

8-28. POTENTIALLY DANGEROUS DOGS.

The purpose of this section is to establish a procedure for identifying dogs that pose a potential or significant threat to the safety of people, animals, or property, to impose precautionary restrictions on such dogs in an effort to prevent a serious injury from occurring, and to promote responsible ownership of all dogs within the city.

(A) Determination of a potentially dangerous dog. The determination that a dog is potentially dangerous shall be based on the following specific behaviors exhibited by the dog:

(1) Menaces, chases, displays threatening or aggressive behavior toward, or otherwise threatens or endangers the safety of a person or domestic animal.

(2) Causes injury to a person or domestic animal that is less than a severe injury. For purposes of this section, the term "severe" injury means permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function.

(3) Aggressively bites a person or domestic animal. For purposes of this section, the term "aggressively bites" means the dog physically bit the person or animal in a manner not normally associated with playfulness or accidental behavior while exhibiting objective signs of aggression, attack behavior, or intent to harm. The damage inflicted by a bite, or lack thereof, may also be used by animal control officials as a factor in determining whether a bite was aggressive.

(4) Any of the behaviors listed above exhibited in another community and documented in an official report of any law enforcement or animal control agency.

(B) Notice of determination and right of appeal. An animal control officer shall have the authority to make a determination that a dog is potentially dangerous if the animal control officer concludes the dog has exhibited the behaviors specified in this section. The owner or keeper of a dog determined to be potentially dangerous shall be provided with a notice containing the following information:

(1) A summary of the findings that form the basis for the determination that the dog is potentially dangerous.

(2) Notice of requirements necessary to possess a potentially dangerous dog in the city.

(3) Notice of the right to submit a written appeal of the determination that the dog is potentially dangerous to the Board of Ordinance Appeals within ten calendar days from the date of the notice. The notice shall:

(a) Provide instructions for taking an appeal;

(b) Indicate that the appeal will be considered at the next regular meeting of the Board of Ordinance Appeals to be held at least three calendar days from the date of the notice, unless an earlier meeting is scheduled and the owner requests in writing for the appeal to be heard at that meeting;

(c) Indicate that the determination that the dog is potentially dangerous is final and conclusive if an appeal is not taken; and

(d) Indicate that ownership of the dog will be deemed forfeited to the city if any of the following occur:

a. An appeal is not taken and the owner has not secured permanent relocation of the dog or satisfied all of the requirements set forth below for possession of a potentially dangerous dog within 14 calendar days from the date of the notice.

b. The Board of Ordinance Appeals upholds the determination that the dog is potentially dangerous and the owner or keeper has not secured permanent relocation of the dog or satisfied all of the conditions set forth in this section, and any other conditions established by the Board, for possessing the potentially dangerous dog within 14 days of the appeal hearing.

c. Animal control and the Board of Ordinance Appeals shall have the authority, but no obligation, to extend any of the deadlines set forth in this division for demonstrable good faith progress toward relocation of the dog or toward satisfaction of the possession requirements.

(4) Notice of the right to request removal of the potentially dangerous classification after the dog has resided and been licensed within the city for a minimum of three full years following the date the dog is licensed with the city as a potentially dangerous dog without any violations of the conditions required for keeping the potentially dangerous dog and without any new incidents involving behavior by the dog that would qualify for a potentially dangerous determination pursuant to this section. The removal request shall be sent in writing to animal control. The decision to remove the potentially dangerous classification shall be made in the first instance by

animal control upon a review of the history of the dog and its residence for the three years preceding the date of the removal request, including a premises inspection and an inspection of the dog to ensure that the conditions set forth in this section have been followed. If the request is denied, the owner may appeal the denial to the Board of Ordinance Appeals within ten calendar days. Owners shall only be permitted one request and one appeal during any 12-month period.

(C) Mitigating circumstances. An animal control officer shall have discretion to refrain from making a potentially dangerous determination if the animal control officer determines that the behavior was the result of the victim abusing or tormenting the dog, was directed toward a trespasser or person committing or attempting to commit a crime, involved accidental or instinctive behavior while playing, did not involve a significant injury, or other similar mitigating or extenuating circumstances.

(D) Impoundment. A dog that is determined to be potentially dangerous shall be removed from the city and placed with the Macomb County Animal Shelter or, in the discretion of Animal Control, the owner may authorize placement of the dog at a residential home outside of the city, or with a qualified rescue organization or qualified dog lodging business, during any quarantine period and until the owner has either confirmed a new place of residence for the dog outside of the city or has exhausted any appeals permitted by this section. If the dog is not being housed at the shelter, it must first be microchipped with all information required by animal control. All impoundment, lodging, and microchipping costs are the sole responsibility of the dog's owner.

(E) Requirements for possession of a potentially dangerous dog. If the owner of the dog requests that the dog be permitted to return to the city, its return shall not be permitted until the following requirements have been satisfied:

(1) Animal control shall confirm the following:

(a) The owner or keeper shall install secure fencing at the property where the dog will reside which is maintained in good repair with self-locking ingress or egress gates. The fencing may be any combination of chain link fencing and/or privacy fencing, shall only be installed upon obtaining all required fence permits from the city, and shall pass all required inspections prior to the dog's return to the property,

(b) When removed from the property of the owner or keeper, a potentially dangerous dog shall always be restrained by a secure leash of no more than four feet in length and under the control of a capable person.

