days shall, for the purposes of this Ordinance, be deemed to be an owner thereof.

**(B) Potentially Dangerous Dogs; Registration Required; Regulations.**

Potentially Dangerous Dogs shall be regulated under Minn. Stats. § 347.50 to § 347.565 in the same manner as if they were Dangerous Dogs except as otherwise provided in this section. The owner of the potentially Dangerous Dog shall:

(1) register the Potentially Dangerous Dog with the Animal Control Authority by completing, signing, and submitting a Certificate of Registration together with proof of vaccination and payment of a \$100.00 registration fee, and payment of an annual fee of \$100.00 each year thereafter;

(2) provide for the implanting of a microchip in the dog for identification and provide to the Animal Control Authority a copy of the microchip information including the name and contact information of the manufacturer and the identification number;

(3) submit a certificate of liability insurance or surety bond issued by a company licensed to do business in the State of Minnesota and approved by the City as to form and content in an amount not less than \$50,000, insuring the owner for injuries inflicted by the dog, as result of biting, attacking, or endangering the safety of persons;

(4) sterilize the Potentially Dangerous Dog if the hearing panel determines from the evidence it is necessary and in the interest of public safety;

(5) when on the owner's premises keep the dog within the proper enclosure as defined in Code § 90.15(A)(3); and

(6) when outside the proper enclosure, keep the Potentially Dangerous Dog on a leash accompanied by its owner and muzzled if the dog was declared to be potentially dangerous because it inflicted bites on a person or domestic animal on public property other than the owner's property.

**(C) Dangerous Dogs; Registration Required.**

The owner of a Dangerous Dog shall:

(1) register the dog with the Animal Control Authority by completing, signing and submitting a Certificate of Registration together with proof of vaccination and payment of a \$250.00 registration fee and payment of a \$250.00 annual fee each year thereafter;

(2) provide a certificate of liability insurance or surety bond issued by a company licensed to do business in the State of Minnesota approved by the City as to form and content in amount of not less than \$300,000 insuring the owner for injuries inflicted by the dog;

(3) provide proof of vaccinations;

(4) provide the Animal Control Authority with the microchip information and animal tag with the uniform dangerous animal symbol to be affixed to the dog's collar at all times; and

(5) provide proof of the sterilization of the dog within 30 days of the designation of the dog as a Dangerous Dog.

**(D) Dangerous Dog Regulations.**

The owner of a Dangerous Dog shall:

(1) keep the dog in a proper enclosure when on the owner's premises;

(2) when off the owner's premises, keep the dog muzzled and restrained by a substantial leash or chain under the physical restraint of a responsible person;

(3) renew annually the registration for the duration of the dog's life;

(4) register the dog as a Dangerous Dog in any new jurisdiction if the dog is moved;

(5) notify Animal Control of the change of the dog's residence or ownership within 30 days;

(6) sterilize the dog within 30 days;

(7) in the case of a tenant, disclose to the landlord before entering into a lease and at lease renewal that the tenant owns a Dangerous Dog that will reside at the property; and

(8) disclose to any new owner of the dog's status as a Dangerous Dog and notify Animal Control of any transfer of ownership.

**(E) City Park Restrictions.**

No person shall allow a dog that has been declared Dangerous or Potentially Dangerous in City Parks, including the dog park, or on the City trails, unless the dog is muzzled and restrained by a substantial chain or leash and is under the physical restraint of a responsible person.

**(F) Hearing.**

(1) The City Administrator shall appoint a hearing panel of impartial persons, one of whom shall be a licensed veterinarian, if available, to conduct hearings as provided herein.

(2) The owner of a dog who has been given Notice by the Animal Control Authority that the dog has been declared to be a Dangerous Dog or a Potentially Dangerous Dog has the right to request a hearing on the validity of the declaration by completing a Request for Appeal Form within 14 days of the date of Notice and delivering the form together with the \$100.00 fee for the appeal hearing to the Animal Control Authority at the City of Owatonna Police department at 204 East Pearl Street, Owatonna, Minnesota 55060 to the attention of Keith Hiller, Police Chief. The failure to file the Request for Appeal within the 14 days extinguishes the right to a hearing and the designation of the dog as a Dangerous Dog or Potentially Dangerous Dog shall be final and the owner shall be subject to all restrictions and regulations as set forth in the Notice.

