

City of St. James
Ordinance No. 19 3rd Series

Subd. 14. Dangerous or Potentially Dangerous Dogs.

A. Adoption by reference. Except as otherwise provided in this subdivision, the regulatory and procedural provisions of Minnesota Statutes, Section 347.50 to 347.565 (commonly referred to as the "Dangerous Dog Regulations"), are adopted by reference.

B. Definitions. Definitions in this subdivision shall have the following meanings:

Dangerous dog means any dog except a dog assisting a peace officer engaged in law enforcement duties and/or dogs trained by a recognized program within an established curriculum for training dogs for services such as rescue and recovery that demonstrates any of the following behavior:

(1) Any dog that when unprovoked inflicts substantial bodily harm on a human being who is conducting himself or herself peacefully and lawfully. "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fraction of any bodily member.

(2) Any dog previously designated as a potentially dangerous dog that, after the owner or custodian has been notified of such designation, exhibits any of the behaviors described in this subdivision.

(3) Any dog previously designated as a potentially dangerous dog, after the owner or custodian has been notified of such designation, if the owner or custodian subsequently violates any requirement of this subdivision.

(4) Any dog that kills another domestic animal without provocation while off the property of the owner or custodian of the attacking dog.

(5) Any dog when unprovoked that repeatedly attacks or attempts to attack a person or domestic animal on private or public property. For purposes of this provision, "repeatedly" shall mean more than one (1) unprovoked attack or attempted attack occurring during the course of either a single encounter or separate encounters.

(6) The dog's owner or custodian is in possession of training apparatus, paraphernalia or drugs intended to be used to prepare or train dogs to be fought and the dog displays evidence that it has been or will be fought established by the fact that the dog has fresh wounds, scarring, or is observed in a fight or has other indications which to a reasonable person evidence that the animal has been or will be used, trained, or encouraged to fight with another animal.

Dog means both male and female of the canine species, commonly accepted as domesticated household pets.

Great bodily harm means bodily harm which creates a high probability 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 harm.

Owner means any person or persons, firm, corporation, organization, department, or association owning, possessing, harboring, keeping, having an interest in, or having care, custody or control of a dog.

Maintenance costs means any costs incurred as a result of seizing an animal for impoundment, including but not limited to, the capturing, impounding, keeping, treating, examining, securing, confining, feeding, destroying, boarding or maintaining seized animals, whether these services are provided by the City or the pound.

Potentially dangerous dog means any dog except a dog assisting a peace officer engaged in law enforcement duties and/or dogs trained by a recognized program within an established curriculum for training dogs for services such as rescue and recovery that demonstrates any of the following behavior:

(1) Any dog that engages in any unprovoked behavior that requires a defensive action by any person to prevent bodily harm when the person and the dog are off the property of the owner or custodian of the dog. "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

(2) Any dog that when unprovoked, bites a person on public or private property, causing a minor injury not resulting in muscle tears or disfiguring lacerations or requiring multiple sutures or corrective or cosmetic surgery.

(3) Any dog that when unprovoked bites, inflicts injury, or otherwise causes injury to a domestic animal off the property of the owner or custodian of the attacking dog.

(4) Any dog that when unprovoked engages in any behavior that constitutes a physical threat of bodily harm to a person or domestic animal or poses an immediate threat to public safety off the property of the owner or custodian of the dog.

(5) Any dog that has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals as documented by law enforcement or the City of St. James.

Proper enclosure means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open and in which door or window screens are the only

barriers which prevent the dog from exiting. The enclosure shall not allow the egress of the dog in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(1) A minimum overall floor size of 32 square feet.

(2) Sidewalls shall have a minimum height of five feet and be constructed of 11 gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be one and one-fourth inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(3) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and openings in the wire shall not exceed two inches.

(4) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and openings in the wire shall not exceed two inches. The gate shall be self-closing and self-locking. The gate shall be locked at all times when the dog is in the pen or kennel.

Substantial bodily harm means bodily harm that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ or that causes a fracture of any bodily member.

Unprovoked means the condition in which the dog is not purposely excited, stimulated, agitated or disturbed.

