

ORDINANCE NO. 2299.2

AN ORDINANCE CONCERNING DOG AND CAT LICENSING AND REGULATION

WHEREAS, the City Council of City of Cudahy finds that a more complete and comprehensive change is needed to create consistency with dog and cat licensing, impoundment, quarantine for rabies and our dangerous animal provisions are in order.

NOW, THEREFORE, the Common Council of the City of Cudahy do hereby ordain as follows:

Section 1. Sections 12.25 of City of Cudahy Municipal Code is hereby deleted and recreated to read as follows:

12.25 – DOG AND/OR CAT LICENSING AND REGULATION

(1) DEFINITIONS.

(a) *Dangerous animal* means:

1. Any mammal, amphibian, fish, reptile, or fowl of a species which due to size, dangerous nature, or other characteristics would constitute a danger to human life or physical well-being or to animals.
2. Any animal which, without provocation, bites or otherwise inflicts bodily harm on a person, domestic pet or animal on public or private property.
3. Any animal which chases or approaches a person in a menacing fashion or apparent attitude of attack without provocation upon the streets, sidewalks or any public grounds or on private property without the permission of the owner or person in lawful control of the animal.
4. An animal with a known propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of humans or other domestic pets or animals.
5. Any animal owned or kept primarily or in part for the purpose of fighting or any animal trained or bred for fighting.
6. Any animal which is urged by its owner or keeper to attack, or whose owner or keeper threatens to cause such animal to attack.
7. Any "pit bull" without proper permit under this Code section that includes any and all of the following dogs: (a) the Staffordshire Bull Terrier breed of dogs; (b) the American Staffordshire Terrier breed of dogs; (c) the American Pit Bull Terrier breed of dog; (d) any other breed commonly known as Pit Bull, Pit Bull Animal or Pit Bull Terrier; or (e) dogs that have the appearance and characteristics of being predominately of the breeds of dogs known as the Staffordshire Bull Terrier, the American Staffordshire Terrier, or the American Pit Bull Terrier.
8. Any animal listed in sec. 11.06(3) of this Code.

- (b) *Isolation facility* means a humane society shelter, MADACC, veterinary hospital, municipal pound or other place specified by an officer which is equipped with a pen

or cage which isolates the animal from contact with other animals.

- (c) Officer means a peace officer, local health officer, as defined in s. 250.01 (5), Wis. Stat. humane officer, warden, an employee designated by the department or other person designated by the governing body of the county, city, village or town.
 - (d) Owner as used in this section means any person, a member of his family of suitable age and discretion, agent, firm, corporation, association, partnership, organization, department or other entity possessing, owning, harboring or having the care or custody, whether temporarily or permanently, of a dangerous animal.
 - (e) Peace officer means any person vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes. "Peace officer" includes a commission warden.
 - (f) Provoked means that an animal bites, attacks or menaces any person or animal in order to:
 - 1. Defend its owner, caretaker or another person from an attack by a person or animal.
 - 2. Protect its young or another animal.
 - 3. Defend itself against any person or animal which has tormented, assaulted or abused it.
 - 4. Defend its owner's or caretaker's property against trespassers.
- (2) LICENSING. Sections 174.05 to 174.07, Wis. Stats., relating to licensing of dogs, and § 59.79(12), Wis. Stats., relating to the licensing of cats and those rules promulgated thereunder by Milwaukee County, are made a part of this section by reference.
- (a) Every person residing in the City who owns a dog or cat more than five months of age on January 1 of any year, or five months of age within the license year, shall annually, on or before the date the dog or cat becomes five months of age, pay the dog or cat license tax and obtain an annual license for each animal at Cudahy City Hall or other appropriate place designated by the City and is considered delinquent on April 1.
 - (b) Fees. Such owner shall pay to the City Treasurer annual fees, to include delinquent or fees paid untimely after April 1 of that year. See § 12.01(12)(a) and (b).
 - (c) Issuance. Upon payment to the City Treasurer of the license fees, the Treasurer shall issue to such person a license to keep such dog and/or cat, which license shall not be issued for less than one year. Such person shall, upon obtaining the license, place upon such dog and/or cat a collar with a tag furnished by the City Treasurer or County Clerk.
- (3) PROHIBITIONS. No person shall own, harbor or keep any animal which:
- (a) Is classified as a dangerous animal in this section.
 - (b) Habitually pursues any vehicle upon any public street, alley or highway in the City.
 - (c) Assaults or attacks any person more than twice within one year.
 - (d) The owner, a citizen, or an officer has reason to believe that the dog or cat is infected with rabies or any dog and/or cat known to have been bitten by any animal known to have been infected with rabies.

