

ORDINANCE NO. O-2011-0084

Ordinance to Repeal and Recreate Section 7.126 of the City of West Allis
Revised Municipal Code Relating to Dangerous Dogs.

By Alderperson Czaplewski

The Common Council of the City of West Allis do ordain as follows:

PART I. Section 7.126 of Revised Municipal Code is hereby repealed and recreated to read as follows:

7.126 DANGEROUS DOGS.

(1) Purpose. The purpose of this section is to protect the public health, safety, and general welfare of the citizens and visitors of the City of West Allis by reasonable regulation of dangerous animals.

(2) Definitions as used in this section:

(a) "Apparent attitude of attack" means demonstrating an intent or desire to cause injury by one or more of the following actions:

1. An attempt to bite a person or another animal;
2. An attempt to scratch a person or another animal;
3. Growling or barking in a threatening manner while approaching or chasing a person or another animal;
4. Growling or barking in a threatening manner while making physical contact with a person or another animal.

(b) "At large" means an animal is off the premises of its owner and on any public street, sidewalks, or alley, school grounds, a public park, or other public grounds or on private property without the permission of the owner or person in lawful control of the property, and not on a leash of at least ten (10) feet or less in length that is being held or controlled by a person.

(c) "Bodily harm" means physical pain or injury or any impairment of physical condition.

(d) "Caretaker" means any person eighteen (18) years of age or older who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog.

(e) "Dangerous dog" means any of the following:

1. Any dog which, when ~~provoked~~ ^{unprovoked}, inflicts bodily harm on a person, domesticated animal on public or private property; or,

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2. Any dog which chases or approaches persons or other domesticated animals in a menacing fashion or with an apparent attitude of attack, without provocation, upon the streets, sidewalks or any public grounds or on private property of another without the permission of the owner or person in lawful control of the property; or,

3. Any dog with a known propensity, tendency or disposition to attack, to cause injury to, or otherwise threaten the safety of humans or other domesticated animals; or,

4. Any dog which has been trained to attack human intruders; or,

5. Any dog that has acted in any manner that causes or should cause an owner to know that the dog is a threat to public health and safety.

(f) "Dog" means a domesticated member of *canis familiaris* or *canis lupis familiaris*.

(g) "Domesticated animal" means any bird or animal of any species, which usually lives in or about the habitation of humans as a pet or animal companion.

(h) "Owner" means any person owning, harboring, sheltering or keeping a dog.

(i) "Person" means any individual, firm, corporation or other legal entity.

(j) "Public nuisance" means any dog which:

1. Molests passersby or passing vehicles; or,

2. Is at large; or,

3. Damages private or public property; or,

4. Barks, whines or howls in an excessive or continuous fashion; or,

5. Is subject to more than one violation of this section in a twelve-month period.

(k) "Prohibited dangerous dog" means any of the following:

1. Any dog that, while on private or public property, has killed a domesticated animal without provocation; or,

2. Any dog that, without provocation, inflicts substantial bodily harm on a person on public or private property; or,

3. Any dog brought from another city, village, town or county that has been declared dangerous or vicious by that jurisdiction; or,

4. Any dog that is subject to being destroyed under subsection 174.02(3), Wis. Stats.; or,

5. Any rabid dog; or,

6. Any wild animal hybrid (including but not limited to wolf hybrids); or,

7. Any dog trained, owned or harbored for the purpose of dog fighting.

(l) "Substantial bodily harm" means bodily injury that causes a laceration that requires stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary or permanent loss of consciousness, sight or hearing.

(3) Enforcement.

(a) The provisions of this chapter shall be enforced by employees of the Health Department, Police Department, Milwaukee Area Domestic Animal Control Commission (MADACC) or other persons authorized by the City Health Officer or Chief of Police. The City Health Officer may grant any exemptions or variances to the enforcement of this chapter for dogs specially trained to lead blind or deaf persons, to provide support for mobility-impaired persons or to assist with emergency search and rescue operations.

(b) Police Department, Health Department and MADACC personnel are authorized to catch and impound animals at large, with such authorization to include the pursuit of animals upon the premises of the owner, caretaker or other private property.

(4) Nuisance.

(a) All owners shall exercise proper care and control of their dogs to prevent them from becoming a public nuisance.

(b) No owner of a dog shall allow his or her dog, when unprovoked, to inflict bodily harm on a person or domesticated animal on public or private property. A dog's conduct shall be considered provoked if it falls under the conditions of subsection (7) of this ordinance.

