

The meeting was called to order at 7:00 PM by Mayor Tutaj. Following the Pledge of Allegiance and a moment of silence for the community, roll call was taken.

Present: Mayor Tutaj, Alderpersons Wattawa, Calderon, Brickner, Feirer, Damon, Fliss

Also Present: City Administrator Johnsrud, City Attorney Alexy, City Clerk/Treasurer Uecker, City Engineer Dejewski, Fire Chief Poplar, Police Chief Hunter

Statement of Open Meetings Compliance:

City Clerk/Treasurer Uecker stated that the meeting had been properly posted and noticed.

Public Hearing:

- None

Presentation:

- None

Consent Agenda:

Moved by Alderman Brickner, seconded by Alderwoman Fliss to place on file with reference in the minutes and approve all items listed under Consent Agenda on the August 4, 2020 Common Council Agenda. Motion carried.

Items Removed from Consent Agenda:

- None

Recommendation of Action from Committees/Commissions/Boards:

Moved by Alderman Brickner, seconded by Alderman Damon to approve Beverage Operator's Licenses – New for Savannah Jankowski and Judith White. Motion carried.

Moved by Alderman Brickner, seconded by Alderman Damon to approve Beverage Operator's License – Renewals for Christina Burzynski. Motion carried.

Resolutions and Ordinances:

Moved by Alderman Damon , seconded by Alderman Feirer to introduce and adopt an Ordinance to Create Section 180-8(F)(5) of the City of St. Francis Code of Ordinances Regulating Dangerous and Vicious Dogs as submitted, subject to incorporation of a reasonable person standard in the first subparagraph of the definition of "Dangerous Dog." Motion carried. **Ordinance No. 1468**

Discussion Items with Possible Action:

Moved by Alderman Brickner, seconded by Alderwoman Fliss to comply with the State of Wisconsin Order regarding temporary cloth face covering regulations. Motion carried with Alderman Feirer voting "nay".

Appointments to Committees/Commissions/Boards:

- None

Correspondence with Possible Action or Referral to Committees/Commissions/Boards:

Moved by Alderwoman Fliss, seconded by Alderman Brickner to place on file with reference in the minutes the correspondence dated July 30, 2020 from the City Engineer regarding Sidewalk Repair/Replacement Contract and to concur with the City Engineer's request and to award the contract to Milwaukee General Construction. Motion carried.

Moved by Alderwoman Fliss, seconded by Alderman Feirer to approve the placement of a fence by the property owner at 3445 East Sivyer Avenue subject to initial construction and continued maintenance of said fence to ensure conformity with the plans approved by the City Engineer and to ensure continued conformity with FEMA requirements. Motion carried.

Unfinished Business:

- None

Adjourn to Closed Session:

Moved by Alderman Brickner, seconded by Alderman Damon to convene into Closed Session pursuant to Wis. Stat. sec. 19.85(1)(e) for the purpose of deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Items for discussion: Amendment to Development Agreement – Bear Development. The following voted "aye": Alderman Wattawa, Alderman Feirer, Alderwoman Calderon, Alderwoman Fliss, Alderman Damon and Alderman Brickner. Motion carried.

Time: 7:56 p.m.

Adjourn:

Moved by Alderman Damon, seconded by Alderwoman Fliss to adjourn. Motion carried.

Time: 8:42 p.m.

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1468

AN ORDINANCE TO REPEAL AND RECREATE SECTION 180-5 OF THE CITY OF ST. FRANCIS CODE OF ORDINANCES REGULATING DANGEROUS AND VICIOUS DOGS

WHEREAS, Chapter 180 of the City of St. Francis Code of Ordinances, establishes regulations pertaining to animals in the City of St. Francis; and

WHEREAS, the Common Council finds that the revisions to regulations concerning dangerous and vicious dogs within the City of St. Francis will promote the public health, safety and welfare; and

NOW, THEREFORE, the Common Council of the City of St. Francis, Wisconsin does ordain as follows:

SECTION 1. Chapter 180, "Animals", Article I, "Dogs and Cats". Section 180-5 "Dangerous and vicious dogs" is hereby repealed and recreated to read as follows:

§ 180-5. Dangerous and vicious dogs, Unlicensed Dogs, Animals Running at Large.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

ANIMAL RUNNING AT LARGE

An animal shall be deemed to be running at large when it is permitted to run off of the premises of the owner or keeper when it is not accompanied by a person having said animal under control on a leash.

DANGEROUS DOG

- (1) Any dog which, when unprovoked, chases or approaches a person or animal on public or private property in a manner that a reasonable person would conclude to be an apparent attack on such person or animal.
- (2) Any individual dog which has a trait or characteristic and a generally known reputation for dangerousness or unprovoked attacks upon human beings or domestic animals.
- (3) Any individual dog with a known propensity or tendency to bite, attack, cause injury or otherwise endanger the safety of a human being or domestic animal.
- (4) Any dog that has been declared dangerous by any agency or department of another municipality, county or state.
- (5) Exceptions.
 - a. No dog shall be deemed "dangerous" based solely upon attacking or menacing any person or domestic animal in order to:

- i. Defend its owner, caretaker, or another person or animal, its young or its food, from a trespasser or an attack by a person or animal,
 - ii. Defend itself against any person, animal or trespasser that has provoked, tormented or abused it, or
 - iii. If it is a professionally trained dog for law enforcement or guard duties, acting in the capacity for which it was trained.
- b. No dog shall be deemed “dangerous” merely by virtue of being part of any specific breed(s).

