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CITY OF HAVERHILL

In Municipal Council May 6 2008

ORDERED:

MUNICIPAL ORDINANCE

CHAPTER 137

AN ORDINANCE RELATING TO DOGS AND OTHER ANIMALS

BE IT ORDAINED by the City Council of the City of Haverhill that the Chapter 137 of the Code of the City of Haverhill, as amended, is hereby further amended as follows

§ 137-13. By deleting said section.

§ 137-15. By deleting the words "and Vicious" from the title thereof, by deleting the words "or are found to be of a vicious disposition from subsection A., by deleting the "," between the words "barking" and "noises" and inserting the word "or" in place thereof in subsections A. and B., and, by deleting the words "or viciousness" in subsections A. and B.

§ 137-17., § 137-18., § 137-19, and § 137-20. By deleting said sections and inserting the following in place thereof: "§ 137-17. Dangerous and Vicious Dogs Regulation

A. In addition to the remedies provided in the above entitled sections, the Chief of Police, or his designee, upon a complaint in writing, may determine that a dog is a "dangerous dog" or "vicious dog" within the meaning of this section and, as a result thereof, require compliance by the owner of such dangerous or vicious dog of the provisions herein listed. In the instance where the Chief of Police, or his designee, shall determine that a dog is dangerous within the meaning of the ordinance, he/she shall, within a period of forty-eight (48) hours, serve written notice to the Mayor listing the name and address of the animal, including its owner, and providing the reasoning for the determination, consistent with the ordinance.

(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,

(8 octavo pages)

Pan Blue Corp.

MOTION TO AMEND: That the document be amended by deleting Sections 137-17, 137-18 and 137-19 and by adding the following in place thereof:

“§ 137-17. Dangerous and Vicious Dogs Regulation

A. In addition to the remedies provided in the above entitled sections, the Chief of Police, or his designee, upon a complaint in writing, may determine that a dog is a "dangerous dog" or "vicious dog" within the meaning of this section and, as a result thereof, require compliance by the owner of such dangerous or vicious dog of the provisions herein listed.

(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; or
- (2) Any dog with a propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of domestic animals; or any dog which attacks a human being or domestic animal on one or more occasions without provocation and without justification; or
- (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; or
- (4) Any dog owned or harbored primarily or in the part for the purpose of dog fighting or any dog trained for dog fighting; or
- (5) Any dog owned or harbored on property known for drug trafficking or gang activity and shows an aggressive temperament; or
- (6) The determination that a dog is dangerous or vicious under this section shall be in the discretion of the Chief of Police and/or the Animal Control Officer, and, the Chief of Police and/or Animal Control Officer shall notify the owner(s).

(b) **Exceptions** where dog shall not be considered dangerous or vicious:

*Revised amendments to
Ord. 66 - June 5 2008*

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 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 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. The dog was protecting or defending a person within the immediate vicinity of the dog from an attack or assault.
5. The actions of the dog under consideration occurred under official duties as a military, correctional, or law enforcement dog.
6. In the discretion of the Chief of Police, or his designee, the dog acted in reaction to pain or injury; or was protecting itself, its kennel or its offspring.

B. Duties of Owner when dog is determined to be dangerous.

(a) **Outdoor Confinement:** While on the owner's property, a dangerous or vicious dog must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, and designed to prevent the animal from escaping. Such pen or structure must be at least ten (10) feet from the property line, must have a minimum dimension of five (5) feet by ten (10) feet, and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be imbedded into the ground no less than two (2) feet. The enclosure must also provide protection from the elements for the dog. Animal Control Officer shall verify compliance with this section by an on-site inspection and, if necessary, shall require Owner to further secure said structure.

The Owner or keeper shall display signs on his/her premises facing out from all sides of the premises warning that there is a dangerous or vicious dog on the property. This sign should be visible and capable of being read from a public highway or thoroughfare or within 20 feet of its placement. In addition, the owner shall conspicuously display a sign with a symbol warning children who cannot read of the presence of a dangerous dog.