(c) Impoundment.

1. Unrestricted and nuisance dogs shall be taken by authorized employees of MADACC or any law enforcement agency and impounded in a temporary or permanent animal shelter and there confined in a humane manner.

2. When a dog is causing a public nuisance and its owner cannot be contacted at the time of the complaint, it may be impounded by authorized employees of MADACC or any law enforcement agency. After impoundment, reasonable attempts shall be made to contact the owner.

3. An owner reclaiming an impounded dog shall pay the accrued impoundment fee.

4. Any dog not reclaimed by its owner within seven (7) days becomes property of the local government authority, MADACC, or humane society and shall be placed for adoption in a suitable home or humanely euthanized.

(5) Procedure For Declaring A Dog Dangerous And/or Prohibited.

(a) Any law enforcement officer or duly authorized MADACC employee may enter and inspect private property to enforce the provisions of this section.

(b) Upon conducting an investigation, the humane or law enforcement officer may issue an order declaring a dog to be a dangerous dog or prohibited dangerous dog pursuant to the definitions in Subsections 7.126(2)(e) and (k). The officer shall mail the order to the owner's last-known address. Whenever an owner or caretaker wishes to contest an order, he or she shall, within thirty (30) days after receipt of the order, deliver to the City Clerk a written objection to the order stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the agenda for the Administrative Review Board to be reviewed at the next regular meeting. The Administrative Review Board shall act as a quasi-judicial body allowing the dog's owner or caretaker an opportunity to present evidence as to why the dog should not be declared a dangerous dog or a prohibited dangerous dog.

(c) After the hearing, the owner or caretaker shall be notified in writing of the Board's determination. If the Board upholds the determination that the dog is dangerous, the owner or caretaker shall comply with the requirements of Subsection 7.126(6) that the Board deems appropriate. If the owner or caretaker further contests the determination, he or she may within thirty (30) days of receiving the panel's decision seek review of the decision by the Circuit Court.

(d) The Police or Health Departments shall have the power to summarily and immediately impound a dog whenever they have reasonable grounds pursuant to Subsection 7.126(2) to believe that the dog is dangerous. The dog may remain impounded during the entire determination process.

1. Upon a dog being declared dangerous, the owner or caretaker shall comply with Subsection 7.126(6) within thirty (30) days of the dangerous declaration or reaffirmation thereof, or within such time as established by the Administrative Review Board.

2. If a determination is made that the dog is a prohibited dangerous dog, the owner or caretaker shall comply with Subsection 7.126(6) within thirty (30) days after the date of the determination.

(6) Harboring Dangerous Dogs.

(a) Dangerous Dogs Regulated.

1. Prohibited dangerous dogs not allowed in City. No person may bring into or keep in the City any dog that is a prohibited dangerous dog under this section.

2. No person may harbor or keep a dangerous dog within the City unless all provisions of this section are complied with.

3. No person shall obstruct, provide false information, or otherwise unreasonably interfere with officers of the department in the enforcement section or in the capture of any dog suspected of being dangerous.

4. The issuance of a citation for a violation of this section need not be predicated on a determination that a dog is a dangerous dog.

(b) Registration. The owner of any dog declared dangerous, shall register it with the Police Department upon disposition, by providing a current color photograph of the dog and payment of a registration fee of seventy-five (\$75).

(c) Leash and Muzzle.

1. No owner or caretaker, harboring or having the care of a dangerous dog may permit such a dog to go outside its dwelling, kennel or pen unless the dog is securely restrained with a leash no longer than ten (10) feet in length.

2. No person may permit a dangerous dog to be kept on a chain, rope or other type of leash outside its dwelling, kennel, or pen unless a person who is sixteen (16) years of age or older, competent to govern the dog and capable of physically controlling and restraining the dog, is in physical control of the leash.

3. A dangerous dog may be securely leashed or chained to an immovable object, with the owner or caretaker being in the physical presence of the dog at all times when it is so leashed or chained.

4. A dangerous dog outside of the dog's dwelling, kennel or pen shall be muzzled in a humane way by a muzzling device sufficient to prevent the dog from biting persons or other animals.

(d) Confinement.

1. Except when leashed and muzzled, all dangerous dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the dog to exit the pen or kennel on its own volition.

