

Effective Date: October 26, 2011

10/10/2011

8/2/2011

6/21/2011

52-O-11

AN ORDINANCE

**Amending Certain Provisions of Title 9, Chapter 4 of the Evanston
Municipal Code entitled "Dogs, Cats, Animals and Fowl"**

WHEREAS, the City of Evanston (the "City") is a home-rule municipality in accordance with the Constitution of the State of Illinois of 1970; and

WHEREAS, the City has the authority to adopt ordinances and promulgate rules and regulations that pertain to its government and affairs that protect the health, safety, and welfare of its citizens; and

WHEREAS, the City determines that it is in the best interests of its citizens to amend certain provisions of Section 9-4-17 addressing "Dangerous Dogs" of the Evanston Municipal Code concerning dangerous dogs; and

**NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
EVANSTON, COOK COUNTY, ILLINOIS:**

SECTION 1: The foregoing recitals are incorporated herein as findings of the corporate authorities of the City of Evanston.

SECTION 2: That Subsection 9-4-17 (A) of the Evanston City Code of 1979, as amended, is hereby further amended to read as follows:

(A) Designation of Dangerous Dogs:

1. The chief of police or his/her designee may, after conducting an investigation, declare a dog to be a "dangerous dog". The investigation shall include one or all of the following:

- a. Consideration of evidence pertaining to the temperament of the dog;
- b. Evaluation of any and all testimony, documentation, or

information regarding any pending or prior complaints, citations, or arrests regarding the animal; or

c. Any medical or veterinary evidence regarding the animal.

2. Dangerous Dogs shall be defined as:

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

b. Any dog which attacks a human being or domestic animal without provocation; or

c. Any dog which, without provocation, in a vicious or terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated; or

d. Any dog owned or harbored primarily or in part for the purpose of dogfighting or any dog trained for dogfighting; or

e. Any dog which has been trained as an attack dog, except such dogs which may be used by the Evanston police department or at its direction; or

f. No dog shall be deemed dangerous solely on the grounds that it bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented or abused it- the dog.

SECTION 3: That Subsection 9-4-17 (B) of the Evanston City Code of

1979, as amended, is hereby further amended to read as follows:

(B) Regulations:

1. No person owning or harboring or having the care or custody of a dangerous dog shall suffer or permit such dog to go unconfined on the premises of such person. A dangerous dog is "unconfined" as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or a dog run area upon the premises of said person. Such pen or dog run area must also have sides at least six feet (6') high and a secure top. The pen or structure must have a concrete bottom and sides secured to said bottom. All structures erected to house dangerous dogs must comply with all zoning and building regulations of the city. All such structures must be of adequate size to permit the dog to move about freely, must be adequately lighted, ventilated, and kept in a clean and sanitary condition.

2. No dangerous 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. No such animal may be kept in a house or structure when the windows are open or when screen doors or screen windows are the only obstacle preventing the dog from exiting the structure.

3. All owners, keepers or harborers of dangerous dogs within the city shall within ten (10) days from the effective date of this section display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dangerous Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal. The owner, keeper, or harbinger of the dangerous dog shall have two (2) signs produced at their own expense which meets the requirements of this section upon payment of the annual two hundred and fifty dollars (\$250.00) dangerous dog license fee; more fully set forth in subsection 9-4-4(A) of this chapter.

4. Any dog which has been found to be a dangerous dog (or vicious dog under the Illinois Animal Control Act, 510 ILCS 5/15) that has been directed to be contained in an enclosure rather than being destroyed, which is not confined to an enclosure, shall be impounded by the animal control officer or the City police department. Said dog shall be turned over to a licensed veterinarian for destruction by lethal injection, subject to the provisions of the Illinois Animal Control Act, 510 ILCS 5/1 *et seq.* For purposes of this subsection, the requirement that a dangerous or vicious dog be contained in an enclosure will not be violated where the individual who owns, harbors, or cares for such dog is engaged in the walking or exercising of the dog, routine transporting of the dog, or other actions inherently inconsistent with containment in an enclosure; provided that the dog must remain leashed and under the control of a human being at all times that it is not contained in the required enclosure.

5. Before a dog can be designated as dangerous under this Chapter, an evaluation of the animal by a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert selected by the chief of police or his/her designee must be performed if requested and paid for in advance by the owner or other individual responsible for the dog.

SECTION 4: That Subsection 9-4-17 (E) of the Evanston City Code of 1979, as amended, is hereby further amended to read as follows:

(E) Sell, Breed; Buy; No person shall possess with intent to sell, or offer for sale, breed, or buy or attempt to buy, or give away within the city limits a dangerous dog.