- (e) Runs at large within the City. A dog and/or cat shall be running at large when it is on a public street, alley, park or other public grounds of the City, or any premises in the City other than the premises of its owner, unless within the immediate presence and control of the owner, his servant, agent or a member of his family of suitable age and discretion.
 - (f) Habitually barks or howls to the annoyance of 2 or more persons.
 - (g) Is not properly licensed per (10) of this section.
 - (h) Is listed as a prohibition elsewhere in this section.
- (4) **IMPOUNDING OF DOGS AND/OR CATS**
- (a) Discretionary Impounding. Any police officer or health department finding a dangerous animal may seize the animal and impound it, unless specific provisions providing for impoundment are itemized elsewhere.
 - (b) Mandatory Impounding. A dangerous animal alleged to have two assaults or attacks upon a human being within one year shall be impounded as directed by the City of Cudahy Police Department until disposition of the charge issued by citation.
 - (c) Repossession and Fees. The possession of any animal so seized or impounded may be obtained by the owner upon payment of the fee required in § 12.01(12)(c). The possession of an unlicensed dog or cat may be obtained by the owner after he or she obtains the required license and pays the specified impoundment and daily fee for keeping the dog or cat. If necessary, dangerous animals may be disposed of in a humane manner by the department or their designee.
 - (d) Report on Impounded Dogs and/or Cats. Any person or any officer who impounds any dog and/or cat shall, after delivery of such dog and/or cat to the Police Chief, make a report to the City Treasurer, stating when and under what conditions he seized or impounded such dog and/or cat, and the owner's name if known. Whenever any dog and/or cat is impounded or delivered to the Police Department, the Chief shall give notice thereof to the owner, if known, of such impoundment within 12 hours.
- (5) **DOGS, CATS, AND/OR FERRETS BITING PERSONS.**
- (a) The provisions of Wisconsin State Statute Sec. 95.21 are hereby adopted and by reference made part of this Code as if fully set forth herein.
 - (b) Every owner or keeper of a dog, cat, and/or ferret that has bitten any person and every other person who knows that a dog, cat, and/or ferret has bitten any person shall immediately report such fact to a police officer or the Health Officer, and after verification of rabies shots such owner shall immediately confine such dog, cat, and/or ferret for at least 10 days thereafter and shall not release such dog except with the written approval of the Health Officer. Any such dog, cat, or ferret shall be surrendered to the police or Health Officer, or designee for impoundment per subsection (4) above upon demand.
 - (c) Isolation Facility or On-Premises Owner Quarantine. An officer who orders a dog, cat or ferret to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than 24 hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is currently immunized against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.

