

Oelwein Police Department

501 Rock Island Road
Oelwein, Iowa 50662

Jeremy P. Logan
Chief of Police

Date: 05/05/21

Megan Rex, Terry Rex, Kris Rex
1304 1st St. SE
Oelwein, Iowa 50662

Dear Megan:

This letter is to formally advise you that your dog that you possess, a Pit Lab Mix, named Maya is in violation of Section 19-26 of the Oelwein City Code. This section specifically describes and outlines procedures for the handling of vicious dogs.

This dog did bite a four year old child, unpovoked, when the child was being picked up by an adult. This dog viciously attacked the child and bit him in both thighs and on the right lower leg. The bites on the thighs were extreme, leaving bruising as well as punture wounds. This incident took place in Fayette County and is documented by the Sheriffs Office. Oelwein City Code Section 19-26 describes a vicious dog as any of the following:

I. "Vicious Dog" means:

- A. Any dog which when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or
- B. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
- C. Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or
- D. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

Therefore, you are hereby directed, that within five (5) days of receiving this notice, excluding Saturday & Sunday, you shall:

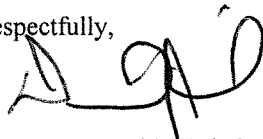
- A. Register said vicious dogs pursuant to the terms and conditions of Section 19-29, (enclosed) or;
- B. Permanently remove said dogs from the City of Oelwein, and submit adequate proof of such removal, or;
- C. Destroy said dogs in an expeditious and humane manner, and submit adequate written documentation of such act.

You do have the right to appeal this declaration to the Oelwein City Council. That appeal needs to be made, in writing, within five (5) days, exclusive of Saturdays & Sundays and delivered to Oelwein City Hall, 20 2nd Ave S.W., Oelwein, Iowa 50662. If no notice of appeal is received within this time frame, it will be deemed that the appeal is waived. *An appeal of this declaration is separate from any possible pending court action that may be required for charges filed for, including but not limited to, Dog At Large, Disturbing the Public Quiet etc... Citations/charges will be addressed in magistrate court. The appeal of this declaration will be addressed by the Oelwein City Council.

If the vicious dog is not registered, removed or destroyed or if no appeal is received within five days, the City of Oelwein will impound the dogs and assess the costs against you.

Thank you for your time and anticipated expeditious response to this matter.

Respectfully,



Lieutenant David J. Niedert
Oelwein Police Department

Enc. Vicious Animal Ordinance of the City of Oelwein.

Cc: Chief of Police, City Hall, File 21-3199

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SECTION 19-26. DEFINITIONS.

As used in Sections 19-26 through 19-33, inclusive, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

1. "Vicious Dog" means:

- A. Any dog which when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or
- B. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
- C. Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or
- D. Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

Notwithstanding the definition of a vicious dog above, no dog may be declared vicious if an injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

No dog may be declared vicious if any injury or damage was sustained by a domestic animal which at the time such injury or damage was sustained was teasing, tormenting, abusing or assaulting the dog. No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

2. "Enclosure" means a fence or structure of at least six feet ("6') in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal from escaping from the enclosure. Any gates or access to the enclosure shall be self closing and equipped with a keyed or combination locking device.

3. "Animal Control Officer" means the Animal Control Warden, the Chief of Police or the Chief's designee.

4. "Impounded" means taken into custody by the Animal Control Officer.

5. "Persons" means a natural person or any legal entity, including but not limited to, a corporation, firm, partnership or trust.

SECTION 19-27. VICIOUS DOG – DESIGNATION.

In the event that the Animal Control Officer has probable cause to believe that a dog is vicious, said officer shall notify, in writing, by personal service or certified mail, the owner and keeper of said dog, that said dog has been declared a vicious dog.

The written notice shall include:

- 1. Description of the dog, to the extent possible;
- 2. State that the dog is vicious pursuant to the provisions of this chapter;
- 3. State that within five (5) days, exclusive of Saturdays and Sundays, from the receipt of notice the owner or keeper of the dog shall:
 - A. Register said vicious dog pursuant to the terms and conditions of Section 19-29 below, or;
 - B. Permanently remove said dog from the city of Oelwein, and submit adequate proof of such removal, or;
 - C. Destroy said dog in an expeditious and humane manner, and submit adequate written documentation of such act.
- 4. State that the owner or keeper of the dog may appeal the decision of the Animal Control Officer to the City Council, in writing, within five (5) days, exclusive of Saturdays and Sundays. The notice shall further advise that in the event there is no written notice of appeal filed with the City Clerk within five (5) days, exclusive of Saturdays

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and Sundays, the right to appeal will be deemed waived and the decision of the Animal Control Officer will be conclusively presumed.

