

**BOROUGH OF BERGENFIELD
PUBLIC NOTICE**

**ORDINANCE 20-2571 - AN ORDINANCE AMENDING CHAPTER 95,
ARTICLE I, OF THE CODE OF THE BOROUGH OF BERGENFIELD,
ENTITLED "DOGS"**

was introduced at a meeting of the Mayor and Council of the Borough of Bergenfield, in the County of Bergen, New Jersey, held on Tuesday, September 15, 2020 and will be further considered for final passage after public hearing at a meeting of the Mayor and Council to be held in the Council Chambers, Bergenfield Municipal Center, 198 North Washington Avenue, Bergenfield, New Jersey on Tuesday, October 6, 2020 at 8:00 p.m. prevailing time, or as soon thereafter as the matter can be heard.

A clear and concise statement for this ordinance is to amend the definition of vicious dogs, replace notice and hearing, potentially dangerous dogs, and vicious dogs in Section 95-6, and replace impounding of dogs in Section 95-7, as set forth in the ordinance.

A copy of this ordinance may be obtained without cost between the hours of 8:30 a.m. and 4:30 p.m. at the office of the Borough Clerk, 198 North Washington Avenue, Bergenfield, New Jersey.

Marie Quinones, RMC
Borough Clerk
September 21, 2020

BOROUGH OF BERGENFIELD

Ordinance No. 20-2571

**AN ORDINANCE AMENDING CHAPTER 95, ARTICLE I, OF THE CODE OF THE
BOROUGH OF BERGENFIELD, ENTITLED "DOGS"**

WHEREAS, Chapter 95, Article I, of the Borough of Bergenfield sets forth all regulations regarding Dogs within the Borough of Bergenfield; and,

BE IT ORDAINED, by the Mayor and Council of the Borough of Bergenfield, County of Bergen and State of New Jersey that those portions of the aforesaid set forth below are hereby amended as follows and that those portions of the Ordinance not set forth below shall remain unchanged.

The definition of "Vicious Dogs" contained in Section 95-1 "Definitions" will be amended to read as follows:

VICIOUS DOG. Any dog which has been declared by the municipal court to have killed a person or caused serious bodily injury to a person.

Section 95-6 "Vicious Dogs" is deleted in its entirety and is replaced by the following:

Section 95-6. Notice and Hearing; Potentially Dangerous Dogs; Vicious Dogs

A. Notice and Hearing.

- (1) The animal control officer shall notify the municipal court and the municipal health officer immediately that he has seized and impounded a dog pursuant to Section 95-7(B) or that he has reasonable cause to believe that a dog has killed another domestic animal and that a hearing is required. The animal control officer shall through a reasonable effort attempt to determine the identity of the owner of any dog seized and impounded pursuant to Section 95-7(B). If its owner cannot be identified within seven days, that dog may be humanely destroyed.
- (2) The animal control officer shall, within three working days of the determination of the identity of the owner of a dog seized and impounded pursuant to Section 95-7(B), notify by certified mail, return receipt requested, the owner concerning the seizure and impoundment, and that, if the owner wishes, a hearing will be held to determine whether the impounded dog is vicious or potentially dangerous. This notice shall also require that the owner return within seven days, by certified mail or hand delivery, a signed statement indicating whether he wishes the hearing to be conducted or, if not, to relinquish ownership of the dog, in which case the dog may be humanely destroyed. If the owner cannot be notified by certified mail, return receipt requested, or refuses to sign for the

certified letter, or does not reply to the certified letter with a signed statement within seven days of receipt, the dog may be humanely destroyed.

B. Potentially Dangerous Dogs.

(1) The municipal court shall declare a dog to be potentially dangerous if it finds by clear and convincing evidence that the dog:

- a. caused bodily injury to a person during an unprovoked attack, and poses a serious threat of bodily injury or death to a person;
- b. caused serious bodily injury to another domestic animal or killed another domestic animal; and
 - i. poses a serious threat of serious bodily injury or death to a person, or
 - ii. poses a serious threat of death to another domestic animal.