- (6) **RABID DOGS AND/OR CATS.**
- (a) A person shall report to the police or health authorities the existence of a dog and/or cat that has contracted rabies or has been exposed to rabies or is suspected of having rabies or which has bitten any person and is capable of transmitting rabies, describing the dog and/or cat and giving the name of the owner, if known..
 - (b) The owner of any animal which has contracted rabies or which has been exposed to rabies or which is suspected of having rabies or which has bitten any person and is capable of transmitting rabies shall upon demand of the police or health department produce and surrender the animal to the police department or health department to be held in quarantine.
 - (c)
 - 1. If, upon investigation by the police or health department an animal other than a dog or cat has bitten a person or appears to be infected with rabies, the animal may be destroyed as directed by the commissioner, in accordance with s. 95.21(4)(b), Wis. Stats.
 - 2. If, upon investigation by the police or health department and a determination by a veterinarian that a dog or cat exhibits symptoms of rabies, the dog or cat may be destroyed as directed by the commissioner, who shall act in accordance with s. 95.21(5)(d), Wis. Stats.
- (7) **COMMERCIAL KENNELS RESTRICTED.** No person shall establish, operate or maintain a commercial kennel consisting of more than 2 dogs and/or cats at least 5 months of age within 100 feet of any church, school, hospital, sanitarium or building used wholly or partially for residential purposes in the City.
- (8) **ANIMAL WASTE/LITTERING.** It shall be the duty of every owner of any animal to dispose of such animal's fecal matter and other waste in a sanitary manner as often as may be necessary to prevent any unwholesome accumulation of such matter and/or waste. It shall be unlawful for any person accompanying a dog to permit the dog to defecate upon any private or public place without the consent of the owner thereof unless the person accompanying the dog immediately cleaned up and removed the defecation onto the owner's property.
- (9) **MAXIMUM DOGS AND/OR CATS ALLOWED AND PET FANCIERS PERMIT.**
- (a) The keeping of more than 3 dogs and/or cats in any one residential unit, any of which is over the age of 5 months, is prohibited unless a permit is obtained as provided herein, in addition to each pet being separately licensed.
 - (b) The permit required in subsection (a) may be issued by the Health Officer or designee or by the Common Council to which the Health Department may, at its discretion refer the application for consideration. A permit once issued shall not be subject to reconsideration until it is subject to renewal, circumstances change relating thereto or there is a violation of any conditions, restrictions or other limitations imposed at time of issuance or upon reconsideration. Both the Health Officer or designee and the Council shall have the authority to impose any restrictions deemed appropriate, including a probationary period.
 - (c) A pet fancier's permit may be issued after the Health Officer or designee has viewed the premises to be licensed and has determined that they are in a safe, sanitary and healthy condition.
 - (d) The permit year commences on January 1 and ends on the following December 31.

- (e) The fee for the pet fancier's permit shall be as provided in § 12.01(12)(d) of this chapter.
 - (f) Renewal of the permit is not subject to approval or disapproval by the Common Council if no complaints or other problems arise during the permit year. (Cr. #1965)
- (10) PIT BULLS, REGISTRATION AND PERMIT.
- (a) *Pit Bull Special Permit Required.* A special annual permit shall be required for owning or keeping any pit bull. Permits shall be issued only to adults and only to the person who is the owner or keeper of the animal. Permits shall be granted according to the following registration procedures:
 - 1. An initial application for a pit bull permit pursuant to this section shall be made to the City Clerk no later than 30 days following the effective date of this section. A permit shall be valid for 12 months. An application for a permit shall be made for each 12-month period thereafter and shall be made prior to the expiration of the previous 12-month period. Applications shall be made on a form provided by the City. No permit shall be granted to any current owner or keeper of a pit bull who has not properly applied for a permit with 30 days following the effective date of this section.
 - 2. New residents to the City of Cudahy shall submit an initial application for a pit bull permit pursuant to this section to the City Clerk no later than 30 days following the new residents' move-in date. The new residents' move-in date shall ultimately be determined by the City Clerk. A permit shall be valid for 12 months. An application for a permit shall be made for each 12-month period thereafter and shall be made prior to the expiration of the previous 12-month period. Applications shall be made on a form provided by the City. No permit shall be granted to any new resident owner or keeper of a pit bull who has not properly submitted an initial application for a pit bull permit pursuant to this section to the City Clerk within 30 days following the move-in date.
 - 3. The application shall contain the following information:
 - a. The name, address, and telephone number of the applicant.
 - b. A statement that the applicant is the owner or the keeper of the animal.
 - c. The name, address, and telephone number of any other owner or keeper of the animal.
 - d. The address of the location where the animal will be kept.
 - e. A general description of the animal for which the permit is sought.
 - f. An acknowledgement of receipt of a copy of this ordinance [section].
 - g. A signature by each owner or keeper of the animal.
 - 4. The application shall be accompanied by:
 - a. Proof of public liability insurance in a single incident amount of \$100,000.00 for bodily injury to or death of any person or persons or for damages to property owned by any persons that may result from owning or keeping a pit bull dog. At the time of the initial application, the owner or keeper must show proof to the City Clerk of the required

insurance. At the time of any subsequent application, the owner or keeper must show proof of insurance for the present application period and proof that there was insurance for the present application period and proof that there was insurance coverage throughout the period of the previous year. In the event said liability insurance is cancelled, lapsed, or for any other reason becomes nonenforceable, the owner or keeper shall be in violation of the provisions of this section.

