

ORDINANCE NO. 2299

**AN ORDINANCE TO REGULATE DANGEROUS ANIMALS
(REPEAL AND RECREATE SEC. 12.25.(16))**

WHEREAS, the City Council of City of Cudahy finds that dangerous animals are so dangerous that they constitutes a threat to children and others in the city. Dangerous animals occasionally escape from the yard or building in which they are kept, by slipping under a fence, jumping over a fence, slipping through a door or gate temporarily opened or unlatched, breaking the leash or chain, or pulling up the anchor for the chain or leash. Children too young to read may wander too close to an animal, even in the presence of “beware of the animal” signs. It is the policy of this City that children and others should not have to assume the risk of a dangerous animal having an opportunity to attack or to kill. The City council finds that the benefits to an animal owner in owning a dangerous animal are outweighed by dangers to children and to general public.

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

Section 1.

Sec. 12.25(16) of the City of Cudahy Municipal Code is hereby deleted and recreated to read as follows:

12.25(16) Dangerous Animals, Regulation

(a) DEFINITIONS.

1. DANGEROUS ANIMAL means:
 - A. 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.
 - B. Any animal which, when unprovoked, bites or otherwise inflicts bodily harm on a person, domestic pet or animal on public or private property.
 - C. 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 property.
 - D. 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.
 - E. Any animal owned or kept primarily or in part for the purpose of fighting or any animal trained or bred for fighting.
 - F. Any animal which is urged by its owner or keeper to attack, or whose owner or keeper threatens to cause such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty and when such animal has the apparent ability to cause injury or harm to such officer.
 - G. Any PIT BULL meaning any and all 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.

- H. Provocation of the animal by the person or animal that is bitten or injured or the fact that the animal bit or injured another person or animal as a result of provocation shall be a mitigating factor. If the provocation is purposeful or substantial, the court may accept the alleged bite or injury as self-defense by the animal and not classify the animal as dangerous.
- 2. OWNER or KEEPER as used in this ordinance means any person, firm, corporation, organization, department or other entity possessing, harboring or having the care or custody, whether temporarily or permanently, of a dangerous animal.
- 3. PERSON includes any natural person, association, partnership, organization, or corporation.
- 4. REGISTERED PIT BULL means a pit bull for which a permit has been properly obtained within thirty days of the effective date of this ordinance and in accordance with Section (e).
- 5. UNPROVOKED means that an animal bites, attacks or menaces any person or animal to:
 - A. Defend its owner, caretaker or another person from an attack by a person or animal.
 - B. Protect its young or another animal.
 - C. Defend itself against any person or animal which has tormented, assaulted or abused it.
 - D. Defend its owner's or caretaker's property against trespassers.

(b) PROHIBITIONS:

- 1. **REGISTRATION.** A person shall not own or keep an unregistered pit bull.
- 2. **LEASH.** 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.
- 3. **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 two feet.
 - C. Locked with a key lock or combination lock when such animals are within the structure.
 - D. Adequately lighting and ventilation.
 - E. Clean and sanitary condition.
- 4. **SIGNS.** All owners or keepers of pit bulls within the City shall within thirty days of the effective date of this ordinance 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.

5. **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.
6. **MICROCHIPPING.** All pit bulls shall have an identification microchip implanted. Such microchipping shall be accomplished by a licensed veterinarian.
7. **REPORTING REQUIREMENTS.** All owners or keepers of registered pit bull dogs must within ten days of any of the following incidents in writing to the City Clerk as required hereinafter.
 - (i) The removal from the City or death of a registered pit bull;
 - (ii) The birth of offspring to a registered pit bull; or
 - (iii) The move of the owner or keeper 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.
8. **OFFSPRING.** All offspring born of a pit bull must be removed from the City within six weeks of the birth of such offspring.
9. **HEALTH OFFICER ORDER.** Failure to comply with a Health Officer or Police Department Order under paragraph (e).
10. **PRIOR DETERMINATION OF DANGEROUS ANIMAL.** No person shall return to or harbor within the city limits of the City of Cudahy an animal whose keeper or owner has been previously found guilty by the Municipal Court under this ordinance. The provisions of paragraph (f) shall govern the disposition of such an animal.
11. **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) **QUALIFICATIONS:** Any person who meets any of the following qualifications shall be permitted to own or keep a dangerous animal provided that such person has first properly obtained a permit for the animal and provided that an owner or keeper shall also be required to comply with all licensing and vaccination requirements imposed by other ordinances for dogs.
1. 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.
 2. The keeping of such animal for exhibition to the public by a circus, carnival, or other exhibit or show.
 3. The keeping of such animal in a bona fide, licensed veterinary hospital for treatment.
 4. Commercial establishments possessing such animal for the purpose of sale or display.
 5. The transportation of dangerous animals 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.
 6. The keeping of any dangerous animal by the City or its designees in the enforcement of this Ordinance or for other law enforcement purposes.
 7. A pit bull owner or keeper who has properly complied with the special permit requirement under paragraph (d).