(2) A dog shall not be declared potentially dangerous for:

- a. causing bodily injury to a person if the dog was provoked;
- b. causing serious bodily injury to, or killing, a domestic animal if the domestic animal was the aggressor;
- c. causing bodily injury to a person who was committing or attempting to commit a crime or offense upon the owner or person with custody or control of the dog or committing or attempting to commit a trespass or other criminal offense on the property of the owner or person with custody or control of the dog; .
- d. causing bodily injury to a person or a domestic animal who was abusing, assaulting, or physically threatening the dog or the dog's offspring; or
- e. causing bodily injury to a person who was intervening between two or more dogs engaged in aggressive behavior or fighting.

For purposes of paragraph (2)(a) of this subsection, the Borough shall bear the burden of proof to demonstrate that the dog was not provoked.

(3) As used in this section, "bodily injury" means bodily injury as defined in N.J.S.A. § 2C:11-1(a) and "serious bodily injury" means serious bodily injury as defined in N.J.S.A. § 2C:11-1(b).

(4) If the municipal court declares the dog to be potentially dangerous, it shall issue an order and a schedule for compliance which, in part:

a. shall require the owner to comply with the following conditions:

i. to apply, at his own expense to the Clerk or other official designated to license dogs by the governing body, for a special municipal potentially dangerous dog license, municipal registration number, and red identification tag. The owner shall, at his own expense, have the registration number tattooed upon the dog in a prominent location. A potentially dangerous dog shall be impounded until the owner obtains a municipal potentially dangerous dog license, municipal registration number, and red identification tag;

ii. to display, in a conspicuous manner, a sign on his premises warning that a potentially dangerous dog is on the premises. The sign shall be visible and legible from 50 feet of the enclosure required pursuant to paragraph (iii) of this subsection;

iii. to immediately erect and maintain an enclosure for the potentially dangerous dog on the property where the potentially dangerous dog will be kept and maintained, which has sound sides, top and bottom to prevent the potentially dangerous dog from escaping by climbing, jumping or digging and within a fence of at least six feet in height separated by at least three feet from the confined area. The owner of a potentially dangerous dog shall securely lock the enclosure to prevent the entry of the general public and to preclude any release or escape of a potentially dangerous dog by an unknowing child or other person. All potentially dangerous dogs shall be confined in the enclosure or, if taken out of the enclosure, securely muzzled and restrained with a tether approved by the animal control officer and having a minimum tensile strength sufficiently in excess of that required to restrict the potentially dangerous dog's movements to a radius of no

more than three feet from the owner and under the direct supervision of the owner;

- b. may require the owner to maintain liability insurance in an amount determined by the municipal court to cover any damage or injury caused by the potentially dangerous dog. The liability insurance, which may be separate from any other homeowner policy, shall contain a provision requiring the Borough to be named as an additional insured for the sole purpose of being notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy.

(5) The owner of a potentially dangerous dog shall:

- a. comply with the terms of subsection B(4) in accordance with the schedule established by the municipal court, but in no case more than 60 days subsequent to the date of determination;
- b. notify the licensing authority, Borough police department, and the animal control officer if a potentially dangerous dog is at large, or has attacked a human being or killed a domestic animal;
- c. notify the licensing authority, Borough police department, and the animal control officer within 24 hours of the death, sale or donation of a potentially dangerous dog;
- d. prior to selling or donating the dog, inform the prospective owner that the dog has been declared potentially dangerous;
- e. upon the sale or donation of the dog to a person residing in a different municipality, notify the department and the licensing authority, police department or force, and animal control officer of that municipality of the transfer of ownership and the name, address and telephone of the new owner; and
- f. in addition to any license fee required by N.J.S.A. § 4:19-15.3, pay a potentially dangerous dog license fee to the municipality as provided by N.J.S.A. § 4:19-31.

C. Vicious Dogs.

- (1) The municipal court shall declare the dog vicious if it finds by clear and convincing evidence that the dog killed a person or caused serious bodily injury to a person.