SECTION 5: That Subsection 9-4-17 (F) of the Evanston City Code of 1979, as amended, is hereby further amended to read as follows:

(F) Insurance: Any person owning or harboring or having the care of any dangerous dog shall maintain a policy of insurance in an amount not less than one hundred thousand (\$100,000.00) insuring said person against any claim, loss, damage or injury to persons, domestic animals, or property resulting from the acts of the dangerous dog. Said insurance policy shall be separate and distinct from any homeowner's insurance policy. Upon the determination of a dog as dangerous and prior to the release of the dog, the owner, keeper, or harborer shall transmit a copy of said insurance to the police department. The insurance must list contact information for the insurance company that issued the policy. The owner, keeper, or harborer of a dangerous dog has a continuing obligation to submit annually proof of insurance for the dog to the police department.

SECTION 6: That Subsection 9-4-17 (I) of the Evanston City Code of 1979, as amended, is hereby further amended to read as follows:

(I) Penalty:

1.

a. Whoever violates this section, except for subsection (B)(3) of this section, shall be fined in an amount not less than two hundred (\$200.00), but not more than five hundred dollars (\$500.00) per charge. Whoever is found guilty of a second offense of violating this section shall be guilty of a class C misdemeanor and may be imprisoned up to thirty (30) days and shall be fined five hundred dollars (\$500.00), which fine shall be mandatory and shall not be suspended or remitted. Whoever is found guilty of violating this section more than two (2) times shall be guilty of a class B misdemeanor and may be imprisoned for a term in excess of thirty (30) days but less than six (6) months and shall be fined five hundred dollars (\$500.00), which fine shall not suspended or remitted. A violation of subsection (B)3 of this section shall cause a mandatory fine of fifty dollars (\$50.00) to be imposed on the person found guilty of such offense.

b. If the violation charged is a failure to maintain the insurance coverage required by subsection (F) of this section, in addition to any fine or other penalty which may be imposed, the violator must present satisfactory evidence of said insurance to the court as a condition to returning the dog to him or her. Failure to present evidence of said insurance shall preclude return of the dog and shall cause the city to petition the court for destruction of the dog and for all costs the city has incurred, or will incur, in connection with keeping the dog in its custody and with destroying it.

2. Any person found guilty of violating this section shall be fined an

amount as established in subsection 9-4-17 (I)(1), and shall be responsible for any and all costs connected with the seizure, confiscation confinement and disposal of such animal, including any and all reasonable attorneys fees and court costs.

3. Any person found guilty of violating this section shall pay, prior to the release of the dog from the city's custody or its destruction, all expenses, including shelter, food, and veterinary expenses necessitated by the seizure of any dog for the protection of the public, and such other expenses as may be required for the destruction of such dog.

SECTION 7: That Section 9-4-17 of the Evanston City Code of 1979, as amended, is hereby further amended to add subsection (K) and hereby read as follows:

(K) Dangerous dog as a continuous threat: any dangerous dog which attacks a human being or another domestic animal may be ordered destroyed when in the judgment of a Judge in the Circuit Court of Cook County; such dangerous dog represents a continuing threat of serious harm to human beings or other domestic animals.

SECTION 8: That Section 9-4-17 (B) of the Evanston City Code of 1979, as amended, is hereby further amended at follows:

5. Before a dog can be designated as dangerous under this Section, an evaluation of the animal by a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert selected by the Chief of Police or his/her designee must be performed if requested no more than 14 days after service of a notice of violation and paid for in advance by the owner or other individual responsible for the dog. If such an evaluation is made, the Chief of Police shall consider it as part of the evidence when determining whether to designate the dog as dangerous pursuant to this Section.

SECTION 9: That Section 9-4-17 of the Evanston City Code of 1979, as amended, is hereby further amended to add subsection (J) and hereby read as follows:

9-4-17 (J)

Appeal: The owner of a dog deemed or designated by the Chief of Police or his/her designee to be a dangerous dog because said dog meets at least one of the criteria in Subsection (A) of this Section may seek judicial review thereof pursuant to the Administrative Review Act of Illinois (735 ILCS 5/3-101, *et seq.*).

SECTION 10: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 11: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: September 12, 2011

Approved:

Adopted: October 10, 2011

October 12, 2011

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

Rodney Greene | @
Rodney Greene, City Clerk

W. Grant Farrar
W. Grant Farrar, Corporation Counsel