5. State that if the vicious dog has not been registered, removed or destroyed or if no appeal is requested within the five (5) days, exclusive of Saturdays and Sundays, the city will impound the dog and assess the costs against the owner and keeper of the dog.

SECTION 19-28. APPEALS.

Any owner or keeper of a dog that has been declared vicious may appeal to the City Council for review. The appeal must be in writing and received by the City Clerk within five (5) days, exclusive of Saturdays and Sundays, of the Animal Control Officers notice. The City Council shall, within fourteen (14) days of receipt of the appeal, fix the time and place of the hearing, which shall be within thirty days after the filing of the appeal. The City Council, after hearing such testimony and evidence as it may deem proper, shall render its decision. The decision of the City Council shall be final and the Animal Control Officer shall take such action as is necessary to carry out such decision.

In the event that the Animal Control Officer has probable cause to believe that the dog in question is vicious and may pose a threat of serious harm to human beings or other domestic animals, the Animal Control Officer may seize and impound the dog pending the appeal. The owner or keeper of the dog shall be liable to the City of Oelwein for the costs and expenses of keeping such dog if the dog is found to be a vicious dog.

SECTION 19-29. REQUIREMENTS FOR REGISTRATION.

1. No vicious dog shall be licensed by the City of Oelwein for any licensing period commencing after the effective date of this ordinance unless the owner or keeper of such vicious dog shall meet the following requirements:

A. The owner or keeper shall present to the city or town clerk or other licensing authority, proof that the owner or keeper has procured liability insurance issued by an insurance company licensed to do business in the State of Iowa, in the amount of at least one hundred thousand dollars (\$100,000.00) covering any damage or injury which may be caused by such vicious dog during the twelve (12) month period for which licensing is sought, which policy shall contain a provision requiring the city or town to be named as additional insured for the sole purpose of the city or town clerk or other licensing authority where such dog is licensed to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

B. The owner or keeper shall cause the vicious dog to be identified by means of a special blaze orange collar visible from a distance of 100 feet, which the dog must wear at all times.

C. The owner or keeper shall display a sign on his or her premises warning that there is a vicious dog on the premises. Said sign shall be visible and capable of being read from the public highway.

D. The owner or keeper shall sign a statement attesting that:

1. The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve (12) month period for which licensing is sought, unless the owner or keeper shall cease to own or keep the vicious dog prior to expiration of such license.

2. The owner or keeper shall, on or prior to the effective date of such license for which application is being made, have an enclosure for the vicious dog on the property where the vicious dog will be kept or maintained.

3. The owner or keeper shall notify the licensing authority and the animal control warden immediately if a vicious dog is on the loose, is unconfined, has attacked another animal or has attacked a human being, or has died or has been sold or given away. If the vicious dog has been sold or given away the owner or keeper shall also provide the licensing authority with the name, address and telephone number of the new owner of the vicious dog.

2. The Animal control Officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any such officer is hereby empowered to seize and impound any vicious dog whose owner or keeper fails to comply with the provisions hereof.

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In the event that the owner or keeper of the dog refuses to surrender the animal to the officer, the officer may request a police officer to obtain a search warrant to seize the dog upon execution of the warrant.

Notwithstanding any other provisions of this code, any person in possession of a vicious dog upon the effective date of this ordinance shall have fourteen days to amend any current license application to show compliance with Section 19-29 of this code.

SECTION 19-30. CONTROL OF VICIOUS DOGS.

All vicious dogs shall be confined in an enclosure. It shall be unlawful for any owner or keeper to maintain a vicious dog upon any premises which does not have a locked enclosure.

It shall be unlawful for any owner or keeper to allow any vicious dog to be outside of the dwelling of the owner or keeper or outside of the enclosure unless it is necessary for the owner or keeper to obtain veterinary care for the vicious dog or to sell or give away the vicious dog or to comply with commands or directions of the animal control warden with respect to the vicious dog, or to comply with the provisions of Section 19-27(3) of this Chapter. In such event, the vicious dog shall be securely muzzled and restrained with a chain having a minimum tensile strength of three hundred (300) pounds and not exceeding three feet (3') in length, and shall be under the direct control and supervision of the owner or keeper of the vicious dog.