(3) Pending such hearing the owner shall:

- a. keep the dog properly confined in a proper enclosure;
- b. keep the dog muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person if the dog is outside the enclosure; and
- c. notify the Animal Control Authority of the removal of a dog(s) to a new location.

(4) The hearing shall be held within 14 days of the owner's request to determine the validity of the declaration of the dog as a Dangerous Dog or Potentially Dangerous Dog. After considering all evidence pertaining to the dog, the hearing panel shall render its decision and order as it deems proper, including but not limited to:

- a. finding that the dog is not a Potentially Dangerous Dog or a Dangerous Dog; or
- b. finding that the dog is a Potentially Dangerous Dog or a Dangerous Dog and that the owner shall comply with the requirements in Sections (B) and (C) of this Ordinance; and
- c. if necessary and in the interest of public safety, order the Animal Control Authority to take the dog into custody, if the dog is not currently in custody. Upon such order any person who fails or refuses to release the dog to the Animal Control Authority shall be guilty of a misdemeanor.

The hearing panel shall issue its written decision within 10 days after the hearing which shall be delivered to the owner by hand delivery or certified mail and a copy will be sent to the Animal Control Authority.

Pursuant to Minn. Stat. § 347.541, subd. 4, if the designation of the dog as a Dangerous Dog or Potentially Dangerous Dog is upheld by the hearing panel the actual expenses of the hearing up to a maximum of \$1,000.00 shall be the responsibility of the dog's owner.

(5) Authority to order euthanization. The hearing panel, upon finding that a dog is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the dog be euthanized based on a written order containing findings of fact establishing that each of the following criteria are present.

- a. The dog is dangerous, as demonstrated by a vicious attack, an unprovoked attack, an attack without warning, or multiple attacks;
- b. The owner of the dog has demonstrated an inability or unwillingness to sufficiently control the dog in order to prevent injury to persons or other animals; and
- c. The owner cannot, will not, does not, or otherwise refused to provide proof of the liability insurance for the dog as required.

**(G) Seizure.**

Pursuant to Minn. Stat. 347.54, the Animal Control Authority may immediately seize any Potentially Dangerous Dog or Dangerous Dog where:

(1) after 14 days after the owner has notice that the dog is a Potentially Dangerous Dog or s Dangerous Dog, the dog is not validly registered under Minn. Stat. § 347.51; or

(2) after 14 days after the owner has notice that the dog is a Potentially Dangerous Dog or a Dangerous Dog, the owner does not secure the proper liability insurance or surety coverage as required under Minn. Stat. § 347.51, subd.2; or

(3) the Potentially Dangerous Dog or Dangerous Dog is not maintained in the proper enclosure; or

(4) the Potentially Dangerous Dog or Dangerous Dog is outside the proper enclosure and not under physical restraint of a responsible person as required under Minn. Stat. § 347.51; or

(5) the Dangerous Dog is not sterilized within 30 days, pursuant to Minn. Stat. § 347.51, paragraph (d); or

(6) the Potentially Dangerous Dog is not sterilized if the hearing panel orders that such sterilization is necessary and in the interest of public safety.

**(H) Criminal Penalty.**



(1) The owner of a dog declared Dangerous or Potentially Dangerous who fails to comply with the requirements of this Chapter shall be guilty of a misdemeanor, with penalties as provided under Minnesota law.

(2) It is a misdemeanor to remove a microchip from Dangerous or Potentially Dangerous dog; to fail to renew the registration of a Potentially Dangerous Dog or a Dangerous Dog; to fail to account for a Dangerous Dog's death, transfer of ownership, or removal from the jurisdiction; to sign false affidavit with respect to a Dangerous Dog's death, transfer of ownership, or removal from the jurisdiction; or to fail to disclose ownership of a Dangerous or Potentially Dangerous Dog to a property owner from whom the person rents property.

Section 2. Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2021, with the following vote: Aye \_\_\_; No \_\_\_\_\_; Absent; \_\_\_\_\_.

Approved and signed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk/Treasurer

UNDERLINING INDICATES NEW LANGUAGE. ~~STRIKEOUTS~~ INDICATE DELETIONS.