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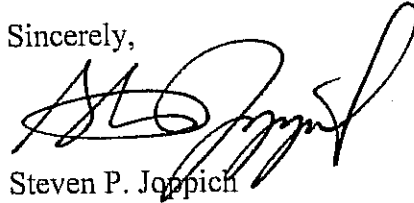
RE: Dangerous Animal Ordinance

Dear Council Members:

I have enclosed a revised version of the Dangerous Animal Ordinance incorporating the changes that were introduced by Council at its last regular meeting. The changes can be found in Sections 6-32(a), 6-39, and 6-42. They have been tracked with underlining for your ease of reference.

With these changes, the ordinance is now ready for Council's consideration of final adoption.

Sincerely,



Steven P. Joppich

Enclosures

C: Steve Brock, City Manager (w/Enclosures)
Kathryn Dornan, City Clerk (w/Enclosures)

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CITY OF FARMINGTON HILLS
OAKLAND COUNTY, MICHIGAN

ORDINANCE NO. C-_____ -08

AN ORDINANCE TO AMEND CHAPTER 6, ANIMALS, OF THE CITY CODE OF THE CITY OF FARMINGTON HILLS TO ADD A NEW ARTICLE III ENTITLED "DANGEROUS ANIMALS" FOR PURPOSES OF ESTABLISHING REGULATIONS TO PROTECT THE HEALTH AND SAFETY OF THE PUBLIC AGAINST THE RISKS THAT DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS POSE TO PERSONS AND OTHER ANIMALS IN THE CITY.

THE CITY OF FARMINGTON HILLS ORDAINS:

Section 1 of Ordinance. Ordinance Amendment.

Chapter 6, Animals, of the City Code is hereby amended to add a new Article III entitled "Dangerous Animals" to read as follows:

ARTICLE III. DANGEROUS ANIMALS

Sec. 6-51. Purpose and Intent.

It is the intent of the City of Farmington Hills to protect the health and safety of the public against the risks that dangerous and potentially dangerous animals pose to persons and other animals in the City. Further, it is the intent of the City of Farmington Hills to afford animal owners due process when the owner's animal is classified as a dangerous or potentially dangerous animal.

Sec. 6-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings respectively ascribed to them below:

- (a) "Animal Review Board" means a board consisting of the city manager, police chief and fire chief, or their respective designated deputies or assistants, that shall assemble for purposes of conducting hearings under this article. Although not required, the Animal Review Board may, in the discretion of the City Council, also include a licensed veterinarian, American Kennel Club (AKC) certified animal behaviorist and/or AKC certified animal trainer, appointed by City Council.

- (b) “Authorized enforcement officer” means a police officer and any officer authorized under section 1-15 of this code to issue appearance tickets in the city.
- (c) “Dangerous animal” means a dog or other animal that bites or attacks a person or causes a serious injury to a person or domestic animal, a dog or other animal that has been designated as a potentially dangerous animal that poses a threat to public safety as described in this article, or a dog or other animal that bites or attacks and causes serious injury or death to another dog or domestic animal while the other dog or domestic animal is on the property or under the control of its owner. However, a dangerous animal does not include any of the following:
 - (i) An animal that bites or attacks a person who is knowingly trespassing on the property of the animal’s owner;
 - (ii) An animal that bites or attacks a person who provokes or torments the animal; or
 - (iii) An animal that is responding in a manner that an ordinary and reasonable person would conclude was designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.
- (d) “*On a suitable leash*” means both: (1) That the animal is attached to a leash that is no more than ten (10) feet in length and of such material that the leash is capable of restraining, and does restrain the type and size of animal to which it is attached; and (2) That such a leash is continuously held by a person who is reasonably able to and does restrain and prohibit the animal from being out of that person's physical control. A leashed animal that chases a person or domesticated animal a greater distance than ten (10) feet, or that bites a person or domesticated animal constitutes prima facie evidence that such animal is not kept on a suitable leash.
- (e) “Owner” means any person, firm, corporation or organization that owns or harbors a dog or other animal.
- (f) “Proper enclosure” means an enclosure that is constructed and at all times maintained in such a manner as to effectively prevent the animal from escaping the confines of enclosure.
- (g) “Provoke” and “provocation” mean to perform a willful act or omission that an ordinary and reasonable person would conclude is likely to precipitate the bite or attack by an ordinary dog or other animal.
- (h) “Potentially dangerous animal” means a dog or animal that poses a threat to public safety as demonstrated by any of the following behaviors:

- (i) Causing an injury to a person or domestic animal that is less severe than a serious injury;
 - (ii) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner; or
 - (iii) Running at large and impounded by an animal control agency three (3) or more times within any 12-month period.
- (i) "Serious injury" means permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function of a person.
 - (j) "Torment" means an act or omission that causes unjustifiable pain, suffering, and distress to an animal, or causes mental and emotional anguish in the animal as evidenced by its altered behavior, for a purpose such as sadistic pleasure, coercion, or punishment that an ordinary and reasonable person would conclude is likely to precipitate the bite or attack.

Sec. 6-33. Determination of a dangerous animal.

- (a) An authorized enforcement officer shall have the authority to make a determination that an animal is dangerous, or potentially dangerous, as defined in this article, upon the complaint of any person that an animal is dangerous or potentially dangerous. When the authorized enforcement officer classifies any animal as a dangerous animal or potentially dangerous animal under this article, the authorized enforcement officer shall notify the animal's owner of such classification. The notice to the owner shall meet the following:
 - (1) The notice shall be in writing and mailed by certified mail to the owner's last known address. If an animal has more than one owner, notice to one owner shall be sufficient for purposes of this article.
 - (2) The notice shall include a summary of the authorized enforcement officer's findings that form the basis for the animal's classification as a dangerous animal or potentially dangerous animal.
 - (3) The notice shall be dated and shall state that the owner has a right to request a hearing on the classification within 15 days from the date of the notice.
 - (4) The notice shall state that the Animal Review Board shall conduct the hearing.
 - (5) The notice shall state that if the owner does not request such a hearing within 15 days from the date of the notice, the classification of the animal

as a dangerous animal or potentially dangerous animal shall be final and conclusive for all purposes.

- (6) The notice shall include a form to request a hearing before the Animal Review Board and shall provide specific instructions on mailing or delivering such a request.
- (b) When the Animal Review Board receives a request for a hearing from an owner, it shall schedule such a hearing within thirty (30) days of receipt of the request. The City Clerk shall notify the owner in writing by certified mail of the date, time and place of the hearing; such notice shall be made to the owner at least five (5) days prior to the date of the hearing. At the hearing, the owner shall be given the opportunity to testify and to present evidence. The Animal Review Board shall also receive such other evidence and hear such other testimony as it may find reasonably necessary to make a determination to sustain, modify or overrule the classification of the animal by the authorized enforcement officer. The Animal Review Board shall notify the owner in writing by certified mail of its determination on the matter. If the determination is made that the animal is a dangerous animal or a potentially dangerous animal, the notice shall specify the date upon which that determination is effective. Unless the board determines that a later date is appropriate in a particular case, the effective date of the determination shall be the date of the authorized enforcement officer's classification.
- (c) If the identity of the owner of an animal that the authorized enforcement officer has classified as a dangerous animal or a potentially dangerous animal cannot be determined, the animal shall be immediately confiscated with notice of same and a description of the animal given to the police department and the local humane society. If the animal's owner claims such animal, the animal shall be released to its owner, together with a copy of the notice specified in subsection (a) of this section. If the animal remains unclaimed for seven (7) days, the animal shall be turned over to the local animal welfare society or examined by a veterinarian and/or the local animal welfare society to determine the viability of the animal or appropriate course of destruction of the animal if necessary.

Sec. 6-34. Requirements for possession of a dangerous animal.

- (a) Any owner of a dangerous animal shall be jointly and severally responsible with all other owners of such animal for compliance with the requirements of this section.
- (b) No person shall own, possess, keep, harbor, or have custody or control of a dangerous animal except in compliance with all of the following requirements:

- (1) A dangerous animal shall not be permitted to remain in the City unless it is properly registered as provided in this article and as otherwise required by law or ordinance.
- (2) Except under the circumstances otherwise specifically permitted by this article, a dangerous animal shall at all times be maintained inside a proper enclosure.
- (3) The premises where a dangerous animal is kept shall be posted with a clearly visible sign warning that there is an animal on the premises that presents a danger to human beings. Such sign shall also include a symbol sufficient to convey without words the message that there is an animal on the premises that presents a danger to human beings.
- (4) The owner of a dangerous animal shall maintain at all times either a policy of insurance in a minimum amount of \$1,500,000.00 to cover claims for any personal injuries inflicted by the animal, which policy shall be issued by an insurer, as the case may be, authorized to transact business in the state of Michigan.
- (5) The owner of a dangerous animal shall attend and successfully complete an available animal obedience class with the dangerous animal, as offered through a certified program, and shall produce evidence of such attendance and successful completion.