SECTION 19-31. PURPOSE OR INTENT - - HARBORING.

No person shall own or harbor any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals. No person shall possess with intent to sell, or offer for sale, breed, or buy or attempt to buy within the city any vicious dog.

SECTION 19-32. PENALTIES FOR VIOLATION.

1. Any owner or keeper of a dog violating any of the provisions of this chapter shall, upon conviction, be guilty of a municipal infraction. Each day that a violation occurs or is permitted to exist by the violator, constitutes a separate offense.

2. If any dog previously declared to be a vicious dog, shall, when unprovoked, attack, assault, bite or otherwise injure any human being or assist in attacking, assaulting, biting or otherwise injuring any human being while out of or within the enclosure of the owner or keeper of such vicious dog, or while otherwise, on or off the property of the owner or keeper whether or not such vicious dog was on a leash and securely muzzled or whether the vicious dog escaped without fault of the owner or keeper, the owner or keeper of such dog shall be guilty of a municipal infraction. It is rebuttably presumed as a matter of law that the owning, keeping or harboring of a vicious dog in violation of this chapter is a nuisance. It shall not be necessary, in order to sustain any such action, to prove that the owner or keeper of such vicious dog knew that such vicious dog possessed the propensity to cause such damage or that the vicious dog had a vicious nature. Upon such attack or assault, the Animal Control Officer is empowered to confiscate and, after expiration of a five (5) day waiting period exclusive of Sundays and holidays, shall destroy said vicious dog.

Fayette County Sheriff's Office
Animal Bite Report Form

Case# 21-007272

Date of Incident 4-20

Reported to law Enforcement Yes

Victim Marilyn Trivette DOB 7-17-2016

Phone# 319-361-3086

Address 1979 105th St

City/State/Zip Delweir, IA 50662

Date/Time Contacted 4-21-2021 18:30 By Phone X In Person By EMS

Description of Injury 3 bites, Ring & Lth in

Location of Incident 16624 60th St. Date 4-20-2021 Time 15:00

Clinic/Hospital where victim treated Mercy Care

Date of Treatment 4-20-2021

Physician Dr. Detmer

Animal's Owner Megan Lee

Phone# [REDACTED]

