



211 WALNUT STREET
Neenah, WI 54956

AN ORDINANCE: By Public Services and Safety Committee

Re: Amending Code §§3-1, Definitions, and 3-16 creating a designation of Potentially Dangerous Animal and providing for the regulation thereof.

ORDINANCE NO. 2015-5

Introduced: April 1, 2015

Committee/Commission Action:

RECOMMENDED FOR PASSAGE

AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

Section 1. The following definitions found at Section 3-1 of the Code of Ordinances of the City of Neenah are amended by deleting the stricken language and adding the highlighted language and by adding the definition for Potentially Dangerous Animal to read as follows:

Dangerous animal means any animal that (a) inflicts Substantial Bodily Harm on a human being or domestic animal without provocation on public or private property, (b) engages in, or is found to have been trained to engage in, exhibitions of fighting or (c) has been previously found, within the last 36 months, to be a Potentially Dangerous Animal, the owner having received notice of such and the animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals. ~~without provocation that bites, inflicts injury, attacks, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious bodily harm or death to one or more persons or domestic animals on public or private property; or any animal owned, harbored, or trained primarily or in part for the purpose of fighting.~~

Great bodily harm has the meaning defined in Wis. Stat. §939.22(14) and includes bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss

or impairment of the function of any bodily member or organ or other serious bodily injury.

Potentially Dangerous Animal means any animal that when unprovoked: (a) bites a human or a domestic animal either on public or private property without causing Great or Substantial Bodily Harm, or (b) chases or approaches a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, or any animal with a known propensity, tendency, or disposition to attack unprovoked, or to cause injury or otherwise to threaten the safety of humans or domestic animals.

Prohibited dangerous animal means any animal that (a) without provocation has killed a pet animal or human being; or ~~any animal that~~(b) without provocation inflicts ~~serious-great~~ bodily harm on a pet animal or human being; or ~~any animal which~~(c) has on two or more reported occasions bitten or attacked a pet animal or human being, without provocation, on either public or private property, at a level of aggression that meets the definition for Dangerous Animal.

Substantial ~~or Serious~~ bodily harm has the meaning defined in Wis. Stat. §939.22(38) and includes a laceration that requires stitches, staples, or a tissue adhesive; or any fracture of a bone or tooth. Where used in this chapter, serious bodily harm shall have the same meaning as substantial bodily harm. ~~means bodily injury which creates a risk of death, or which causes permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily injury.~~

Section 2. Section 3-16(b) through (n) are renumbered as 3-16(d) through (p).

Section 3. Sections 3-16(b) and (c) of the Code of Ordinances of the City of Neenah are created to read as follows:

(b) Police Chief's Authority. The Police Chief or his/her designee may, in accordance with the definitions of Sec 3-1, determine an animal to be a

Potentially Dangerous Animal

Dangerous Animal, or

Prohibited Dangerous Animal.

(c) Keeping a Potentially Dangerous Animal. The Chief of Police or the Chief's designee may issue a written order declaring an animal to be a Potentially Dangerous Animal. The written order shall put the owner on notice that the

animal has engaged in behavior that has resulted in the Chief's declaration, and that any future similar actions by the animal may result in the animal being declared a Dangerous Animal or Prohibited Dangerous Animal. The written order shall also include suggestions for preventing aggressive behavior by the animal. A declaration of Potentially Dangerous Animal shall include no mandated restrictions for the animal or its owner.

Section 4. Section 3-16(d)(intro) (renumbered from (b) by Section 2 above) is amended by adding the highlighted language and deleting the stricken language to read as follows:

~~Prohibition on k~~Keeping a dangerous animal prohibited; exception. No person shall own, possess, harbor, keep, or maintain a dangerous animal except under the following terms and conditions:

Section 5. Section 3-16(o)(1) & (3) (renumbered from (m) by Section 2 above) is amended by adding the highlighted language and deleting the stricken language to read as follows:

~~(m)~~ *Appeal process for dangerous and prohibited dangerous animal.*

(1) The owner or responsible party aggrieved by the decision of the Chief of Police or the Chief's designee to declare an animal dangerous under subsections ~~(b)~~, ~~(h)~~ or ~~(l)~~ may appeal such decision ~~to the Common Council~~ by filing a written notice of appeal with the City Clerk within five business days of the mailing of the written order from the Chief of Police or the Chief's designee. Appeals shall be heard by the Public Services and Safety Committee, which shall make ~~a recommendation to the Common Council~~ a final decision to uphold, deny or modify the chief's determination. Because a determination under subsection (c) that an animal is potentially dangerous does not impose any restrictions or requirements on the animal or animal's owner, such determination is not appealable under this section.

(3) If the owner or responsible party further contests the final decision of the ~~Council~~ Committee, he or she may within five business days of the mailing of the written decision, seek review of the decision by the Circuit Court.

Section 6. Section 3-16(p)& (p)(1) (renumbered from (n) by Section 2 above) is amended by adding the highlighted language and deleting the stricken language to read as follows:

~~(n)~~ *Removal of animal from dangerous animal status.* Upon the written petition of the owner/responsible party of an dog-animal that has been previously determined to be dangerous the ~~City~~ Chief of Police or the Chief's designee may remove the ~~dog~~ animal from its list of dangerous animals if:

(1) The owner/responsible party demonstrates ~~to the Chief of Police or the Chief's designee~~ that there have been no additional reported instances anywhere of the behavior that constitutes a potentially dangerous animal or dangerous animal as defined in Section 3-1, within a 36-month period from the date of the order determining the animal to be dangerous; and

Section 7. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 8. Repeal and Effective Date. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Approved:

Moved by: Ald. Bates/Hillstrom

Adopted: April 1, 2015

Approved: April 1, 2015

Published: April 6, 2015



Dean R. Kaufert, Mayor

Attest:



Patricia A. Sturn, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:

City Attorney James G. Godlewski

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State Bar No. 1005210