DOMESTIC ANIMAL

Includes cats, dogs, ferrets, gerbils, hamsters and domesticated rabbits.

OWNER

Any person, firm, corporation, organization or department owning, possessing, harboring or having the care or custody, whether temporarily or permanently, of a domestic animal. The owner or occupant of any premises on which a domestic animal remains or to which it customarily returns shall be presumed to be harboring, sheltering or keeping such domestic animal.

SERIOUS INJURY

Any physical injury to a person that results in a major fracture, muscle tears, disfiguring lacerations or wounds, or requires multiple sutures or corrective or cosmetic surgery.

"TRESPASSER"

A person who is not the animal's owner and does not cohabitate or reside with the owner and who enters the owner's property without consent.

UNTAGGED ANIMAL

An animal is considered to be untagged if a valid license tag is not attached to a collar which is kept on the animal.

VICIOUS DOG

Any individual dog that fits into one or more of the following categories:

- (1) Any individual dog that, when unprovoked causes injury to a human being that does not fall within the definition of a serious injury.
- (2) Any individual dog that, while off its owner’s or keeper’s premises, attacks and injures a domestic animal.
- (3) Any individual dog with a known history or disposition to bite, attack, cause injury to or otherwise endanger the safety of a human being or domestic animal,
- (4) Any individual dog that has a trait or characteristic and a generally known reputation for viciousness or unprovoked attacks upon human beings or other domestic animals,

- (5) Any individual dog that has been found to be a "dangerous dog" upon two separate occasions, or
- (6) Any individual dog that has been declared vicious by any agency or department of another municipality, county or state.
- (7) Exceptions.
 - a. No dog shall be deemed "vicious" based solely upon biting, attacking, or menacing any person or domestic animal in order to:
 - i. Defend its owner, caretaker, or another person or animal, its young or its food, from a trespasser or an attack by a person or animal, or
 - ii. Defend itself against any person, animal or trespasser that has provoked, tormented or abused it.
 - b. No dog shall be deemed "vicious" if it is a professionally trained dog for law enforcement or guard duties, acting in the capacity for which it was trained.
 - c. No dog shall be deemed "vicious" solely by virtue of its classification within a specific breed.

B. Regulations Concerning Dangerous or Vicious Dogs.

(1) Vicious Dogs.

- i. Prohibited. No person shall harbor, keep or maintain any dog within the City of St. Francis that has been determined to be a vicious dog by the Health Department or ..
- ii. Impounding.
 - 1. Whenever any dog is determined to be a vicious dog, the owner or person having custody of the dog shall, at the discretion of the Health Department, either surrender the dog for impoundment or remove the dog from the City of St. Francis. If the owner fails to surrender the dog or to remove the dog as directed by the Health Department, in addition to any other action which may be taken, the St. Francis Police Department shall obtain a search warrant for the dog and upon finding the dog shall impound the dog as directed by the Health Department.
 - 2. Any dog alleged to be vicious by virtue of an attack upon a human being or a domestic animal shall be impounded as directed by the Health Department until a determination has been made by the Circuit Court of Milwaukee County whether the dog should be killed. In the event the Health Department is satisfied that the owner has made adequate arrangements to insure the safety of the community and that the dog will be accessible in the event the Court orders it killed, the Health

Department may accept an alternative to impoundment which will at a minimum will include notice of where the animal is being kept and with whom the animal is being kept and what security measures have been taken to insure the animal is not a danger to people at its current location. In the event the animal is removed from the City, the owner shall provide the Health Department with the address where the animal is and the name of the person in charge of the animal. The Health Department shall inform the appropriate officials in the community where the animal has been moved.

3. In any event, when a dog is impounded, the impounding authority shall give notice to the owners of the impoundment and advise the owners whether and under what circumstances the dog may be redeemed. The owner of any animal impounded, confined or destroyed pursuant to the terms of this ordinance shall be responsible for all costs of such confinement, impoundment or destruction.
- iii. Petition for Determination. Any person may petition the City Health Department to declare a dog to be a vicious dog. Upon receipt of the sworn statement of any person setting for the nature and date of the acts, the name and address of the owner and a description of the dog, the agent of the Health Department designated by the Health Department to handle vicious dog determinations of the City Code Enforcement Officer shall investigate the matter and if he/she determines that the dog in question is a vicious dog as defined in this Ordinance, he/she shall issue a written order to the owner requiring the owner to surrender the dog for impoundment or immediately and permanently remove the dog from the City. Any owner who objects to the determination of the Health Department agent or Code Enforcement Officer may appeal the determination to the Public Health Administrator or the board of health. Any such appeal shall not stay the order. Any person violating an order issued under this section shall be subject to a forfeiture of up to \$1,000 plus court costs and assessments for each day of non-compliance with the order. A citation alleging a failure to comply with the order issued pursuant to this section may be issued by any employee designated by the Health Department, by any police officer, or by the City Code Enforcement Officer.
 - iv. Removal from City. No dog which has been determined by the Health Department to be a vicious dog and which has been removed from the City may be returned to any place within the City at any time for any period of time.
 - v. Council Authority. Whenever the Health Department or Police Department, in consultation with the City Attorney, deems it appropriate to seek a court order to kill a dog under Wis. Stats.,

§ 174.02(3), it shall first obtain authorization to file such an action from the Common Council.