Address 16624 60th St

City/State/Zip Delweir, IA 50662

Date/Time Contacted 4-21-2021 19:10 By Phone X In Person

Type of Dog/Animal Pit/Lab mix Description Type M FX

Dog/Animal has current rabies vaccination

Rabies Tag# 10516

Tag Expiration May 14th 2021

Veterinarian & Clinic Winthrop Veterinary Clinic

Address 524 7th St. S

City/State/Zip Winthrop IA 50682

Date/Time Contacted Clinic 4-20-2021 16:22 By Phone X In Person

Prior Bite History No Provoked No

Action to Confine Dog Keeping in Basement in crate 10 days

Home Confinement Agreement (Y) or N Vet Clinic Confinement Agreement Y or N

Approved Shelter Y or N Photos Y or N See Attached Photos

Additional Information

OUR OWN POLICE DEPARTMENT

Voluntary Statement

Statement of: Last, First: Rex, Megan

Address: 1304 1st St SE City: Oelwein State: IA

DOB: 12/12/1999 Phone #: (319) 238-3951

Statement taken by: _____

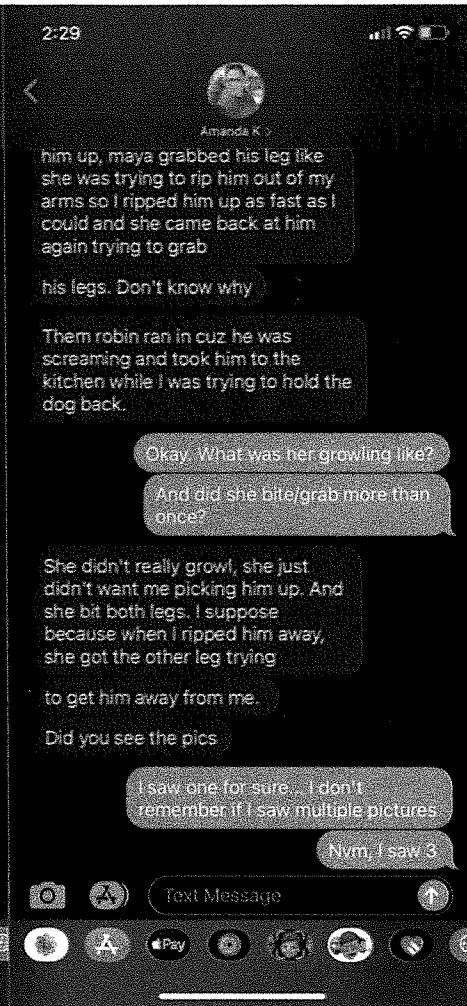
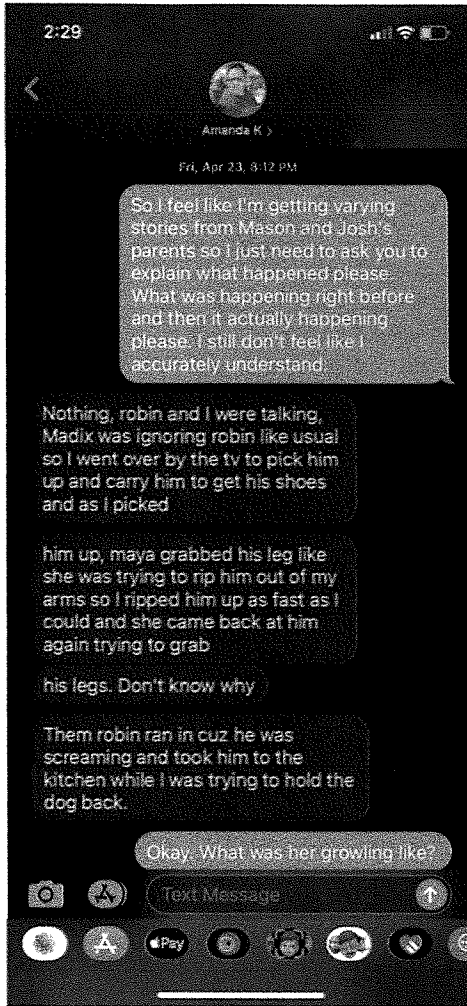
My dog, Maya, born on September 28, 2019, was adopted by myself and my partner, Mason Kunkle, on April 17, 2021. The purpose of adopting Maya was to serve as an emotional support animal. Maya is my final alternative option before being prescribed medication for anxiety. When we adopted her, we were told she was very good with kids and that she is protective of them. Maya's family that we adopted her from had young boys that played with Maya and the neighborhood children outside. Maya did not jump, bark, or growl when we met her for the first time, and she had no prior history of biting or being aggressive. She does not bark or growl when people or other animals are passing by our house when my other two dogs bark. She was up to date on her vaccinations, and I already made an appointment for May 10th before they are due on May 14th. The night we adopted her, we brought her to a friendly gathering around a bonfire with roughly 15 other people where she walked around and socialized for about 3 hours without any issues. She is well-liked by everyone she has encountered. Maya stayed at Mason's house, which is where the incident on Tuesday, April 20, 2021, occurred at the in-home daycare. Maya remained in the home with the children on Monday for at least 10 hours with no incidences and again was in the daycare for around 8 hours on Tuesday before the incident occurred at approximately 3 p.m. By the text messages included, Amanda Kunkle, the daycare provider, described the incident. To my understanding, Robin was not in the room when the incident occurred, and no one had to "pry her jaws off Madix." We immediately contacted the original owners, and they confirmed Maya not having a history of aggression or biting. I have already scheduled a behavior analysis consultation with Paws Laws in Maynard for May 5th. The following day, Fayette County Sheriff, James Tenney, called me about the situation, and I complied with having Maya quarantine for 10 days to make sure the doctors could treat Madix properly. To my knowledge, there was no infection or stitching among the three marks. Maya is currently in my parents' home and is not left unattended unless locked in a crate in the basement. My mom, Kris Rex, communicated with our neighbors, Randy and Dana Irvine that while Madix was at their house, Maya would only be taken outside to use the bathroom and we would respectfully make sure they were not outside while we did so. This conversation occurred after Josh Irvine stood from his parents' yard and yelled at Mason while taking Maya outside to the bathroom and said "are you f*****g kidding me? You need to put that f*****g dog down. You can't have that dog here. You have to take it somewhere else." Robin also made a comment to Amanda that she would "like to see that dog put down." On Thursday, April 29th, Robin texted my mom and me shown by another attached photo. We did not respond in fear of upsetting her and making matters worse. I am confident that Maya is not a threat or danger to anyone. Maya is already a well-behaved dog and a great listener, but I am also confident in my skills as a volunteer service dog foster and trainer at Retrieving Freedom Inc. in Waverly for 19 months that I will train her in any obedience areas that need improvement. I do not consider myself a

I certify under the penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct.

