ORDINANCE NO. 2015:04

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF EAGLE GROVE, IOWA, BY AMENDING SECTIONS PERTAINING TO ANIMAL PROTECTION AND CONTROL AND REPEALING CHAPTER 56 PERTAINING TO DOG LICENSES

BE IT ENACTED by the City Council of the City of Eagle Grove, Iowa:

SECTION 1. SECTION MODIFIED. Section 55.09 of the Code of Ordinances of the City of Eagle Grove, Iowa, is amended by substituting in its place the following numbered paragraph to-wit:

> **55.09 LIMITATION ON NUMBER OF ANIMALS.** No more than three dogs over the age of six months shall be kept on the same premises, homestead, or residence. The total number of pets or small animals or birds of any kind that may be kept on the same premises, homestead, or residence shall not exceed five, except for fish not kept for sale. These limitations are placed on the number of animals that can be kept in order to provide safety, to prevent disturbances, and to avoid sanitary and health problems within residential areas.

SECTION 2. SECTION MODIFIED. Section 55.10 of the Code of Ordinances of the City of Eagle Grove, Iowa, is amended by substituting the following unnumbered sentence in lieu of the existing first sentence:

> **55.10 KENNELS.** A kennel is any premises on which four or more dogs over the age of six months are kept for purposes such as the sale of dogs, breeding dogs, hunting, other organized sports, and recreation.

The remainder of Section 55.10 remains unchanged.

SECTION 3. SECTION MODIFIED. Section 55.12 of the Code of Ordinances of the City of Eagle Grove, Iowa, is repealed and the following adopted in lieu thereof:

> **55.12 DANGEROUS ANIMALS.** Dangerous animals shall not be owned or kept within the City's taxable limits, except as provided herein.
>
> 1. Definition. A dangerous animal is defined as, but not limited to:
>
> A. Any animal which bites or attacks a person or domestic animal, whether on public or private property.
>
> B. Any animal which, when unprovoked, has chased or approached any person or domestic animal in an apparent attitude of attack or menacing fashion such as snarling, growling, snapping, lurching, lunging or jumping at or upon the person, when on any public or private property other than its owner's or keeper's.

C. Any animal with a demonstrated propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of humans or domestic pets or animals. This category shall include a security dog that has been trained to attack.

D. Any dog owned or harbored primarily, or in part, for the purpose of dog fighting or any dog trained for dog fighting.

E. Exceptions. An animal shall not be categorized as dangerous if it bites, attacks or menaces a person, domestic pet or animal in order to:

1) Defend its owner, caretaker or another person from an attack by a person or animal.

2) Protect itself, its young or another animal.

3) Defend itself against any person or animal that has tormented, assaulted or abused it.

4) Defend its owner's or caretaker's property against trespassers.

2. Duty to Report. The following regulations apply to dangerous animals:

A. General Public. It is unlawful for any person to keep or maintain any animal that is declared dangerous, except as provided herein. The owner, caretaker or custodian of any animal which has bitten or attacked a person or animal or any person having knowledge of an attack on a person or animal shall immediately report the incident to an enforcement officer. The report shall include the following information, if possible:

1) Name and address of person or animal bitten or attacked.

2) Time and location of bite or attack.

3) Description of animal.

4) Name and address of the owner of the animal.

B. Medical Personnel. It is the duty of every physician or nurse to notify and submit a written report of a bite or attack within twenty-four (24) hours of the incident. The report shall, if possible, contain the following information:

1) Name and address of the person being treated.

2) Any further information needed to prevent rabies or any other diseases from being spread.

3. Declaration of Dangerous Animal. An enforcement officer may declare an animal dangerous if the criteria in subsection 1 above are met and order that the animal be confined in accordance with subsection 4 below, humanely destroyed, regulated in accordance with subsection 5 below, or a combination thereof ("Dangerous Animal Order"). The enforcement officer shall immediately inform the owner, caretaker or custodian in writing, by personal service or by certified mail, of said Dangerous Animal Order. If the owner, caretaker or custodian of an animal declared to be dangerous hereunder is different from the landlord or owner of the property harboring such animal, the enforcement officer may also notify the landlord or property owner of the Dangerous Animal Order.