Sec. 6-35. Requirements for possession of a potentially dangerous animal.

- (a) Any owner of a potentially dangerous animal shall be jointly and severally responsible with other owners of such animal for compliance with the requirements of this section.
- (b) No person shall own, possess, keep, harbor, or have custody of a potentially dangerous animal except in compliance with all of the following requirements:
 - (1) A potentially dangerous animal shall not be permitted to remain in the City unless it is properly registered as provided in this article and as otherwise required by law or ordinance.
 - (2) Except under the circumstances otherwise specifically permitted by this article, a potentially dangerous animal shall at all times be maintained inside a proper enclosure.
 - (3) The premises where a potentially dangerous animal is kept shall be posted with a clearly visible sign warning that there is an animal on the premises that is potentially dangerous to human beings. Such sign shall also include a symbol sufficient to convey without words the message that

there is an animal on the premises that presents a potential danger to human beings.

- (4) The owner of a potentially dangerous animal shall attend and successfully complete an available animal obedience class with the animal, as offered through a certified program, and shall produce evidence of such attendance and successful completion.

Sec. 6-36. Registration of dangerous animals and potentially dangerous animals.

- (a) No dangerous animal or potentially dangerous animal shall be permitted to remain in the city unless it is registered in accordance with this article. In addition to the annual registration and/or licensing fees otherwise required by law and ordinance, the owner of a dangerous animal or a potentially dangerous animal shall pay a fee of \$50.00 per year and shall register such owner's animal with the police department as a dangerous animal or a potentially dangerous animal according to the classification and determination previously made under this article. No dangerous animal or potentially dangerous animal shall be registered unless the owner can provide sufficient evidence that all of the provisions in sections 6-34 and 6-35, as applicable, have been and are being met.
- (b) The registration provided by this section shall be nontransferable. The registration shall be renewed annually or upon the earlier of the transfer of ownership or possession of the animal or a change in the location of the animal's primary habitat.

Sec. 6-37. Transfer of ownership or possession.

Upon the transfer of ownership or possession of any dangerous animal or potentially dangerous animal, the transferor shall provide the police chief with the name, address and telephone numbers of the new owner of the animal and the effective date of the transfer. Any transferee of a dangerous animal or potentially dangerous animal shall be presumed to have notice of the animal's classification as such.

Sec. 6-38. Notice to police department.

The owner of a dangerous animal or potentially dangerous animal shall notify the police department in person or by telephone within 24 hours of the occurrence of any one of the following events:

- (1) The animal has escaped or has otherwise ceased to be in the custody of the owner for any reason, unless the owner knows such animal to be physically secured and restrained or confined in the custody of another competent adult.
- (2) Such animal has attacked a human being.

- (3) Such animal has been sold, given or otherwise transferred to the ownership or possession of another person.
- (4) The animal has died.
- (5) The animal is leaving the City of Farmington Hills.

Sec. 6-39. Restraints when outside proper enclosure.

It shall be unlawful for the owner of a dangerous animal or a potentially dangerous animal to permit the animal to be outside a proper enclosure unless the animal is properly muzzled, if a dangerous animal, and restrained on a suitable leash and is under the physical restraint of a responsible person at all times.

Sec. 6-40. Confiscation and disposition of animals.

- (a) A dangerous animal shall be immediately confiscated by the authorized enforcement officer upon the determination that one or more of the following circumstances exists:
 - (1) The owner of the animal does not have the proper liability insurance required by section 6-34.
 - (2) The animal is not validly and currently registered as is required by section 6-36.
 - (3) The animal is not maintained in a proper enclosure as is required by section 6-34.
 - (4) The animal is not under the restraints required by section 6-39, whether or not such animal is then in the custody or possession of its owner.
 - (5) The owner has failed to take the animal to obedience classes as required by section 6-34.
- (b) A potentially dangerous animal shall be confiscated upon the determination that one or more of the following circumstances exists:
 - (1) The animal is not validly and currently registered as required by section 6-36.
 - (2) The animal is not maintained in a proper enclosure as is required by section 6-35.
 - (3) The animal is not under the restraints required by section 6-39, whether or not such animal is then in the custody or possession of its owner.