- b. Two identical color photographs of the animal taken within the previous 30 days clearly showing the color and approximate size of the animal.
 - c. Proof of microchipping.
 - d. Photo identification for each owner or keeper of the animal.
 - e. Annual permit fee shall be \$50.00 for each pit bull. Permit fees are not refundable.
- (b) Restrictions on Permit Issuance. No permit shall be granted to any owner of any pit bull dog, as defined in this subsection unless the owner shall comply with all of the following:
1. *Leash.* While leashed, no person shall permit a registered pit bull to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull to be kept on a chain, rope, or other type of leash outside its kennel or pen unless an adult person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, or building. While leashed, the leash shall be held by a person 16 years of age or older, who is competent to govern the animal. The leash may be held by a person younger in a sanctioned American Kennel Club show or other organized competition among trained owners and dogs.
 2. *Confinement.* All pit bulls shall be securely confined indoors and unable to exit the house or structure through doors, windows, screen doors or any other possible exits. If outdoors, all pit bulls must be kept in a securely enclosed and locked pen or kennel, except when leashed as above provided. Such pen or kennel shall have following:
 - a. Secure sides and a secure top attached to the sides.
 - b. Secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than 2 feet.
 - c. Locked with a key lock or combination lock when such animals are within the structure.
 - d. Adequate lighting and ventilation.
 - e. Clean and sanitary condition.
 3. *Signs.* All owners or keepers of pit bulls within the City shall within 30 days of the effective date of this section display in a prominent place on their premises a sign easily readable by the public using the words "Beware of

Dog." In addition, a similar sign shall be posted on the kennel or pen of such animal.

4. *Special collar.* All pit bulls shall be required to wear a bright orange collar at all times when not confined indoors. The collar shall be visibly on the dogs when it is in a kennel or pen or on a leash. The collar may be removed for grooming purposes or other care when the animal is secured indoors or in an approved pen.
5. *Microchipping.* All pit bulls shall have an identification microchip implanted. Such microchipping shall be accomplished by a licensed veterinarian.
6. *Reporting requirements.* All owners or keepers of registered pit bull dogs must, within 10 days of any of the following incidents, report in writing to the City Clerk as required hereinafter:
 - a. The removal from the City or death of a registered pit bull;
 - b. The birth of offspring to a registered pit bull; or
 - c. The move of the owner or the move of a registered pit bull to a new location within the City limits. In such case, the new address of the registered pit bull dog and that of the owner or keeper shall also be reported to the City Clerk.
7. *Offspring.* All offspring born of a pit bull must be removed from the City within 6 weeks of the birth of such offspring.
8. *Officer order.* Failure to comply with a Police Department Order under paragraph (e) of this subsection.
9. *Prior violation.* No person shall return to or harbor within the city limits of the City of Cudahy a pit bull whose owner has been previously found guilty by plea or trial by the Cudahy Municipal Court for a violation of this subsection.
10. *Past convictions.* No person shall own or keep a pit bull if that person has a prior conviction for the sale or delivery of an illegal controlled substance.

Violation of any provision of this section shall comprise an individual violation and appropriate citation may be issued accordingly.

- (c) *Notice of Violation.* When the Police Department has knowledge of a possible violation of this section, the Police Department shall forthwith cause the matter to be investigated. If after investigation there are reasonable grounds to believe there has been a violation of this section, a written notice shall be delivered to the owner or keeper of the animal that is the subject of the violation requiring such person to safely remove said animal from the City within 5 days of the date of said notice. Such owner or keeper shall remove said animal from the City within the required time. Such a notice shall not be required when a dangerous animal has caused serious physical harm or death to any person or has escaped and is at large in which case the Police Department shall cause said animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person or animal.
- (d) *Seizure and Impoundment of Pit Bulls.*