4. Confinement, Seizure, Impoundment and Disposition of Dangerous Animals.

   A. Dangerous Animals Confined. Upon demand by the enforcement officer, any person harboring an animal which has bitten or attacked a person or animal shall surrender the animal to the enforcement officer for supervised quarantine. Confinement shall be for a minimum of 10 days for observation by a licensed veterinarian, and all costs associated with the supervised quarantine shall be the responsibility of the owner, caretaker or custodian. All reports on the condition of the animal shall be in writing and provided to the enforcement officer prior to release.

   B. Surrender. No person shall fail or refuse to surrender any animal for quarantine as required herein when demand is made by the enforcement officer.

   C. Disposal Restricted. No owner, caretaker or custodian of any animal known to have bitten any person or animal shall euthanize, sell, give away or transport from the City, or otherwise dispose of the animal unless and until such time as a written authorization or release is signed by the enforcement officer.

   D. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, caretaker or custodian, thereby creating a hazard to persons or property, such animal may, in the discretion of the enforcement officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such dangerous animal prior to its destruction.

5. Keeping of Dangerous Animals Regulated.

A. If an animal is declared dangerous under subsection 3 and not destroyed, the owner, caretaker or custodian of the animal shall comply with the following regulations:

1) No person owning, harboring or having care of a dangerous animal may permit such animal to go outside of its kennel or pen unless the animal is securely leashed on a leash no longer than 4 feet in length.

2) No person may permit a dangerous animal to be kept on a chain, rope, leash or similar restraining device outside its kennel or pen unless a person competent to govern the animal is in physical control of the restraining device and remains in position to control the animal at all times. The animal may not be leashed to inanimate objects such as trees, posts and buildings.

3) No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner, caretaker or custodian that would allow the animal to exit the structure on its own volition, except through a door leading directly to a pen or kennel.

4) No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or doors are the only obstacle preventing the animal from exiting the structure.

5) The owner, caretaker or custodian must successfully complete an animal behavior modification course at the owner, caretaker or custodian's expense instructed by a licensed or certified animal behavior specialist within 30 days after receipt of a Dangerous Animal Order. The owner, caretaker or custodian shall be required to provide a copy of proof of successful completion of the course to the Chief of Police and the proof shall include certification or receipt bearing the name of the instructor and the dates of instruction.

6) The owner, caretaker or custodian must, within 30 days of receipt of a Dangerous Animal Order, at the owner, caretaker or custodian's expense, implant an identification microchip in the animal, which shall contain information as to the nature of the

dangerous animal status as well as information about the age, color, and sex of the animal. If the dangerous animal is again found within City limits in violation of this section, it shall be immediately destroyed at the owner, caretaker or custodian's expense.

7) Insurance. Within 30 days after receipt of an Order, every person keeping or maintaining a dangerous animal as provided in this section shall obtain and maintain an insurance policy from an insurance company authorized to do business in the State with coverage of at least one hundred fifty thousand dollars ($150,000.00) combined single limit liability for bodily injury. Such insurance policy shall provide that no cancellation of the insurance will be made unless 10 days' written notice is first given to the City Administrator. A certificate of insurance which meets the above requirements shall be available upon request by the City. Failure to obtain, maintain or provide proof of such insurance shall be a violation of the dangerous animal code as provided in this section.

B. If the owner, caretaker or custodian of an animal declared dangerous under this section fails to comply with the above regulations, the animal shall be immediately removed from City limits or destroyed at the owner, caretaker or custodian's expense, and the City may penalize such person pursuant to subsection 7 below.

6. Appeal of Dangerous Animal Order

A. A Dangerous Animal Order declaring an animal dangerous issued by the enforcement officer pursuant to subsection 3 above may be appealed to the council. To appeal such Dangerous Animal Order, written notice of appeal must be filed with the City Administrator within five (5) business days after receipt of the Dangerous Animal Order. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the Dangerous Animal Order of the enforcement officer.

B. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City Administrator. Upon receiving a notice of appeal, a hearing shall be convened to receive any testimony or other evidence that is deemed appropriate concerning the Dangerous Animal Order.

C. When an appeal has been filed, the enforcement officer shall make a reasonable effort to notify any persons who would have had direct involvement in the situation which led to the Dangerous Animal Order, including those persons who were injured or who are owners, caretakers or custodians of any animals which were injured by the animal.

D. The appeal shall be heard by the council. The hearing of such appeal shall be scheduled within fourteen (14) days of the receipt of notice of appeal. After such hearing, the council may affirm or reverse the Dangerous Animal Order. Such determination shall be contained in a written decision and shall be filed with the City Administrator within three (3) days after the hearing or any continued session thereof.