(2) Dangerous Dogs.

- i. Restricted. No person shall keep or maintain a dangerous dog within the City of St. Francis except in full compliance with the provisions of this Ordinance.
 1. While on the owner's property, a dangerous dog 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 a minimum dimension of five feet by 10 feet and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be imbedded into the ground no less than two feet. The enclosure must also provide protection from the elements for the dog.
 2. The owner or keeper of a dangerous dog shall display a sign on his or her premises facing out from all sides of the premises warning that there is a dangerous dog on the property. This sign must be visible and capable of being read from a public highway or thoroughfare or within 20 feet of its placement. In addition, the owner shall conspicuously display a sign with a symbol warning children of the presence of a dangerous dog.
 3. A dangerous dog may be off the owner's premises only if it is muzzled and restrained by an approved lead or chain not exceeding three feet in length and is under the control, by leash, of an adult, able-bodied person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.
- ii. Any person may petition the City Health Department to declare a dog dangerous. Upon receipt of the sworn statement of any person setting forth the nature and date of the act, the name and address of the owner and a description of the dog, the agent of the Health Department designated by the Health Department to handle Dangerous Dog determinations or the City Code Enforcement Officer shall investigate the matter and if he/she determines that the dog in question is a dangerous dog as defined in these ordinances, he/she shall issue a written order to the owner requiring the owner to comply with the dangerous dog provisions of this ordinance or in the alternative remove the dog from the City. Any owner who objects to the determination of the Health Department agent or Code Enforcement Officer may appeal the determination to the Public Health Administrator or the board of Health. Any such appeal shall not stay the order. A citation alleging a failure to comply with the order issued

pursuant to this section may be issued by any employee designated by the Health Department, by any police officer or by the City Code Enforcement Officer.

- iii. All owners of dangerous dogs shall, on or before December 31 of each year, register their dog and shall provide a current color photograph of the dog with the City Clerk/Treasurer's office and pay a registration fee in an amount established by resolution of the Common Council.

C. Dog Licensing.

- (1) All dogs shall be licensed as provided in § [180-4](#) of this article.
- (2) It shall be the duty of such persons as from time to time may be designated by resolution of the Common Council to apprehend any unlicensed dogs. The Police Department shall, whenever possible, see that such dogs are transferred to the Milwaukee Area Domestic Animal Control Facility (MADAC) at the earliest possible date where the dogs may be taken care of and reclaimed by the owner under the rules and regulations of said animal control facility. When the dog is impounded by the City before being transferred to MADAC, the owner reclaiming the dog shall be required to pay an amount as established by resolution of the Common Council to the City.

D. Running at Large.

- (1) It shall be the duty of the Police Department and such other persons as from time to time may be designated by resolution of the Common Council to apprehend any dangerous dogs running at large. Any dangerous dog found running at large shall be impounded and returned to its owner only upon proof of registration as a dangerous dog.
- (2) The owner of any dog previously determined to be dangerous found running at large shall, upon conviction, pay a forfeiture of not less than \$200 nor more than \$1,000.
- (3) If the owner of a dog not a dog previously determined to be a dangerous dog, negligently or otherwise permits the dog to run at large or be untagged, the owner shall forfeit not less than \$25 nor more than \$100 for the first offense and not less than \$50 nor more than \$200 for subsequent offenses.

E. Violations and penalties. Where any provision of this section is violated and the violation precipitates impoundment of a dog, the owner shall pay all impoundment fees and in addition:

- (1) Except where a different penalty is specifically provided for in this Ordinance, any person violating or committing violation of provisions of this Ordinance shall, upon conviction, be assessed a forfeiture of not less than \$250 nor more than \$1,000 plus costs and assessments.
- (2) Maintaining or keeping a vicious dog within the City limits of the City is hereby declared to be a public nuisance and the Common Council may

authorize commencement of action to abate such public nuisance in addition to proceeding with any penalty provided in this Ordinance.

- F. Every day that a violation of this section continues it shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care, and expert testimony fees, necessitated by enforcement of this section.
- G. The provisions of this section regarding dangerous and vicious dogs shall not apply to animals owned by law enforcement agencies and used for law enforcement purposes.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 4th day of August 2020.

CITY OF ST. FRANCIS

BY: /s/Ken Tutaj
Ken Tutaj, Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC
Anne Uecker, City Clerk/Treasurer