The owner shall provide notice of the determination that a dog is dangerous or vicious to direct abutters of the owner(s) and owners of land directly opposite on any public or private street or way. The owner shall obtain, without charge, a list of such abutters, from the Assessor's Office. The owner shall then send each such abutter a copy of the notice received pursuant to section A.(a)6 above by certified

*Revised amendments to
D.A. 66 June 5 2008*

mail. A copy of the abutters list received from the Assessor's Office shall be provided to the Police Chief, along with the certified mail return receipts.

A dangerous dog may be off the owner's premises if it is muzzled and restrained by an approved lead not exceeding four (4) feet in length and is under the control of an adult, able-bodied person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

(b) 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.

(c) Insurance. The owner or custodian of any vicious 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 human beings resulting from the acts of such dog. Such person shall produce evidence of the required insurance, which may include a rider or binder, upon the request of the Chief of Police, or his designee, and/or Animal Control Officer. This section shall not apply to dogs kept by law enforcement agencies.

(d) Licensing Surcharge. The annual licensing fee for a dangerous dog shall include a \$50.00 surcharge in addition to the regular licensing fee. The surcharge required by this provision shall be enforced by the Animal Control Officer.

(e) An owner may transport a dangerous or vicious dog within the City limits for medical or veterinary care provided said animal is properly restrained by being both muzzled and leashed, with the leash not to exceed a length of four (4) feet.

C. Enforcement, Fines and Penalties.

(a) When a dog is deemed to be dangerous or vicious, the Chief of Police, or his/her designee, shall order the Owner to submit written verification to confirm any or 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 condition(s).
2. Microchip identification, the mode of which shall be designated by the Animal Control Officer, if the animal is not already micro chipped.
3. Behavior training from an approved trainer as determined by the Animal Control Officer and/or the Chief of Police or his designee. The cost of said training shall be borne by the owner.

Revised amendment
Dec 66 June 5 2008

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.

(b) The owner of any dangerous or vicious dog, if said animal is found on property not owned or controlled by its owner, or not restrained in a secure area per Section B (a), shall be subject to the following:

First Offense: A fine of fifty dollars (\$50.00) and a hearing by the Chief of Police, at the Chief's discretion, to determine whether said animal shall be forever banned within the limits of the City of Haverhill or whether said animal shall be humanely euthanized.

Second or Subsequent Offense: A fine of one hundred dollars (\$100.00), and a mandatory hearing by the Chief of Police to determine whether said animal shall be forever banned within the limits of the City of Haverhill or whether said animal shall be humanely euthanized.

Upon re-location of the animal the owner thereof shall notify the Animal Control Officer of the new location. Said Officer shall then forward all documentation maintained by the City of Haverhill, regarding the animal to his/her official counterpart at the new location.

(c) Owners of dangerous or vicious dogs found within the City of Haverhill and not properly registered shall be subject to a fine of fifty dollars (\$50.00). Said animal shall be humanely euthanized unless the Owner within ten (10) days of said finding registers said dog in compliance with this ordinance.

(d) Each day there exists a violation of any of the provisions of this ordinance the same shall constitute and be punishable as a separate offense.

(e) Any dog for which the Chief of Police, his designee, or Animal Control Officer of the City has a verified report of having attacked or bitten any person shall be considered a dangerous or vicious dog, except for those dogs that qualify for an exception as provided in § 137-17A(b). A notification of such report shall be forwarded to the City Clerk and any such dog shall not be re-registered in the City unless the owner is in full compliance with this ordinance.

(f) Compliance with the requirements of this section shall not be a defense to an order of disposal of a vicious dog pursuant to Massachusetts General Laws Chapter 140, Section 157.

*Revised Amendment
DWC 66
June 5th 2008*

- (g) All notice and hearing procedures will be carried out in conformance with Massachusetts General Laws, Chapter 140, Section 157.

§ 137-18. Potentially dangerous dogs.

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

1. 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.
2. Any dog owned by a person cited more than once, in a 12-month period, 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.
3. The determination that a dog is potentially dangerous under this section shall be in the discretion of the Animal Control Officer and/or the Chief of Police, or his designee, who 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 Chief of Police, or his/her designee may order the Owner to submit written verification to confirm any or all of the following:

1. A dog may be spayed or neutered, 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, the mode of which shall be designated by the Animal Control Officer, if the animal is not already micro chipped.
3. Behavior training from an approved trainer, as determined by the Animal Control Officer and/or the Chief of Police or his designee. The costs of said training shall be borne by the Owner.
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 twenty-one (21) days of receiving description. For good cause shown, the Chief of Police may extend this time for up to sixty (60) days.
6. After two (2) years of compliance the dog will not be considered potentially dangerous.

