

Ordinance No. **51-2007**

By – Mayor Cervenik and Councilmen Langman and Gruber

An emergency ordinance amending the General Offenses Code, Part Five of the Codified Ordinances of the City of Euclid to expand the definition of an animal that is dangerous or potentially dangerous.

HEREAS, to assist an animal control officer in the determination that an animal is dangerous, or potentially dangerous, it is necessary to amend Euclid Codified Ordinance 505.37 to include additional city and county officials who may witness an unrestrained or uncontrolled animal; and

HEREAS, the subject matter of this ordinance constitutes an emergency in that the same provides for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and for the daily operation of a municipal department.

OW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That Section 505.37 of the General Offenses Code of the Codified Ordinances for the City of Euclid is hereby amended to read as follows:

505.37 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

(a) Definitions. As used in this section:

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

A. Any dog which, according to the records of the Police Department, has inflicted severe injury on a human being, without provocation, on public or private property; or

B. Any dog which, according to the records of the Police Department, has killed a domestic animal, without provocation, while off the owner, keeper or handler's property; or

C. Any dog owned, kept or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; or

D. Any pit bull terrier, the ownership, keeping or harboring of such a dog shall be prima facie evidence of the ownership, keeping or harboring of a dangerous dog.

(2) "Potentially dangerous dog" means any of the following:

A. Any dog which, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack;

B. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of human beings or domestic animals; or

C. Any dog which, on three separate occasions within a twelve-month period, has been observed being unrestrained or uncontrolled off its owner, keeper or harboring's premises by ~~the~~ a Euclid Animal Warden Control Officer, Euclid Police Officer, Euclid City Employee or Public Official, or Cuyahoga County Dog Warden, or has been impounded for being unrestrained or uncontrolled off its owner's premises; or the Animal Control Officer has verified any complaints of an unrestrained or uncontrolled dog.

(3) "Pit Bull Terrier" means any dog belonging to a breed commonly known as a "pit bull" dog, including, but not limited to any American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contain as an element of its breeding any of the breeds described in this definition and identifiable as partially of one of those breeds. Testimony by a veterinarian, zoologist, or animal control officer that a particular dog exhibits distinguishably physical characteristics of a "pit bull terrier" shall establish a rebuttable presumption, that the dog is a "pit bull terrier."

(4) "Severe injury" means any physical injury that results in broken bones or lacerations or cosmetic surgery.

(b) Exemptions.

(1) No dog may be declared dangerous or potentially dangerous if any of the following applies:

A. The threat, injury or damage was sustained by a person who had teased, tormented or abused the dog.

B. The dog was coming to the aid or the defense of a person, provided that such person was not engaged in illegal or criminal activity and using the dog as a means of carrying out such activity.

C. In the case of another domestic animal, the dog was attacked by such animal or such animal was running at large.

(c) Determination of "Dangerous" or "Potentially Dangerous".

(1) Upon receiving a complaint alleging that a particular dog is or may be dangerous or potentially dangerous and setting forth a specific basis for such allegation, the Animal Control Officer shall investigate to determine if, in fact, the dog is dangerous or potentially dangerous, and setting forth a specific basis for such a finding.

(2) Within 14 days after receipt of such complaint, the Animal Control Officer shall notify the dog's owner, keeper or harbinger and the complainant, in writing, of his or her determination.

(3) The Animal Control Officer may also, on his or her own initiative, conduct an investigation and make a determination as to whether a particular dog is dangerous or potentially dangerous. If, after such an investigation, a dog is determined to be dangerous or potentially dangerous, the Animal Control Officer shall promptly notify the dog's owner, keeper or harbinger, in writing, of his or her determination.

(4) Notification of a determination by the Animal Control Officer that a dog is dangerous or potentially dangerous shall be hand-delivered or mailed to the dog's owner, keeper or harbinger.

(d) Right of Appeal.

(1) A written determination by any Animal Control Officer that a dog is dangerous or potentially dangerous may be appealed to the Chief of Police, or his designee, within ten days after receipt of written notification thereof. Notification by the Animal Control Officer making the decision shall be hand delivered to the address where such animal is kept.

(2) Upon appeal, the Chief of Police, or his or her designee, shall provide to the dog's owner, keeper or harbinger, the opportunity to appear before him or her, and present evidence, if any, relative to the appeal of the decision by the Animal Control Officer. At such hearing, the owner, keeper, or harbinger of such animal shall be permitted to present evidence relevant to the determination of whether or not a dog is dangerous or potentially dangerous.

(3) The owner, keeper or harbinger of the dog shall be notified in writing of the decision of the Chief of Police or his or her designee, regarding the appeal, which decision shall be final.

(e) Owner's Responsibility Upon Determination. If a dog is determined to be "dangerous" or "potentially dangerous," the owner, keeper or handler of such animal shall do the following:

(1) Must provide a photograph of the dog in question for identification purposes.

(2) Must, at the expense of the owner, keeper or harbinger, be microchipped by a licensed veterinarian, to secure positive identification. A copy of the microchip form and number must be provided to the Animal Control Officer.

(3) Display a sign on his or her premises warning that there is a dangerous dog on the property. This sign shall be visible and capable of being read from the public highway or thoroughfare. In addition, the owner shall conspicuously display signs with a symbol warning children of the presence of a dangerous dog. Such signs shall be visible from the front, rear and both sides of the property.

(4) While that dog is on the premises of the owner, keeper or harbinger, securely confine it at all times indoors or in a locked, fenced yard where the dog is secured by a chain-link leash or in a locked pen or other structure. Such fence shall be at the maximum height allowed by City ordinance and sufficient to secure the dog in the yard. Such pen or structure must have minimum dimensions of five feet by ten feet and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be embedded into the ground no less than two feet. The pen or structure must also provide protection from the elements for the dog. The owner shall have ten days to construct a pen as described in this section.

(5) While that dog is off of the owner's premises, keep it muzzled and restrained by a substantial chain or leash not more than six feet in length and have the leash controlled by a person who is person who is 18 years of age or older and of suitable capacity and discretion to adequately restrain the dog.

(6) Present to the Animal Warden proof that the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000), covering the twelve-month period during which licensing is being sought. This policy shall contain a provision requiring the City to be named as an additional insured for the sole purpose of ensuring that the City will be notified by the insurance company of any cancellation, termination or expiration of the policy.

The owner shall have twenty-four hours to comply with this section except where otherwise specified.

(f) Euthanasia Option. If the owner or keeper of a dog that has been designated dangerous or potentially dangerous is unwilling or unable to comply with the above regulations for keeping such an animal, then he or she shall have the animal humanely euthanized by an animal shelter, animal control agency or licensed veterinarian, after a ten-day holding period. The owner shall bear the cost for such action. Any dog that has been designated as dangerous or potentially dangerous under this section may not be offered for adoption.

(g) Removal Option. If the owner or keeper of a dog that has been designated dangerous or potentially dangerous is unwilling or unable to comply with the above regulations for keeping such an animal, and the owner or keeper of such dog does not use the euthanasia option, then he or she shall have such dog removed from such premises and removed from the City limits within a ten-day period.

(h) Penalty. Whoever violates or fails to comply with any of the provisions of this section is guilty of a misdemeanor of the first degree and shall be subject to the penalty provided in Section 599.02.

Section 2: That Section 505.37 of the General Offenses Code of the Codified Ordinances is hereby amended.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance shall be in full force and effect from and after the earliest period allowed by law. Is hereby declared to be an emergency measure necessary for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and provided it receives the two-thirds vote of all members of Council elected thereto, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed: April 2, 2007

Approved:

Mayor