

ORDINANCE NO. 980

AN ORDINANCE OF THE CITY OF PAYETTE IDAHO, AMENDING AND REPEALING SECTION 6.08.080 OF THE PAYETTE MUNICIPAL CODE BY DELETING AND REPLACING THE SAME; DEFINING VICIOUS DOG AND VICIOUS ANIMALS; DEFINING AN UNCONFINED VICIOUS DOG; PROHIBITING KEEPING A FIERCE OR VICIOUS ANIMAL WITHOUT COMPLYING WITH THE TERMS OF THIS ORDINANCE; REQUIRING MUZZLING OF CERTAIN VICIOUS DOGS; PROVIDING A PENALTY; EXCEPTING GUARD DOGS; DEFINING GUARD DOGS; REQUIRING LIABILITY INSURANCE; REQUIRING IDENTIFICATION; SETTING OUT OWNERS RESPONSIBILITIES; SEVERABILITY EFFECTIVE DATE; REPEALER.

WHEREAS, attacks by vicious dogs upon human beings and animals have been on the increase; and

WHEREAS, it is the opinion of this Council that it is necessary for the protection of the public health, safety and welfare to regulate vicious dogs;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF PAYETTE, STATE OF IDAHO:

That Section 6.08.080 Title 6 of the Payette Municipal Code, is repealed, and the same is hereby replaced with the following sections which shall read as follows:

SECTION 1. VICIOUS DOGS-ANIMALS

A. Definitions.

- (1) A. "Vicious" dog as the term is used in this Ordinance means:
1. Any dog with a propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
  2. Any dog which attacks a human being or a domestic animal without provocation; or
  3. Any pit bull terrier which is defined as any Staffordshire Bull Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier or American Staffordshire Terrier by a qualified Veterinarian duly licensed as such by the State of Idaho.

4. Any dog which is kept with the intention of using its size, manner, disposition or breeding to instill fear in others; or any dog which is bred for the purpose of fighting;

B. Fierce or Vicious Animal as the term is used in this Ordinance means; For the purposes of this section, the term "vicious animal or fierce animal" shall mean any other animal, including dogs, that without intentional provocation, bites or attacks humans or other animals; or 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.

(2) A vicious 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 structure upon the premises of the person described in Subsection (B) hereof. Such pen or structure must have secure sides and a secure top. If the pen or structure has no bottom secured to the sides, the sides must be embedded in the ground no less than two (2) feet. Said pen or structure shall be sufficiently secure to keep other persons from releasing the enclosed animal.

B. PROHIBITED. It shall be unlawful for any person to keep or harbor a fierce or vicious animal or dog without complying with the terms of this Ordinance or Title. It shall be an affirmative defense to charges under this section if the actual or intended victim of any attack has made an unlawful entry into the dwelling of the owner.

C. No person owning or harboring or having the care of a vicious dog shall suffer or permit such animal to go unconfined on the premises of such person.

D. No person owning or harboring or having the care of a vicious dog shall suffer or permit such dog to go beyond the premises of such person unless such dog is securely leashed and muzzled, except that a vicious dog shall not be required to be muzzled when shown in a sanctioned American Kennel Club show.

## SECTION 2. VIOLATIONS AND PENALTIES

Whoever violates the provisions of this Ordinance shall be fined not more than \$300.00 or imprisoned not more than sixty (60) days, or both. In addition, any vicious dog which attacks a human being or another domestic animal may be ordered destroyed when in the Court's judgment, such vicious dog represents a continuing threat of serious harm to human beings or domestic animals. In addition, any person found guilty of violating Section 2 shall pay all expenses, including shelter, food, veterinary expenses for identification or certification of the breed of the animal or boarding 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 any such dog.

## SECTION 3. Keeping vicious animals:

GUARD DOGS EXCEPTED. Dogs maintained as guard dogs, as defined in Section 4, and in compliance with such section, shall not be included under this chapter.