1. Any pit bull alleged to be dangerous animal by virtue of an attack upon a human being or domestic animal shall be impounded as directed by the City of Cudahy Police Department until disposition of the charge issued by citation.
 2. The owner of a pit bull found guilty at trial or by plea by virtue of an attack upon a human being or domestic animal shall be prohibited from returning that pit bull to the City of Cudahy.
 3. Whenever any person is charged with violation of this subsection an attack upon a human being or domestic animal, that person shall remove said animal from the City of Cudahy until the trial on the citation. If the owner fails to remove the animal within 48 hours of the service of the citation, the Cudahy Police Department shall impound the animal until the trial on the citation.
 4. In any event, when pit bull is impounded, the impounding authority shall give notice to the owners of the impoundment and advise the owners whether and under what circumstances the animal may be redeemed. The owner of any animal impounded, confined or destroyed pursuant to the terms of this subsection shall be responsible for all costs of such confinement, impoundment or destruction.
 5. Within 30 days after a pit bull has been designated dangerous by virtue of an attack upon a human being or domestic animal, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.
- (e) *Effective Date.* The owner of any pit bull registered and permitted by the City Clerk on or before January 1, 2009, shall comply with all provisions of this subsection applicable to pit bulls. Any owner of a pit bull who fails to keep current the pit bull's permit as provided in subsection (a) hereof must remove the pit bull from the City of Cudahy and will not be eligible to re-register the pit bull. The owner of any previously permitted pit bull who fails to keep current the animal's license is subject to the penalties applicable to any pit bull not registered and licensed on January 1, 2009.
- (11) **EXCEPTIONS.** A person who meets any of the following qualifications shall be permitted to own or keep an unregistered pit bull within City limits:
- (a) The keeping of such animal in zoos, bona fide education or medical institute, museum, or any other place where they are kept as live specimens for the public to view or for the purpose of instruction or study.
 - (b) The keeping of such animal for exhibition to the public by a circus, carnival, or other exhibit or show.
 - (c) The keeping of such animal in a bona fide, licensed veterinary hospital for treatment.
 - (d) Commercial establishments possessing such animal for the purpose of sale or display.
 - (e) Transportation through the City when the person transporting such animal has taken adequate safeguards to protect the public and has notified Chief of Police of the proposed route of transportation and the time thereof.

(f) By the City or its designees in the enforcement of this section or for other law enforcement purposes.

(12) PENALTY

- (a) Any person who violates any provision of subsection (9) shall be subject to a forfeiture. The owner shall forfeit not less than \$25.00 nor more than \$100.00 for the first offense and not less than \$50.00 nor more than \$200.00 for subsequent offenses, upon default of the payment of such forfeiture and costs, shall be imprisoned in the House of Correction or County Jail until the payment of such forfeiture and costs of prosecution, but not exceeding 90 days for each violation. The Cudahy Police Department, in addition, shall have the authority to impound the animals found on the premises or in the household that is in violation of the maximum number of dogs and/or cats permitted in this section, or which is in an unsafe or unsanitary condition, all in accordance with the impounding provisions of § 174.042, Wis. Stats. (Am. #2143; #2369)
- (b) Any person who violates any provision of subsection (10) shall be subject to a forfeiture. The owner shall forfeit not less than \$250.00 nor more than \$2,000.00. Maintaining or keeping a dangerous animal within the City limits of the City of Cudahy after a finding in Municipal Court that the owner of that animal has violated any provision of this section relating to dangerous animals or pit bulls is hereby declared to be a public nuisance. In addition to the foregoing penalties assessed by the Municipal Court, any person who violates this section shall pay to the City all expenses, including shelter, food, handling, veterinary care, witness fees, and expenses necessitated by the enforcement of this section. All expenses charged may be obtained through similar process as itemized in Cudahy Municipal Code § 10.08(4).
- (c) Except as otherwise provided in this section, any person who shall violate any provision of this section, or any regulation, rule or order made herein, or who shall fail to obtain a license or permit as required by this chapter, shall be subject to a penalty as provided in § 25.04 of this Municipal Code.

Section 2. All ordinances or parts of ordinance contravening the provisions of this ordinance are hereby repealed.

Section 3. If any part or parts of this ordinance are invalid, it shall not invalidate the entire ordinance.

Section 4. This Ordinance shall take effect upon passage and publication as provided by law, and the City Clerk shall so amend the Code of Ordinances of the City of Cudahy, and shall indicate the date and number of this amending ordinance therein.

Introduced by the Rules, Laws, and Licensing Committee.

ANTHONY DAY, Mayor

Attest:

DENNIS BRODERICK, City Clerk

ADOPTED: _____
APPROVED: _____
PUBLISHED: _____

Prepared By: **PAUL T. EBERHARDY**, City Attorney
Wis. State Bar No. 1045304