C. Declaration of Dangerous or Potentially Dangerous Dog.

1. A police officer, community service officer, or animal control officer may declare a dog to be Dangerous or Potentially Dangerous when the officer has probable cause to believe that a dog is Dangerous or Potentially Dangerous. The following factors will be considered in determining a Dangerous or Potentially Dangerous Dog:

a. Whether any injury or damage to a person by the dog was caused while the dog was protecting or defending a person or the dog's offspring within the immediate vicinity of the dog from an unjustified attack or assault.

b. The size and strength of the dog, including jaw strength, and the animal's propensity to bite humans or other domestic animals. This factor may only be considered along with the additional listed factors in determining a dangerous or potentially dangerous dog and may not be used by itself in making the determination. This information may be available from veterinarians or publications.

c. Whether the dog has wounds, scarring, is observed in a fight, or has other indications that the dog has been or will be used, trained or encouraged to fight with another animal or whose Owner is in possession of any training apparatus, paraphernalia or drugs used to prepare such dogs to fight with other animals.

2. Beginning six months after a dog is declared Dangerous or Potentially Dangerous, an Owner may request annually that the City review the designation. The Owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training or other factors. If enough evidence is provided, the City may rescind the designation.

3. **Exceptions.**

(a) The provisions of this subdivision do not apply to dogs used by law enforcement.

(b) Dogs may not be declared Dangerous or Potentially Dangerous if the threat, injury, or danger was sustained by a person who was:

(i) Committing a willful trespass or other tort upon the premises occupied by the owner of the dog.

(ii) Provoking, tormenting, abusing or assaulting the dog, or who can be shown to have a history of repeatedly provoking, tormenting, abusing, or assaulting the dog; or

(iii) Committing or attempting to commit a crime.

D. **License Required.** The Owner must annually license Dangerous or Potentially Dangerous Dogs with the City and must license a newly declared Dangerous or Potentially Dangerous Dog within 14 days after notice that a dog has been declared Dangerous or Potentially Dangerous. Regardless of any appeal that may be requested, the Owner must comply with the requirements of Minnesota Statutes Section 347.52 (a) and (c) regarding Proper Enclosures and notification to the City upon transfer or death of the dog, until and unless a hearing officer or court of law reverses the declaration.

1. **Process for Dangerous Dogs.** The City will issue a license to the owner of a Dangerous Dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) Written proof that there is a surety bond by a surety company authorized to conduct business in Minnesota in the sum of at least \$300,000, payable to any person injured by a Dangerous Dog, or receipt of a copy of a policy of liability insurance issued by an insurance company authorized to do business in Minnesota in the amount of at least \$300,000,

insuring the owner for any personal injuries inflicted by the Dangerous Dog. The City may notify the insurance company or surety company of the dangerous dog declaration. Such surety bond or insurance policy shall provide that no cancellation of the bond or policy will be made unless the City is notified in writing by the surety company or the insurance company at least 10 days prior to such cancellation;

(c) The Owner has paid the annual license fee;

(d) The Owner has had a microchip identification implanted in the Dangerous Dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the City. If the microchip is not implanted by the Owner, it may be implanted by the City at the Owner's expense; and

(e) The Owner provides proof that the dog has been sterilized. If the Owner does not sterilize the dog within 30 days, the City shall seize the dog and sterilize it at the Owner's expense.

(f) The dog may not be possessed or maintained at any other location other than the Owner's property.

(g) The Owner or custodian of the animal may not be a minor under age 18 years.

(h) The Owner of the dangerous dog may be required to complete an approved obedience class at the direction of the City or hearing officer.

2. **Process for Potentially Dangerous Dogs.** The City will issue a license to the Owner of a Potentially Dangerous Dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) The Owner has paid the annual license fee;

(c) The Owner has had a microchip identification implanted in the Dangerous Dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the City. If the microchip is not implanted by the Owner, it may be implanted by the City at the Owner's expense.

3. **Inspection.** A pre-license inspection of the premises to insure compliance with the City Code is required. If the City issues a license to the owner of a Dangerous or Potentially Dangerous Dog, the City shall be allowed at any reasonable time to inspect the dog, the proper enclosure and all places where the dog is kept.