2. When constructed in a yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be childproof from the outside and animal-proof from the inside. A strong metal double fence with adequate space between fences [at least two (2) feet] shall be provided so that a child cannot reach into the animal enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous dog shall be locked with key or combination lock when the dog is within the structure. The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two (2) feet. All structures erected to house dangerous dogs shall comply with all City zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

3. Indoor confinement. No dangerous dog may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the dog to exit the building on its own volition. No dangerous dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.

(e) Signs. The owner or caretaker of a dangerous dog shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two (2) inches high warning that there is a dangerous dog on the property. A similar sign is required to be posted on the kennel or pen of the dog. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous dog.

(f) Spay and Neuter Requirements. Within thirty (30) days after a dog has been designated dangerous, the owner or caretaker of the dog shall provide written proof from a licensed veterinarian that the dog has been spayed or neutered.

(g) Microchip Requirements. Within thirty (30) days after a dog has been designated dangerous, the owner must provide written proof from a licensed veterinarian that a numbered microchip has been placed in the dog so that the dog

can be easily identified. The number on the microchip shall be provided with the written proof.

(h) Liability Insurance. The owner or caretaker of a dangerous dog shall present proof of a certificate of insurance that the owner has procured liability insurance in an amount not less than one million dollars (\$1,000,000) for any personal injuries inflicted by the dangerous dog. Whenever such policy is cancelled or not renewed, the insurer and dog's owner or caretaker shall notify the Police Department of such cancellation or nonrenewal in writing by certified mail.

(i) Waiver.

1. The Health Officer or Administrative Review Board may waive any requirement specified in Subsections (b) to (h) that is deemed to be inappropriate for a particular dangerous dog.

2. The Health Officer may waive the provisions of Subsections (b) to (h) for a military dog, or circuses, zoos or other animal shows or exhibitions, which are properly licensed, upon presentation by the dog's owner or handler of satisfactory arrangement for safe keeping of the dog.

(j) Notification. The owner or caretaker shall notify the Police Department within twenty-four (24) hours if a dangerous dog is unconfined, has attacked another animal, has attacked a human being or has died. The owner or caretaker shall notify the Police Department immediately if a dangerous dog is at large. No person may sell or transfer possession of a dangerous dog to another person without first notifying the person to whom the dangerous dog is being sold or transferred of the fact that such dog is a dangerous dog and of any requirement imposed upon the selling or transferring party by this division. No person may sell or transfer possession of a dangerous dog to another person, agency, organization or the like without first notifying the Police Department in writing, at least three (3) days in advance of the sale or transfer of possession with the name, address, and telephone number of the new owner of the dangerous dog. If the dangerous dog is sold or given away to a person residing outside the City, the owner or caretaker shall present evidence to the Police Department that he or she has notified the Police Department or other law enforcement agency of the dog's new residence, including the name, address and telephone number of the new owner of the dangerous dog.

(k) Euthanasia.

1. If the owner or caretaker of a dog that has been designated a dangerous dog is unwilling or unable to comply with the regulations for keeping the dog in accordance with this section, he or she may have the dog humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.

2. Any dog that has caused bodily harm to a person, persons or a domestic animal on two (2) separate occasions off the

owner's premises, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under sec. 174.02(3), Wis. Stats. The City Attorney may petition an appropriate court to obtain a court order to destroy such a dog.

(7) Certain Dogs Not to be Declared Dangerous.

(a) No dog may be declared dangerous:

1. If death, injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a trespass on the land or criminal trespass on the dwelling upon premises occupied by the owner of the dog; was teasing, tormenting, abusing or assaulting the dog; or was committing or attempting to commit a crime or violating or attempting to violate an ordinance which protects persons or property; or,

2. If death, injury or damage was sustained by a domestic animal which, at the time such was sustained, was teasing, tormenting, abusing or assaulting the dog; or,

3. If the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault; or,

4. For dogs being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.

(8) Penalty. Any person who violates any part of this section shall forfeit for each violation an amount as indicated in Subsection 7.16(4), plus the costs of prosecution necessitated by enforcement of this subsection. Every day that any violation of this section continues shall be deemed a separate offense.

(9) Severability. If any part of this section is found to be unconstitutional or otherwise invalid, the validity of the remaining parts shall not be affected.

PART II. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART III. This ordinance shall take effect and be in force from and after its passage and publication.

PASSED: December 20, 2011

/s/ Paul M. Ziehler

City Administrative Officer

Clerk/Treasurer

APPROVED: December 21, 2011

/s/ Dan Devine, Mayor