

ORDINANCE NO. 454

AN ORDINANCE PROVIDING FOR THE CONTROL OF CANINES WITHIN THE CITY OF MADRAS THAT ARE DEEMED DANGEROUS; AND IMPOSING CERTAIN RESTRICTIONS AND REGULATIONS ON SAID ANIMALS; AND ESTABLISHING A HEARING PROCESS AND DECLARING AN EMERGENCY.

WHEREAS, the citizens of Madras have voiced their concerns about dangerous canines within the city limits of the city of Madras, and a city police officer and other residents of the city have been attacked by canines; and

WHEREAS, the city of Madras has reviewed ordinances of other communities and has investigated incidents of violence and injuries caused by certain canines within the city of Madras and within Jefferson County, and held numerous meetings with interested citizens in the community, including canine breeders, veterinarians and other people interested in the control of canines; and

WHEREAS, the city of Madras is concerned about protecting children and adults in the community that may be subjected to attacks by dangerous canines.

NOW, THEREFORE, the city of Madras hereby ordains as follows:

Section 1. Classification of Dangerous and Potentially Dangerous Canines.

A. For the purpose of this ordinance, a dangerous or potentially dangerous canine shall be classified into one of the following levels:

Level 1: Any canine which, without provocation, places a person in fear of imminent physical injury, said fear being reasonable under the circumstances, or which, while at large, menaces, chases, or displays threatening behavior to a person or domestic animal, shall be deemed potentially dangerous. A canine responsible for this behavior shall be confined in a secure enclosure, as defined in Section 4 of this ordinance, when not on a leash or within the owner's home.

Level 2: A canine which bites a person without provocation shall be deemed dangerous. The owner shall post a warning sign on the premises as defined in Section 4. Said canine shall not be allowed outside the confinements as set forth in Section 4 and shall not be allowed in public unless on a leash not to exceed six (6) feet in length.

Level 3: Any canine which has attacked a person or animal without provocation, or is trained for or used in animal fighting, or which aggressively bites a person or domestic animal and causes serious injury or death of said person or domestic animal shall fall into this category. The owner or keeper shall comply with all Level 2 requirements, and the canine shall be muzzled, leashed, and handled by a

capable person when off the owner's or keeper's premises. In addition, if such an attack results in death of a domestic animal or in serious injury or death of a person, the canine shall be destroyed and the owner may be suspended from ownership of any canine as described in Section 6.

B. Canines shall include any wild canines, wolves, or coyotes, or portion or mixture thereof in addition to all domestic canines. In addition to any state law requirements for keeping of wild animals, all wild canines shall be classified at Level 3 and comply with the restrictions of Level 3 due to the nature of the fact that said animals are not domesticated.

Section 2. Identification of Dangerous or Potentially Dangerous Canines. If any canine is identified pursuant to Section 1 by any city police officer or canine control officer as being a dangerous or potentially dangerous canine, the owner of such animal shall be notified in writing of an intention to classify that canine as a dangerous or potentially dangerous canine and the owner shall be supplied a copy of this ordinance. The police officer may make said classification upon receiving a sworn statement of any individual who personally observed the behavior of the canine, said statement containing a description of the type of behavior of the canine. The notice supplied by the city police to the owner shall specify that if there is no written request for a hearing before the city council or a commission designated by the city council pursuant to the terms of this ordinance to review dangerous canine hearings, and said notice is not filed within five (5) days after receipt of the notice from the city police, then said canine shall be deemed a dangerous or potentially dangerous canine pursuant to the terms of this ordinance and the owner shall abide by the restrictions of this ordinance.

Section 3. Designation of Dangerous Canine Commission. The city council may designate a special commission of three (3) people to review appeals from designation of a dangerous canine pursuant to the terms of this ordinance. Said commission shall be appointed by the city council and shall serve until there is a replacement or resignation. The city council or Dangerous Canine Commission shall hear evidence in a public hearing concerning classification of the canine as dangerous and the decision of the city council or Dangerous Canine Commission shall be final. The conduct of the hearing shall be exclusively within the guidelines of the Oregon Administrative Rules pertaining to quasi-judicial hearings.

Section 4. Restrictions on Ownership of Dangerous Canines.

A. The owner of a dangerous canine shall show proof that the owner has liability insurance insuring against injury that may be caused by the animal to the extent of \$150,000.00 coverage per occurrence.

B. While on the owner's premises, a dangerous or potentially dangerous canine 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 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 in to the ground no less than two feet, or embedded in concrete, or otherwise secured to prevent digging. The pen or structure must be at least five (5) feet from side or rear property lines. The enclosure must also provide protection from the elements for the canine and said animal enclosure shall be in areas on the owner's premises where the public is not permitted access, and the animal shall be kept away from those portions of the premises where persons may be invited onto the premises by the owner.