4. **Warning Symbol.** The owner of a dangerous dog licensed under this subdivision must post a sign with the uniform dangerous dog warning symbol on the property

in order to inform children that there is a dangerous dog on the property. The sign will be provided by the City upon issuance of the license.

5. **Tags.** A Dangerous Dog licensed under this subdivision must wear a standardized, easily identifiable tag at all times that contains the uniform dangerous dog symbol, identifying the dog as dangerous. The tag shall be provided by the City upon issuance of the license.

6. **License Fee.** The City will charge the owner an annual license fee for a Dangerous or Potentially Dangerous Dog.

E. **Properly Restrained in Proper Enclosure or Outside of Proper Enclosure.** While on the Owner's property, an Owner of a Dangerous or Potentially Dangerous Dog must keep it in a Proper Enclosure. Inside a residential home, there must be a secured area maintained where the dog will stay when persons other than family members are present. If the dog is outside the Proper Enclosure, the dog must be muzzled and restrained by a substantial chain or leash no longer than four feet and under the physical restraint of an adult. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

F. **Notification Requirements to City.**

1. **Relocation or Death.** The Owner of a dog that has been declared Dangerous or Potentially Dangerous must notify the City Administrator in writing if the dog is to be relocated from its current address or if the dog has died. The notification must be given in writing within 30 days of the relocation or death. The notification must include the current Owner's name and address, and the new Owner's name and the relocation address. If the relocation address is outside the City, the City may notify the local law enforcement agency of the transfer of the dog into its jurisdiction.

2. **Renter's Obligations.** A person who owns or possesses a Dangerous or Potentially Dangerous Dog and will rent property from another where the dog will reside must disclose to the property owner prior to entering into the lease agreement and at the time of any lease renewal periods that the person owns or possesses a Dangerous or Potentially Dangerous Dog that will reside at the property. A dog owner who is currently renting property must notify the property owner within 14 days of city notification if the owned dog is newly declared as Dangerous or Potentially Dangerous and the owner keeps the dog on the property.

3. **Transfer of Ownership into the City.** No dog that has been previously determined to be Dangerous or Potentially Dangerous by another jurisdiction shall be kept, owned, or harbored in the City unless the dog's owner complies with the requirements of this subdivision prior to bringing the dog into the City. Dogs in violation of this subdivision are subject to impoundment and destruction.

G. **Seizure.** Animal control may immediately seize any Dangerous or Potentially Dangerous Dog if:

1. 14 days after the Owner has notice that the dog is declared Dangerous or Potentially Dangerous the dog is not validly licensed and no appeal has been filed;

2. 14 days after the Owner has notice that the dog is dangerous, the Owner does not secure the proper liability insurance or surety coverage as required or such required insurance is cancelled.

3. The dog is not maintained in a proper enclosure.

4. The dog is outside the proper enclosure and not under proper restraint as required by this subdivision.

5. 30 days after the Owner has notice that the dog is Dangerous, the dog is not sterilized, as required by this subdivision.

6. The dog's microchip has been removed.

7. The dog's owner or custodian is in possession of training apparatus, paraphernalia or drugs intended to be used to prepare or train dogs to be fought and the dog displays evidence that it has been or will be fought established by the fact that the dog has fresh wounds, scarring, or is observed in a fight or has other indications which to a reasonable person evidence that the animal has been or will be used, trained, or encouraged to fight with another animal.

H. **Reclamation.** A dog seized under this Ordinance may be reclaimed by the Owner of the dog upon payment of Maintenance Costs, and presenting proof to animal control that the requirements of this subdivision have been met. A dog not reclaimed under this subdivision within seven days may be disposed of and the Owner may be liable to the City for Maintenance Costs. A person claiming an interest in a seized dog may prevent disposition of the dog by posting a security in an amount sufficient to provide for the dog's Maintenance Costs. The security must be posted within the City within seven days of the seizure inclusive of the date seized.