- (4) The owner has failed to take the animal to obedience classes as required by section 6-35.
- (c) Any animal that is confiscated under either subsection (a) or (b) of this section shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of the actual costs of boarding the animal with the first available private kennel, plus a confiscation fee of \$50.00 upon the first confiscation of any animal, \$100.00 upon the second and \$200.00 upon the third or subsequent confiscation. The foregoing shall be in addition to the penalties otherwise provided for under this article.
- (d) If the confiscated animal remains unclaimed for a period of seven (7) days after written notice of the confiscation to the owner, or if the identity of the owner cannot be determined and seven (7) days have passed after a description of the animal has been given to the police department and the local humane society and the animal remains unclaimed, then the animal shall be turned over to the local animal welfare society or examined by a veterinarian and/or the local animal welfare society to determine the viability of the animal or appropriate course of destruction of the animal if necessary.

Sec. 6-41. District court action.

- (a) In lieu of the notice and hearing requirements in this article, the authorized enforcement officer may file a sworn complaint in district court that an animal is a dangerous animal and that the animal has caused serious injury or death to a person or has caused serious injury or death to a dog or other domestic animal, without provocation. The district court shall issue a summons to the owner ordering him or her to appear to show cause why the animal should not be destroyed.
- (b) Upon the filing of a sworn complaint as provided in subsection (a), the district court shall order the owner to immediately turn the animal over to a proper animal control authority, an incorporated humane society, a licensed veterinarian, or a boarding kennel, at the owner's option, to be retained by them until a hearing is held and a decision is made for the disposition of the animal. The owner shall notify the person who retains the animal under this section of the complaint and order. The expense of the boarding and retention of the animal is to be borne by the owner.
- (c) After a hearing, the district court shall order the destruction of the animal, at the expense of the owner, if the animal is found to be a dangerous animal that caused serious injury or death to a person, dog or other domestic animal. After a hearing, the court may order the destruction of the animal, at the expense of the owner, if the court finds that the animal is a dangerous animal that did not cause serious injury or death to a person but is instead a potentially dangerous animal that is

likely in the future to cause serious injury or death to a person or in the past has been adjudicated as a dangerous animal.

- (d) If the court finds that an animal is a dangerous animal that has not caused serious injury or death to a person, or is a potentially dangerous animal, the court shall notify the animal control authority for Oakland County of the finding of the court, the name of the owner of the dangerous animal or potentially dangerous animal, and the address at which the animal is kept. In addition, the court shall order the owner of the animal to do one or more of the following:
- (1) Have the animal tattooed or micro chipped in such a manner as to enable the animal to be readily identified as having been determined to be a dangerous or potentially dangerous animal.
 - (2) Take specific steps, such as escape proof fencing or enclosure, including a top or roof, to ensure that the animal cannot escape and unauthorized individuals cannot enter the premises.
 - (3) Obtain and maintain liability insurance sufficient to protect the public from any damage or harm caused by the animal.
 - (4) Take any other action appropriate to protect the public, including order animal obedience classes at a licensed facility.

Sec. 6-42. Removal of potentially dangerous animal classification.

The owner of a dog that has been determined to be a potentially dangerous animal shall be given the opportunity to request that the classification of the dog as a potentially dangerous animal should be reconsidered and removed, which request may be granted by the district court or Animal Review Board, as applicable, if the owner demonstrates that the dog has been incident free for more than eighteen months, the dog and owner have successfully completed obedience training, the dog has been issued and maintained a canine good citizenship certificate by a certified tester pursuant to the standards of the American Kennel Club, and the owner has complied in all respects with the provisions of this chapter of the code and any applicable court orders.

Sec. 6-4243. Penalties for Violation.

In addition to the penalties set forth elsewhere in this article, and those penalties in MCL 287.321, *et seq.*, the owner of a dangerous animal or a potentially dangerous animal that fails to comply with the provisions of this article shall be guilty of a misdemeanor, punishable in the manner set forth in section 1-13 of this code.

Section 2 of Ordinance. Repealer.

Introduced:
Adopted:
Effective:
Published:

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