Signed: Megan Rex

Date: 05/02/2021 Witness: Joe Phillips

selfish person. I am not trying to keep Maya just for the sake of having a pet, but I believe she does not pose a threat to anyone around her. I am also considering the aspects of my mental health since that was the initial intention for her adoption. Maya is a sweet, gentle, and loving dog, and her behavior and characteristics do not indicate that she is "vicious" in any way.



1:48



2 People >

iMessage
Thursday 6:57 PM

Robin Irvine

Megan and Kris I understand there is some confusion on what occurred at Amanda's with the dog Madix was not nipped he was attacked by your dog and it was unprovoked to the point he had to have medical attention and continue to be on a strong antibiotic the dog had to be pulled off Madix who has multiple bites the fact that this animal was at a daycare is outrageous but now relocated to town in a neighborhood full of children is unacceptable. At this point we have been strongly advised by law enforcement to get a lawyer. I have attached the pictures please let me know how you would like to proceed?



iMessage





Troy Meyer
201 7th St. SW
Oelwein, IA 50662

Client ID: 3281
Invoice #: 172395
Date: 5/14/2020

Patient ID: 6079	Species: Canine	Weight:	
Patient Name: Amaya	Breed: Pitbull Mix	Birthday: 11/28/2019	Sex: Spayed Female

	<u>Description</u>	<u>Staff Name</u>	<u>Quantity</u>	<u>Total</u>
5/14/2020	Ovariohysterectomy-Over 50#	Jeremy Johnson, DVM	1.00	\$145.00
	Rabies 1 year		1.00	\$10.50
	DHLP-Parvo-Corona		1.00	\$16.50
		Patient Subtotal:		\$172.00

Reminder

05/14/2021 Rabies 1 year
DHLP-Parvo-Corona

Immunization

Below are the most important diseases for which vaccines are currently available:

Rabies, one of the world's most publicized and feared diseases, is always fatal. Rabies virus attacks the nervous system, and is transmitted chiefly through the bite of an infected animal.

Distemper is among a very contagious and fatal disease of the respiratory tract, gastrointestinal tract, and nervous system. It is transmitted through contact with bodily and airborne secretions.

Canine adenovirus, type 2 is associated with infectious hepatitis and infectious tracheobronchitis. It is spread through bodily and airborne secretions.

Parainfluenza is a common and highly contagious cause of infectious tracheobronchitis. It is an airborne disease.

Parvovirus is a highly contagious, aggressive, and often fatal gastrointestinal virus. It is transmitted through direct contact with infected animals, feces, and other objects that have traces of the virus.

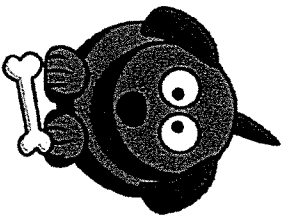
Lyme disease is transmitted through tick bites. It is difficult to diagnose in dogs because they do not show the same symptoms as humans. The most common sign described is that the dog is "walking on eggshells."

Leptospirosis is an infection that is contracted through skin contact with infected water, soil, mud, or the urine of an infected animal. It can be transmitted to humans.

Bordetella is associated with respiratory disease (kennel cough). It can be transmitted to cats, rabbits, and humans. It is highly contagious and transmitted through the air and direct contact.

Influenza is one of the viral causes of kennel cough. It is highly contagious through contact with other infected dogs. The fatality rate is low, but most dogs have not been exposed or vaccinated for it.

Age	Date	Weight
Born weeks	9-28-19	1lb 1oz
7 weeks	11-22-19	12lb
_____ weeks	_____	_____
_____ weeks	_____	_____
1 year	_____	_____
2 years	_____	_____
3 years	_____	_____
4 years	_____	_____
5 years	_____	_____
6 years	_____	_____
7 years	_____	_____
8 years	_____	_____
9 years	_____	_____
10 years	_____	_____
12 years	_____	_____
13 years	_____	_____
14 years	_____	_____
15 years	_____	_____
16 years	_____	_____
17 years	_____	_____
18 years	_____	_____
19 years	_____	_____
20 years	_____	_____



Health Record Of

Name: Amaya

Date of Birth: Sept. 28, 2019

Breed: Cane Corso / Pitbull

Sex: Female

Markings: Black Fur

White Hair / Toe Tips

Microchip ID Number: _____

