

CITY OF NEW BEDFORD

In the Year Two Thousand and Five

AN ORDINANCE

RELATIVE TO DANGEROUS DOGS

Be it ordained by the City Council of the City of New Bedford as follows:

Sec. 4-29. Dangerous and vicious dogs.

(A) *Definition.* A "dangerous dog" or "vicious dog" as used in this section, shall mean:

1. Any dog that has bitten or attacked any person or has attempted to bite or attack any person. A dog shall be deemed to be attempting to attack if it is restrained by a leash, fence or other means, and it is clear from the dog's excited actions that only the presence of the leash, fence, or other means of restraint is preventing the dog from making an immediate attack.
2. Any dog with a known propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of domestic animals.
3. Any dog whether leashed or not which, in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places.
4. Any dog owned or harbored primarily or in the past for the purpose of dog fighting or any trained for dog fighting.
5. The determination that a dog is dangerous or vicious under this section shall be in the discretion of the Animal Control Officer and the Animal Control Officer shall notify the owner of any such determination.

Except that no dog shall be considered dangerous or vicious if:

- (1) A human being who, at the time the injury was sustained, was committing criminal trespass or other tort upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime.
- (2) A domestic animal, which, at the time the injury was sustained, was teasing, tormenting, abusing or assaulting the dog.
- (3) A domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of or under the control of its owner, and the injury was to a species or type of domestic animal appropriate to the work of the dog.

- (4) No dog shall be considered dangerous or potentially dangerous if the dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault.
- (5) No military, correctional or police-owned dogs shall be considered dangerous if the attack or injury to a person or domestic animal occurs while the dog is performing duties as expected.
- (6) No dog shall be considered dangerous or potentially dangerous if the dog was reacting to pain or injury, or was protecting itself, its kennel or its offspring.

(B) *Duties of Animal Control when dog is deemed dangerous.* When a dog is deemed to be dangerous or vicious, the Animal Control Officer shall order all of the following:

- 1) Spay or neutering, if the animal is not already altered. The animal will be exempt from such an order if a veterinarian certifies in a written statement that the animal is unfit for alterations because of medical conditions.
- 2) Microchip identification, if the animal is not already micro chipped.
3. Behavior training from a certified behaviorist, as determined by the Office of Animal Control; and
4. Rabies vaccination as required by Chapter 140 § 145B of the General Laws, if the animal is not up to date on its annual vaccinations, as certified by a licensed veterinarian.

(C) *Outdoor Confinement.* No person shall own, keep or harbor, or allow to be upon any premises occupied by him under his charge or control, any vicious dog; or any dog of a cross, dangerous or ferocious disposition, or a dog that may manifest a disposition to bite, without it being confined behind a fence and securely chained by a chain which will not allow the dog to come closer than 6 feet to the fence, and not take such dog out of the secure enclosure unless the dog is securely muzzled and leashed on a leash no longer than 4 feet in length. The dog must be under control of a responsible person 18 years of age or older. No such dogs are allowed on or within 500 feet of any City parks, playgrounds whether at large or under restraint

(D) *Indoor confinement.* No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal 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.* All owners, keepers, or harborers of vicious dogs shall 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 is required to be posted by the kennel or pen of such dog.

(F) *Insurance.* The owner or custodian of any dangerous dog shall maintain a policy of insurance in an amount not less than \$100,000 per incident insuring such person against any claim, loss damage, or injury to any human being resulting from the acts of such dog. Such person shall produce evidence of the required insurance upon the request of an Animal Control Officer. This section shall not apply to dogs kept by law enforcement agencies.

(G) *Giving away, selling, bartering.* Any dog deemed vicious under this section shall not be given away, sold or bartered unless new owners comply with the commands or directions under this section.

(H) *Impoundment.* Any dog found running at large or in violation of this section shall be impounded by the Animal Control Officer and cannot be claimed until the provisions of the section are met. The impoundment fee is borne by the owner whether or not such dog is claimed. If such dog is not reclaimed within 10 days of such impoundment, the animal may be disposed of by adoption or euthanasia, dependant upon species and condition of the animal impounded, which determination shall be made by the Animal Control Officer.

(I) *Destruction.* When, in the judgment of the Animal Control Officer, a dog should be destroyed after being determined to be vicious, Section 157 of Chapter 140 of the General Laws shall be applicable.

(J) *Licensing surcharge.* The annual licensing fee for a dangerous dog shall include a \$50 surcharge in addition to the regular licensing fee. The surcharge required by this provision shall be enforced by the Animal Control Officer.