## SECTION 4. Keeping guard dogs.

The term "guard dog" shall mean any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog and that is either securely enclosed within that area at all times or under the continuous control of a trained handler. It shall be unlawful for any person to place or maintain guard dogs in any area for the protection of persons or property unless the following provisions are met:

A. The dogs shall be confined to an enclosed area adequate to insure they will not escape; or

B. They shall be under the absolute control of a handler at all times when not securely enclosed; and

C. The owner or other persons in control of the premises upon which a guard dog is maintained shall post warning signs on, over or next to all exterior doors stating that such a dog is on the premises. At least one such sign shall be posted at each driveway or entrance way to said premises. Such signs shall be in lettering clearly visible from either the curb line or a distance of fifty (50) feet, whichever is lesser, and shall contain a telephone number where some person responsible for controlling such guard dog can be reached twenty-four (24) hours a day; and

D. Prior to the placing of a guard dog on any property, the person or persons responsible for the placing shall inform the animal control officer, the police department and the fire department, in writing, of their intention to post said dog or dogs, the number of dogs to be posted, the location where said dog or dogs will be posted, the approximate length of time said dog or dogs will be guarding the area, the daily hours said dog or dogs will be guarding the area, the breed, sex age and rabies tag number of said dog or dogs. Such notice must be renewed every six (6) months.

#### SECTION 5. INSURANCE.

All owners, keepers or harborers of pit bulls and vicious dogs must within ten (10) days of the effective date of this ordinance provide proof to the Payette city Clerk of public liability insurance in a single incident amount of \$100,000 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the Payette City Clerk.

#### SECTION 6. IDENTIFICATION PHOTOGRAPHS.

All owners, keepers or harborers of pit bulls or other vicious dogs must within ten (10) days of the effective date of this ordinance provide to the City Clerk two color photographs of the registered animal clearly showing the color and approximate size of the animal.

#### SECTION 7. OWNERS RESPONSIBILITY.

Owners of dogs shall be liable for any damage done by their dogs to any domestic animal or livestock or persons. Additionally, the owners of any dog which shall bite any person while such person is on or in a private place, including the property of the owner, shall be liable for such damages as may be suffered by persons bitten, regardless of the former viciousness of such dog or the owner's knowledge of such viciousness.

A person is lawfully upon private property of such owner within the meaning of this act when he or she is on such property in the performance of any duty imposed upon him by the laws of this state or by the laws of postal regulations of the United States, or when he or she is on such property upon invitation, expressed or implied, of the owner thereof; or when he or she is on

such property in the performance of a duty relative to public safety, which shall include policeman, fireman, or other authorized members of boards or agencies of City government; provided, however, no owner of any dog shall be liable for any damages to any person or his property when such person shall mischievously or carelessly provoke or aggravate the dog inflicting such damage; nor shall any such owner be so liable if at the time of any such injury he had displayed in a prominent place on his premises a sign easily readable including the words 'Bad Dog', 'Beware of Dog' or some other language which shall give sufficient warning to any individual.

SECTION 8.

Any portions of any existing Ordinances which are in direct conflict with this Ordinance are hereby repealed insofar as the conflict exists.

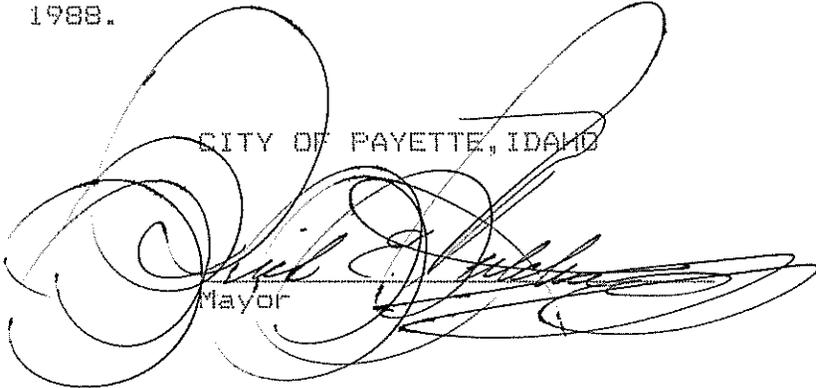
SECTION 9.

If any portion of this Ordinance is found to be unenforceable or unconstitutional for any reason, the remaining portion of this Ordinance shall remain in full force and effect.

BE IT ORDAINED AND RESOLVED THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS APPROVAL, PASSAGE AND PUBLICATION AS REQUIRED BY LAW.

4 This Ordinance shall be in full force and effect on the day of April, 1988.

CITY OF PAYETTE, IDAHO

  
Mayor

ATTEST:

John P. Frankes  
City Clerk