*Revised amendments
Dec 66
June 5 2008*

- Revised amendment
12/16/66 June 5 2008*
- (c) **Persons responsible.** No person under the age of 18 shall own, control or be responsible for a potentially dangerous dog.
 - (d) **Signs.** All owners, keepers, or harborers of potentially dangerous dogs shall display in 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 surcharge in addition to the regular licensing fee. The Animal Control Officer shall enforce the surcharge required by this provision.
 - (f) **Penalties.** After twenty-one (21) days of being notified that a dog is potentially dangerous, any owner found not in compliance with any of the provisions of this section, 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. Failure to so comply after due notice may result in application by the City for hearing before the clerk of the District Court and/or any other enforcement measures as further provided in Massachusetts General Laws, Chapter 40, § 21D and Chapter 1-16 of the Haverhill Municipal Code.
 - (g) **Owners of all potentially dangerous dogs who re-locate or move to the City of Haverhill from another community shall notify the Animal Control Officer of a description of such dog and said designation. Failure to so notify may result in fine as provided in section B(f) above.**
 - (h) **Owners of all potentially dangerous who relocate or move from the City of Haverhill to another community shall notify the Haverhill Animal Control Officer and the Animal Control Officer of the new community to which the owners are moving, or person have like duties, of a description of such dog and said designation.**

§ 137-19. Municipal Canine Commission

There shall be a Municipal Canine 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, an agent of the Health Department; a licensed veterinarian, a representative of the Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA), a representative of the Massachusetts Federation of Dog Clubs and Responsible Dog Owners, one citizen of Haverhill who owns one or more dogs and one citizen of Haverhill who does not own a dog. Members, except the Animal Control Officer and agent of the Health Department, shall be appointed annually in July by the Mayor."

Also,

"§137-6. By adding the following at the end of the first sentence:

"The Mayor may also designate one or more Assistant Animal Control Officers, who may be employed on a part-time or seasonal basis, who shall work under the supervision of the Chief of Police and whose duties shall be to patrol parks and playgrounds enforcing violations of §137-4, §137-10 and §137-11."

*Revised Amendments
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June 5, 2008*

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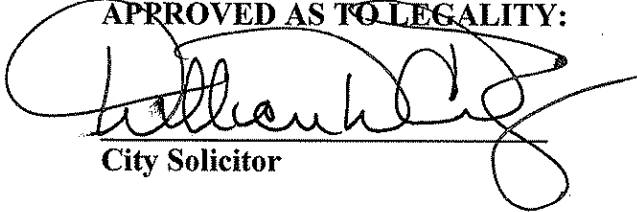
Haverhill Municipal Code.

§ 137-19. 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, an agent of the Health Department; a licensed veterinarian, a dog trainer or behaviorist, one citizen of Haverhill who owns one or more dogs and one citizen of Haverhill who does not own a dog. Members, except the Animal Control Officer and agent of the Health Department, shall be appointed annually in July by the Mayor."

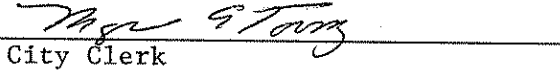
APPROVED AS TO LEGALITY:



City Solicitor

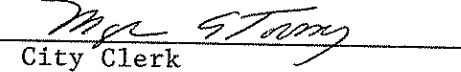
REFERRED to PUBLIC SAFETY and
PLACED ON FILE for at least 10 days
TO COME BACK TO COUNCIL MAY 27 2008

Attest:


City Clerk

POSTPONED to JUNE 3 2008

Attest:


City Clerk

IN CITY COUNCIL: June 3 2008

On motion of Councillor Hall to amend Dog Ordinance as stated per the letter submitted by City Solicitor William Cox Jr, dated June 4 2008 as indicated in the attached document pages 2-thru 8, date stamped June 5 2008

MOTION PASSED and

On motion of Councillor Hall to pass as amended

PASS AS AMENDED

Attest:


City Clerk

APPROVED:


Mayor

City Clerk
Council

San Code - email
Polie