- (2) A dog shall not be declared vicious for inflicting death or serious bodily injury upon a person if the dog was provoked. The Borough shall bear the burden of proof to demonstrate that the dog was not provoked.
- (3) If the municipal court declares a dog to be vicious, and no appeal is made of this ruling pursuant to N.J.S.A. § 4:19-25, the court may order:
 - a. the dog's owner to comply with certain restrictions to protect the public that are at least as stringent as the requirements for potentially dangerous dogs pursuant to subsections B(4) and B(5); or
 - b. the dog to be euthanized in a humane and expeditious manner, except that no dog may be euthanized during the pendency of an appeal.
- (4) As used in this section, "serious bodily injury" means serious bodily injury as defined in N.J.S.A. §2C:11-1(b).

Section 95-7 "Impounding and destruction of dangerous dogs" is deleted in its entirety and is replaced by the following:

Section 95-7. Impounding of dogs.

A. Impounding Sick and Off-Premises Dogs.

- (1) The certified animal control officer appointed by the governing body shall take into custody and impound any animal, to thereafter be euthanized or offered for adoption, as provided in this section:
 - a. Any dog off the premises of the owner or of the person charged with the care of the dog, which is reasonably believed to be a stray dog;
 - b. Any dog off the premises of the owner or the person charged with the care of the dog without a current registration tag on its collar or elsewhere;
 - c. Any female dog in season off the premises of the owner or the person charged with the care of the dog;
 - d. Any dog or other animal which is suspected to be rabid; or

- e. Any dog or other animal off the premises of the owner or the person charged with its care that is reported to, or observed by, a certified animal control officer to be ill, injured, or creating a threat to public health, safety or welfare or otherwise interfering with the enjoyment of property.

(2) **Notice to Owner.** If an animal taken into custody and impounded pursuant to subsection A(1) of this section has a collar or harness with identification of the name and address of any person, or has a registration tag, or has a microchip with an identification number that can be traced to the owner or person charged with the care of the animal, or the owner or the person charged with the care of the animal is otherwise known, the certified animal control officer shall ascertain the name and address of the owner or the person charged with the care of the animal, and serve to the identified person as soon as practicable a notice in writing that the animal has been seized and will be liable to be offered for adoption or euthanized if not claimed within seven days of the service of the notice.

(3) **Service of Notice.** A notice required pursuant to this section may be served:

- a. by delivering it to the person on whom it is to be served, or by leaving it at the person's usual or last known place of residence or the address given on the collar, harness, or microchip identification; or
- b. by mailing the notice to that person at the person's usual or last known place of residence, or to the address given on the collar, harness or microchip identification.

(4) **Requirement to Hold for Seven Days.** A shelter, pound, or kennel operating as a shelter or pound receiving an animal from a certified animal control officer pursuant to subsection A(1) of this section, or from any other individual, group, or organization, shall hold the animal for at least seven days before offering it for adoption, or euthanizing, relocating, or sterilizing the animal, except if:

- a. the animal is surrendered voluntarily by its owner to the shelter, pound, or kennel operating as a shelter or pound, in which case the provisions of subsection A(5) of this section will apply; or

- b. the animal is suspected of being rabid, in which case the provisions of subsection A(10) of this section will apply.
- (5) If a shelter, pound or kennel operating as a shelter or pound is not required to hold an animal for at least seven days pursuant to subsection A(4) of this section, the shelter, pound, or kennel operating as a shelter or pound:
 - a. shall offer the animal for adoption for at least seven days before euthanizing it; or
 - b. may transfer the animal to an animal rescue organization facility or a foster home prior to offering it for adoption if such a transfer is determined to be in the best interest of the animal by the shelter, pound, or kennel operating as a shelter or pound.
- (6) Except as otherwise provided for under subsection A(5) of this section, no shelter, pound, or kennel operating as a shelter or pound receiving an animal from a certified animal control officer may transfer the animal to an animal rescue organization facility or a foster home until the shelter, pound, or kennel operating as a shelter or pound has held the animal for at least seven days.
- (7) **Claiming an Impounded Animal.** If the owner or the person charged with the care of the animal seeks to claim it within seven days, or after the seven days have elapsed but before the animal has been adopted or euthanized, the shelter, pound, or kennel operating as a shelter or pound:
 - a. shall, in the case of a cat or dog, release it to the owner or person charged with its care, provided the owner or the person charged with the care of the animal provides proof of ownership, which may include a valid cat or dog license, registration, rabies, inoculation certificate, or other documentation from the owner's veterinarian that the cat or dog has received regular care from that veterinarian;
 - b. may, in the case of a cat or dog, charge the cost of sterilizing the cat or dog, if the owner requests sterilizing it when claiming it; and
 - c. may require the owner or person charged with the care of the animal to pay all the animal's expenses while in the care of the

shelter, pound, or kennel operating as a shelter or pound, not to exceed \$4 per day.