C. The owner or keeper of any Level 2 or Level 3 canine shall display a sign at all times on his or her premises where it may be easily seen by the public, warning that there is a dangerous canine on the premises. Such a sign shall be required to contain a standardized symbol warning children of the presence of a dangerous canine and shall be obtained from the city at the owner's expense.

D. The owner or keeper of a Level 2 or Level 3 canine shall, at his or her own expense, be required to have said canine's license number tattooed on said canine's flank or other area designated by a police officer or canine control officer. Tattooing shall be done by a licensed veterinarian or any person trained as a tattooist and authorized by the city of Madras or Jefferson County.

E. A Level 3 canine, when off of the owner's or keeper's premises, shall be muzzled and restrained by a substantial leash not to exceed six (6) feet in length and under the control of a capable person. The muzzle must be made in a manner that will not cause injury to the canine or interfere with its vision or respiration, but shall prevent it from biting any person or animal.

F. The owner or keeper of a canine classified as Level 2 or Level 3 shall notify the city of madras or Jefferson County canine control officer immediately if said canine is loose, unconfined, has attacked another animal or has attacked a human being. If the canine has been sold or given away or has died, the owner or keeper shall notify the above authorities within 24 hours and shall provide said authorities with the name, address, and telephone number of the new owner, who must comply with the requirements of this ordinance.

G. Any person who owns a canine or canines trained for defense or attack shall register them with the city administrator and shall comply with Level 2 restrictions at all times. In addition, the person shall post on the premises if said canine is kept within the premises owned by the owner, a specified sign warning of the danger that the premises are guarded by a canine trained to attack individuals. Such sign shall be posted at the

expense of the owner and shall be approved by the city administrator.

Section 5. Violation; Penalties.

A. Violation of this ordinance shall be punishable by a fine not to exceed \$300.00 per occurrence, and a minimum fine of \$75.00.

B. Any full day during which an activity continues to be conducted in violation of this ordinance shall be considered a separate offense.

C. Offenses under this ordinance shall be tried in the municipal court as a violation, not as a crime.

Section 6. Additional Remedies.

A. The city may seek an injunction to prohibit a person from violating this ordinance.

B. In any action authorized by this ordinance, if the city prevails, it shall recover in court reasonable attorney fees to be set by the court in addition to its costs and disbursements.

C. Owners or keepers of canines who are found to repeatedly be in violation of this ordinance, or owners or keepers of canines with severe Level 3 offenses as specified in Section 1 shall be prohibited from owning or keeping canines within the city of Madras for a period of not less than six (6) months, but not to exceed five (5) years.

D. Whenever a fine or penalty required by this ordinance is not paid when due, the city administrator or city recorder shall add as a penalty to the fee an amount equal to ten (10) percent of the fee for each month or part thereof during which the fee and accumulated penalty amounts remain unpaid. The total amount of penalty shall not exceed 100 percent of the original fee. Any fine or penalty which remains unpaid, at the option of the city, within three (3) months, shall be cause for the city police to pick up the animal classified as dangerous and said animal may be destroyed after an impoundment period of ten (10) days. If within ten (10) days all fines and fees are paid, then the said animal may be returned to the owner. If not so paid, the canine shall be euthanized and the cost of disposal of the animal shall be assessed to the owner in addition to any fines. All costs of impoundment shall be paid by the owner.

E. Any canine defined as dangerous pursuant to Section 1 may be impounded immediately by a duly authorized canine control officer or city police officer, if deemed necessary, until such time as the owner complies with the enclosure regulations as stated in Section 4. All impoundment fees, fines and county license fees shall be paid prior to release of said canine as specified in 6D. Any canine may be impounded at any time if any owner of said canine fails to comply with the requirements of this ordinance, and said canine may be impounded by the city until compliance is met in full by the owner, and the owner shall pay all expenses of impoundment. In addition, the city may notify, through the city police, any owner that unless the owner becomes within compliance of this ordinance within ten (10) days, then the canine may be euthanized and the cost of the impoundment and euthanasia shall be borne by the owner of said animal. Any animal may in addition be picked up by the city police for the owner's failure to pay any fine

herein and impounded until the fine is paid. If the fine is not paid within ten (10) days, then the canine may be euthanized by the city.

F. In addition to all the remedies provided herein, the city shall have the right, under reasonable suspicion that a person owns a dangerous canine and is not in compliance with this ordinance, to inspect the premises wherever the canine may be located, and if the canine is a dangerous canine as defined in Section 1 of this ordinance, the animal may be seized until the owner meets the requirements of this ordinance.

Section 7. Emergency Clause. Inasmuch as it is necessary for the immediate preservation of the peace, health and safety of all the citizens of the city of Madras, an emergency is hereby declared to exist and this ordinance shall become effective upon its passage by the council and approved by the mayor.

Passed by the council and approved by the mayor April 13, 1988.