- (d) **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 procedures:
1. An initial application for a pit bull permit pursuant to this ordinance shall be made to the City Clerk no later than thirty days following the effective date of this ordinance. A permit shall be valid for twelve months. An application for a permit shall be made for each twelve-month period thereafter and shall be made prior to the expiration of the previous twelve-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 thirty days following the effective date of this ordinance.
 2. New residents to the City of Cudahy shall submit an initial application for a pit bull permit pursuant to this ordinance to the City Clerk no later than thirty 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 twelve months. An application for a permit shall be made for each twelve-month period thereafter and shall be made prior to the expiration of the previous twelve-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 ordinance to the City Clerk within thirty 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. 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 non-enforceable, the owner or keeper shall be in violation of the provisions of this ordinance.
 - B. Two identical color photographs of the animal taken within the previous thirty 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.
- (e) **NOTICE OF VIOLATION**. When the Health Officer or Police Department has knowledge of a possible violation of this ordinance, the Health Officer or 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 ordinance, 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 five 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 Health Officer or 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.

(f) SEIZURE AND IMPOUNDMENT OF DANGEROUS ANIMALS.

1. Any animal 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. Moreover, the owner of any animal found to be dangerous in the trial of a charge of harboring a dangerous animal, or by plea to such charge shall be prohibited from returning that animal to the City of Cudahy.
2. Whenever any person is charged with harboring a dangerous animal as defined in this subsection, 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. If the animal is determined by plea or trial to be a dangerous animal pursuant to this subsection, it shall not be returned to the City of Cudahy. The Circuit Court may order the animal impounded until it is satisfied arrangements have been made for the animal which will not result in its return to the City of Cudahy. Failure to make such arrangements within 7 days of the hearing shall be deemed to constitute consent by the owner to destruction of the animal and the Circuit Court may order the destruction of the animal by humane means.
3. In any event, when an animal 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.
4. Within 30 days after an animal has been designated dangerous, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

(g) VIOLATIONS AND PENALTIES. Where any provision of this ordinance is violated the defendant, upon conviction, shall be assessed a forfeiture of 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 ordinance 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 ordinance shall pay to the City all expenses, including shelter, food, handling, veterinary care, witness fees, and expenses necessitated by the enforcement of this ordinance. All expenses charged may be obtained through similar process as itemized in Cudahy Municipal Code Section 10.08(4).

(h) EFFECTIVE DATE. The owner of any pit bull registered and licensed by the City Clerk on or before January 1, 2009, shall comply with all provisions of this ordinance applicable to dangerous animals. Any owner of a pit bull who fails to keep current the animal's license and registration as provided in paragraph (d) hereof must remove the animal from the City of Cudahy and will not be eligible to re-

register the animal. 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.

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 Ordinance Committee.

PASSED AND ADOPTED this 21st day of October, 2008.

/s/Ryan McCue
RYAN McCUE, Mayor

Attest:

/s/Robert Goss
ROBERT GOSS, City Clerk

ADOPTED: 10/21/08
APPROVED: 10/21/08
PUBLISHED: 10/30/08

Approved as to form:

PAUL T. EBERHARDY City Attorney
Wis. State Bar No. 1045304