- (8) **Unclaimed Animals.** If the animal remains unclaimed, is not claimed due to the failure of the owner or other person to comply with the requirements of this section, or is not adopted after seven days after the date on which notice is served pursuant to subsection A(3) of this section or, if no notice can be served, not less than seven days after the date on which the animal was impounded, the impounded animal may be placed in a foster home, transferred to another shelter, pound, kennel operating as a shelter or pound, or animal rescue organization facility, or euthanized in a manner causing as little pain as possible and consistent with the provisions of N.J.S.A. § 4:22-19.
- (9) **Transfer of Ownership Upon Adoption; No Experimentation.** At the time of adoption, the right of ownership in the animal shall transfer to the new owner. No dog or other animal taken into custody, impounded, sent or otherwise brought to a shelter, pound, or kennel operating as a shelter or pound shall be sold or otherwise be made available for the purpose of experimentation. Any person who sells or otherwise makes available any such dog or other animal for the purpose of experimentation shall be guilty of a crime of the fourth degree.
- (10) **Potentially Rabid Animals.** Any animal seized under this section suspected of being rabid shall be immediately reported to the executive officer of local board of health, to the Department of Health, and shall be quarantined, observed, and otherwise handled and dealt with as appropriate for an animal suspected of being rabid or as required by the Department of Health for the animals.
- (11) **Placement of Animal in Licensed Facility.** When a certified animal control officer takes into custody and impounds, or causes to be taken into custody and impounded, an animal, the certified animal control officer may place the animal in the custody of, or cause the animal to be placed in the custody of, only a licensed shelter, pound, or kennel operating as a shelter or pound. The certified animal control officer may not place the animal in the custody of, or cause the animal to be placed in the custody of, any animal rescue organization facility, foster home, or other unlicensed facility. However, the licensed shelter, pound, or kennel operating as a shelter or pound may place the animal in an animal rescue organization facility, foster home, or other unlicensed facility if necessary pursuant to subsections A(5) or A(8) of this section.

- (12) Notwithstanding the provisions of this section, N.J.S.A. § 4:19-15.30, and N.J.S.A. §4:19-15.31 to the contrary, in accordance with N.J.S.A. § 4:19-15.16, no cat or dog being transferred between shelters, pounds, or kennels operating as shelters or pounds, or being transferred to an animal rescue organization facility or placed in a foster home, shall be required to be sterilized prior to that transfer.

B. Impounding Dogs Suspected of Being Potentially Dangerous or Vicious. An animal control officer shall seize and impound a dog when the officer has reasonable cause to believe that the dog:

- (1) attacked a person and caused death or serious bodily injury as defined in N.J.S.A. §2C:11-1(b) to that person;
- (2) caused bodily injury as defined in N.J.S.A. § 2C:11-1(a) to a person during an unprovoked attack and poses a serious threat of harm to persons or domestic animals;
- (3) engaged in dog fighting activities as described in N.J.S.A. § 4:22-24 and N.J.S.A. § 4:22-26; or
- (4) has been trained, tormented, badgered, baited or encouraged to engage in unprovoked attacks upon persons or domestic animals.

The dog shall be impounded until the final disposition as to whether the dog is vicious or potentially dangerous. Subject to the approval of the municipal health officer, the dog may be impounded in a facility or other structure agreeable to the owner.

Severability. All provisions of this Ordinance are severable. If for any reason, any provision of this Ordinance is held to be invalid, the validity of the remainder of the Ordinance shall not be affected.

Effective Date. This Ordinance shall become effective upon final approval and publication, pursuant to law, and upon completion of all outstanding cases.