I. **Subsequent Offenses; Seizure.** If a person has been convicted of violating a provision of this subdivision, and the person is charged with a subsequent violation relating to the same dog, the dog must be seized. If the Owner is convicted of the crime for which the dog was seized, the court may order that the dog be destroyed in a proper and humane manner and the Owner pay the Maintenance Costs. If the Owner is not convicted and the dog is not reclaimed by the Owner within seven days after the Owner has been notified that the dog may be reclaimed, the dog may be disposed of, used for research, or destroyed.

J. **Notice, Hearings.**

1. **Notice.** After a dog has been declared Dangerous or Potentially Dangerous or has been seized for destruction, the City shall give notice by delivering or mailing it to the Owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

a. A description of the seized dog; the authority for and purpose of the declaration and seizure; the time, place, and circumstances under which the dog was declared; and the telephone number and contact person where the dog is kept;

b. A statement that the owner of the dog may request a hearing concerning the declaration and that failure to do so within 14 days of the date of the notice will terminate the Owner's right to a hearing;

c. A statement that if an appeal request is made within 14 days of the notice, the Owner must immediately comply with the requirements of Minnesota Statutes, Section 347.52, paragraphs (a) and (c) regarding Proper Enclosures and notification to the City upon transfer or death of the dog, until such time as the hearing officer issues an opinion;

d. A statement that if the hearing officer affirms the Dangerous Dog declaration, the Owner will have 14 days from receipt of that decision to comply with all other requirements of Minnesota Statutes, Section 347.51, 347.515, and 347.52;

e. A form to request a hearing; and

f. A statement that if the dog has been seized, all Maintenance Costs of the care, keeping, and disposition of the dog pending the outcome of the hearing are the responsibility of the Owner, unless a court or hearing officer finds that the seizure or impoundment was not substantially justified by law.

2. **Right to Hearing.**

(a) After a dog has been declared Dangerous, Potentially Dangerous, or has been seized for destruction, the Owner may appeal in writing to the City within 14 days after notice of the declaration or seizure. Failure to do so within 14 days of the date of the notice will terminate the Owner's right to a hearing. The Owner must pay a nonrefundable \$100 fee for an appeal hearing.

(b) The appeal hearing will be held within 14 days of the request. The hearing officer must be an impartial employee of the City or an impartial person retained by the City to conduct the hearing.

(c) If the declaration or destruction is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000, as well as all Maintenance Costs, will be the responsibility of the dog's Owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision shall be delivered to the dog's Owner by hand delivery or registered mail as soon as practical and a copy shall be provided to the City. The decision of the hearing officer is final.

K. Destruction of Certain Dogs. The Police Chief and/or hearing officer are authorized to order the destruction or other disposition of any dog, after proper notice is given pursuant to this Ordinance and upon a finding that:

1. The dog has been declared Dangerous, the Owner's right to appeal hereunder has been exhausted or expired, and the Owner has failed to comply with the provisions of this subdivision;

2. It is determined that the dog is infected with rabies;

3. The dog inflicted substantial or great bodily harm on a human on public or private property without provocation;

4. The dog inflicted multiple bites on a human on public or private property without provocation;

5. The dog bit multiple human victims on public or private property in the same attack without provocation;

6. The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack; or

7. The dog has engaged in an attack on or exhibited unusually aggressive behavior towards any person or domestic animal under circumstances that would indicate danger to the safety of the person or animal.

8. In determining the disposition of the dog, the City will determine the potential of the dog to pose a danger to the public's health, safety, or welfare based upon the following factors:

(a) The dog weighs more than 20 pounds.

(b) The strength of the dog, including jaw strength.

(c) The dog's tolerance for pain;

(d) The dog's tendency to refuse to terminate an attack;

(e) The dog's propensity to bite humans or other domestic animals;

- (f) The dog's potential for unpredictable behavior;
- (g) The dog's aggressiveness;
- (h) The likelihood that a bite by the dog will result in serious injury.

L. **Concealing of Dogs.** No person may harbor, hide or conceal a dog that the City has the authority to seize or that has been ordered into custody for destruction or other proper disposition.