E. Pending the outcome of the hearing, the animal must be securely confined in a humane manner either on the premises of the owner, caretaker or custodian or with a licensed veterinarian. If the animal is confined with a licensed veterinarian, the owner, caretaker or custodian shall bear the cost of confinement.

F. If the council affirms the action of the enforcement officer, the council shall order in its written decision that the person owning, sheltering, harboring, or keeping such dangerous animal comply with subsection 5 above or destroy the animal at its own expense. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the Dangerous Animal Order.

7. Penalty. Violation of any provision of this Section by any person may be enforced as a municipal infraction within the meaning of Section 364.22 of the *Code of Iowa*, pursuant to Chapter 4 of this Code of Ordinances, or a criminal violation pursuant to Section 1.14 of this Code of Ordinances.

SECTION 4. SECTION MODIFIED. Section 55.17 of the Code of Ordinances of the City of Eagle Grove, Iowa, is repealed and the following adopted in lieu thereof:

55.17 DISPOSITION OF ANIMALS.

1. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by

the owner upon payment of impounding costs, boarding fees, veterinary expenses, or any other costs incurred in the care of the animal, and if an unvaccinated and/or unchipped animal, by having it immediately vaccinated or microchipped at the owner's expense, which shall be prepaid before such expense is incurred.

2. If the owner fails to redeem the animal within 7 days of the date of the notice, or if the owner cannot be located within 7 days, the animal may be humanely destroyed or otherwise disposed of in accordance with law, including relinquished to an agency taking ownership of such animal for adoption purposes. Provided, however, that before an animal declared to be a dangerous animal under this Chapter is released to an agency for adoption purposes, such agency shall pay for the animal to be microchipped.

3. If an animal is humanely destroyed or otherwise disposed of in accordance with this section upon an owner's failure to redeem the animal or the failure to locate the owner, the City may pay the costs associated with such impoundment or disposal. If located, the owner shall be liable for such costs.

SECTION 5. NEW SECTIONS. The Code of Ordinances of the City of Eagle Grove, Iowa is amended by adding a new Section 55.21 entitled FEEDING ANIMALS, a new Section 55.22 entitled RABIES VACCINATION, and a new Section 55.23 entitled RABIES TAGS, which are hereby adopted to read as follows:

55.21 FEEDING ANIMALS. It shall be illegal for any person to feed and water any stray or feral animal. Owners shall only put out food and water sufficient to meet the needs of the animals under their care. For purposes of this ordinance, stray or feral animal is deemed to be animal that is unowned, unclaimed, or a cat or dog that does not possess a collar, harness or microchip pursuant to Section 55.23 of this Code of Ordinances. This provision does not apply to the feeding of wild birds or squirrels.

55.22 RABIES VACCINATION. Every owner of a dog or cat shall obtain a rabies vaccination for each animal between four (4) and six (6) months of age and at such intervals thereafter as stipulated by the manufacturers of the vaccines used. This section applies to all dogs and cats kept within the city, brought into the city for shows, exhibitions or performance, or in transit. This section does not apply to dogs and cats in transit that are continuously held in secure cages and dogs and cats assigned to research, production of biologics, and licensed animal care shelters or similar facilities.

55.23 RABIES TAGS. All dogs and cats over the age of sixth months shall wear a collar or harness to which a valid rabies tag is attached. In lieu of the collar and tag, a dog or cat may be micro chipped with a chip that contains the appropriate vaccination and ownership information. This section shall not apply to dogs being

exhibited or trained at a kennel club event or while being transported to and from such event if the dog is properly controlled and the owner or trainer has in their possession documentation of valid vaccination and registration.

SECTION 6. CHAPTER REPEALED. The Code of Ordinances of the City of Eagle Grove, Iowa, is hereby amended by repealing Chapter 56 entitled Dog License Required, which required dog owners to obtain an annual dog license.

SECTION 7. 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 invalid or unconstitutional.

SECTION 8. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the 4th day of May, 2015, and approved this 4th day of May, 2015.

Sandra McGrath
Mayor

ATTEST: Mark Boyal
City Clerk

First Reading: 4.20.2015

Second Reading: 5.4.2015

Third Reading: 5.4.2015

I certify that the foregoing was published as Ordinance No. 2015.04 on the ___ day of _____, 2015.

_____
City Clerk