(K) *Penalties.* After 30 days of being notified that a dog is dangerous or vicious, any owner found not in compliance with any of the provisions of this section, shall be subject to a fine of \$300. Each day that the owner is not in compliance with any provision shall constitute a separate offense.

Section 4-39.1 Potentially dangerous dogs.

Potentially dangerous dogs

(A) *Definition.* A "potentially dangerous dog" as used in this section, shall mean:

1. Any dog that is impounded or its owners cited for allowing a dog to run off leash two or more times in a 12-month period; or:
2. Any dog that acts in a highly aggressive manner, when unprovoked. Within a fenced yard or enclosure and appears to the animal control officer to be able to jump over or escape. Vocalization or barking, without more, shall not cause a dog to be deemed of a highly aggressive manner.
3. Any dog owned by a person cited more than once for allowing said dog to run at large in any public streets or places in the city or upon the premises of anyone other than the owner or keeper without said owner's or occupant's permission as under section 4-28.
4. The determination that a dog is potentially dangerous under this section shall be in the discretion of the Animal Control Officer and the Animal Control Officer shall notify the owner of any such determination.

(B) *Duties of Animal Control when dog is deemed potentially dangerous.* When a dog is deemed

to be potentially dangerous, the Animal Control Officer shall order all of the following:

1. Spay or neutering, if the animal is not already altered. The animal will be exempt from such an order if a veterinarian certifies in a written statement that the animal is unfit for alterations because of medical conditions.
2. Microchip identification, if the animal is not already micro chipped.
3. Behavior training from a certified behaviorist, as determined by the Office of Animal Control; and
4. Rabies vaccination as required by Chapter 140 § 145B of the General Laws, if the animal is not up to date on its annual vaccinations, as certified by a licensed veterinarian.
5. The owner provides adequate security to the premises where the potentially dangerous dog is kept, as specifically described in writing to the owner by the Animal Control Officer. Said owner must comply within 60 days of receiving description.

(C) *Persons responsible.* No person under the age of 18 shall own, handle, control or be responsible for a potentially dangerous dog.

(D) *Signs.* All owners, keepers, or harborers of potentially dangerous dogs shall 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 is required to be posted on the kennel or pen of such dog.

(E) *Licensing Surcharge.* The annual licensing fee for a potentially dangerous dog shall include a \$25.00 surcharge in addition to the regular licensing fee. The Animal Control Officer shall enforce the surcharge required by this provision.

(F) Penalties. After 30 days of being notified that a dog is potentially dangerous, any owner found not in compliance with any of the provisions of this section, except for section B (5) for which violation found after 60 days of said notification, shall be subject to a \$100. fine for any first offense; \$200. for any second offense; and \$300. for any offense thereafter. Each day that the owner is not in compliance shall constitute a separate offense.

SECTION 3. Chapter 4 of the Code of Ordinances

Sec. 4- 19 Regular Licensing.

(A) All dogs shall be licensed annually before February 1 in the office of the city clerk. The fee for licensing shall be \$10 if spayed or neutered and \$20 if unaltered plus any applicable surcharges. There shall be a discount of the annual fee of \$5 upon proof of behavioral training certification, American Temperament Test Society certification or AKC Canine good Citizen certification. Such proof must be presented annually for discount to be applicable. Documentation of active insurance policy must be provided at time of licensing for dangerous or vicious dogs required under section 4-29(f). No kennel license of 5 dogs or more shall be issued in any residentially zoned area.

SECTION 4. Chapter 4 of the City Code is hereby amended by inserting the following new section:

Sec. 4-38. **Dog Attack Prevention Commission**

There shall be a Dog Attack Prevention Commission in the city.

(a) Purpose: The commission is established to review the annual report of the Animal Control Officer concerning the statistical data on dog bites and attacks taking place in the city; to regularly review the ordinances and policies of the city, the statutes of the commonwealth and any other law or regulations related to the prevention of dog attacks and bites; to analyze the enforcement of laws, policies, ordinances and regulations relating to controlling dogs; and to make recommendations to the mayor and city council on these issues as the commission deems necessary.

(b) Composition: The commission shall comprise of the Animal Control Officer, the director of the Health Department; a licensed veterinarian, a dog trainer or behaviorist, one citizen of New Bedford who owns one or more dogs and one citizen of New Bedford who does not own a dog. Members, except the Animal Control Officer and Director of the Health Department, shall be appointed annually in March by the Mayor subject to confirmation by the city council.