M. **Dog Ownership Prohibited.**

1. Except as provided below, a person shall not own a dog if the person has been:
 - (a) Convicted of a 3rd or subsequent violation of Sections D, E, or F of this subdivision.
 - (b) Convicted of 2nd degree manslaughter due to negligent or intentional use of a dog under Minnesota Statutes Section 609.205(4); or
 - (c) Convicted of Gross Misdemeanor harm caused by a dog under Minnesota Statutes Section 609.226 Subd. 1.
2. Any person who owns a Dangerous or Potentially Dangerous Dog and is found to be in violation of any of the provisions of this Section or had owned a Dangerous or Potentially Dangerous Dog but never achieved compliance with this Section may be prohibited from ownership or custody of another dog for a period of five years after the original declaration. Any dog found to be in violation shall be impounded until due process is completed, pursuant to Section J of this subdivision.
3. If any member of a household is prohibited from owning a dog in Section M(1)(2) of this subdivision unless specifically approved with or without restrictions by the City, no person in the household is permitted to own a dog.

N. **Dog Ownership Prohibition Review.** Beginning three years after a conviction under Section M(1) of this subdivision that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the Chief of Police that the City review the prohibition. The City may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions or other facts that the City deems appropriate. The City may rescind the prohibition entirely or rescind it with limitations. The City may also establish conditions a person must meet before the prohibition is rescinded, including but not limited to successfully completing dog training or dog handling courses. If the City rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the City or the person is convicted of any animal violation involving

unprovoked bites or dog attacks, the City may permanently prohibit the person from owning a dog in this City.

O. **Penalties.** A person who violates this subdivision shall be guilty of a misdemeanor.

Subd. 15. **Limitation on number of dogs and cats; kennel license.**

A. **Limitation on number of dogs and cats.** No person shall keep in any one household unit, lot, or premises, or portion thereof, more than three dogs or cats or a combination thereof over six months of age unless a person has a valid kennel license from the City.

B. **Definition of Kennel.** The keeping of four or more dogs or four or more cats or a combination of four or more dogs and cats on the same premises whether owned by the same person or not and for whatever purpose kept shall constitute a “kennel”; except that a fresh litter of pups or kittens may be kept for a period of three months before that keeping shall be deemed to be a “kennel”.

C. **Kennel as a nuisance.** Because the keeping of four or more dogs or four or more cats, or a combination of four or more cats and dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of four or more dogs or four or more cats on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the City except as allowed hereafter. A kennel is not permitted in any “R-1” one and two family residential districts. A kennel may only be maintained in a special commercial district through a special use permit.

D. **Kennel Permit.** An annual kennel permit is required before four or more dogs, cats, or combination thereof may be kept on the same premises. The permit shall be obtained from the City Administrator. The annual fee for a kennel permit shall be established by resolution of the City Council. Persons operating or maintaining a kennel as defined by M.S.A. §347.31 Subd. 2 as it may be amended from time to time shall obtain a kennel license from the State Board of Animal Health before being issued a kennel permit by the City.

E. **Maintenance of Kennels.** Kennels shall be kept in a clean and sanitary manner, all animals shall be treated humanely, and the owners or operators of all kennels shall follow all provisions of Minnesota Rules, parts 1720.1400 to 1720.1550, as they may be amended from time to time.

F. **Revocation of Kennel Permit.** A kennel permit may be revoked by the City Council if a kennel is not kept in a clean and sanitary manner, if the animals are not treated humanely, if the kennel does not comply with the above cited rules, or if any other provision of this subdivision is violated.

G. **Breeder.** A professional breeder is any person or entity breeding animals for profit or who produces more than one litter regardless of species in any twelve month period.

H. **Nonprofessional Breeder.** A nonprofessional breeder is any person breeding animals as a hobby and produces not more than one litter in any twelve month period.

I. **Professional Breeder Permit.** A professional breeder must acquire a kennel permit in order to continue business as a professional breeder regardless of the number of adult dogs and/or cats on the premises. A kennel is not permitted in any "R-1" one and two family residential districts. A kennel may only be maintained in a special commercial district through a special use permit.

This Ordinance shall become effective upon the date of publication.

Enacted this 21st day of June, 2011.

CITY OF ST JAMES

By- *Gary L. Sturm*
Gary Sturm
Mayor

ATTEST:

LeesAnn M. Ribbe
City Clerk