(c) A potentially dangerous dog shall have a microchip implanted by a licensed veterinarian. The microchip shall contain the name and approximate age of the dog, its classification as potentially dangerous, and the name, address, and telephone number of the registered owner.

(d) The owner shall obtain and maintain public liability insurance with policy coverage in the minimum amount of \$250,000.

(e) Two recent color photographs of the dog, which clearly show the color and approximate size of the animal, shall be provided to animal control.

(f) The potentially dangerous dog shall meet the requirements of the AKC's Canine Good Citizen Program, or its equivalent, to the satisfaction of animal control. Dogs that are under one year of age are ineligible for the AKC Canine Good Citizen Program, so such dogs must be enrolled in or have completed the AKC START Program or an equivalent approved by animal control. The dog may not return to its city residence until these requirements have been met, but it may be kept at a qualified rescue or dog housing business until proof of successful completion of the program is submitted to, and acknowledged by, animal control and the City Clerk. For every future violation of this chapter for which a dog may be determined to be potentially dangerous which occurs after the dog has completed the requirements of this subsection and been properly registered under this section, additional training or testing, including but not limited to renewing the dog's compliance with this division, may be imposed by animal control as a condition of continuing to keep the dog within the city unless the dog's status is changed to dangerous due to the nature or frequency of the new violation(s).

(g) The potentially dangerous dog, if over 12 weeks old, has been spayed or neutered.

(h) All impoundment and lodging costs have been paid by the owner.

(2) Before the dog returns to any property within the city other than a qualified rescue organization or a boarding business, the owner of a potentially dangerous dog shall ensure that the dog's license is current and shall register the dog with the City Clerk as a potentially dangerous dog with all information required by the City Clerk's potentially dangerous dog registration form, as well as the following:

(a) Proof of animal control's certification that the required fence, self-locking gate, and leash have all been procured for the dog.

(b) Proof of microchipping and the information contained on the microchip. The owner shall ensure that the microchip

information provided to the city is kept up to date.

- (c) Proof of the required insurance policy.
- (d) Proof of the successful completion of the required training and temperament testing.
- (e) Two recent color photographs of the dog, which clearly show the color and approximate size of the animal.

(3) The owner or keeper of a potentially dangerous dog must, within ten business days, report to the City Clerk if the dog has been permanently removed from the city, has died, or has relocated within the city. The new address of a relocated potentially dangerous dog shall be provided as part of the report to the City Clerk.

(4) After its initial registration, a potentially dangerous dog shall be registered with the City Clerk annually and its owner or keeper shall pay a registration fee established by the city's annual appropriations ordinance. This registration and fee shall be in addition to any other requirements for annual licensing of an animal.

(E) Visiting Dogs. Any dog that does not reside within the city and is licensed by another community but which is determined to be a potentially dangerous dog pursuant to this section shall not be subject to the conditions for possessing a potentially dangerous dog within the city, except that the dog shall be microchipped before its release, all impound and microchipping costs shall be paid by the owner, and its owner and keeper shall be advised by animal control that the dog is not to return unless all of the conditions for possessing a potentially dangerous dog are first satisfied. In the event the dog is subsequently in the city without full compliance with the requirements for possessing a potentially dangerous dog, the person harboring or possessing the dog shall be subject to the penalties set forth in division (F).

(F) Penalties.

(1) Except as provided in division (F)(2), any person who owns, harbors, keeps, or possesses a potentially dangerous dog in violation of any of the requirements of this section for possessing a potentially dangerous dog, or who in any way aids or abets such ownership, harboring, keeping, or possession, shall be responsible for a municipal civil infraction. The fine for a first violation shall be \$500; for a second violation, \$750; and for all subsequent violations, \$1,000 per violation. The court may only waive or reduce these fines in cases of financial hardship, upon good cause shown, if the offender forfeits all ownership and possessory rights to the offending dog and forfeits future dog ownership and possessory rights until the offender has successfully completed animal ownership educational training satisfactory to the city's animal control officers and for a period of time determined appropriate by the court.

(2) In addition to the civil penalties set forth in division (F)(1), a potentially dangerous dog shall be subject to immediate impoundment by an animal control officer if it is determined that the dog is owned, possessed, harbored or maintained in violation of this section. The animal control officer shall issue a notice to the owner or keeper of the potentially dangerous dog which indicates the hearing date at which the city's Board of Ordinance Appeals will address the violations. The city shall provide notice of the hearing to any victim and/or any owner of an animal victimized by the potentially dangerous dog.

(3) Any hearing scheduled for consideration by the Board of Ordinance Appeals shall be administratively canceled if the owner or keeper withdraws the requested appeal, corrects all correctable violations to the satisfaction of animal control, satisfies the conditions for possessing a potentially dangerous dog, permanently relocates the dog to the satisfaction of animal control, or forfeits ownership rights to the potentially dangerous dog prior to the scheduled Board hearing. The owner or keeper shall be responsible for all impound fees and costs, regardless of whether the hearing is held or canceled. If a hearing is held, the Board shall:

(a) Determine whether the status of the dog as potentially dangerous shall be upheld and, if so, the conditions applicable for return of the potentially dangerous dog to the owner or keeper, including but not limited to deadlines for correcting any uncorrected violations and random inspections of the premises and the potentially dangerous dog by an animal control officer, with the owner or keeper responsible for payment of inspection fees established by the city's annual appropriations ordinance. In the event of noncompliance, the Board may impose conditions on removal from the city that are rationally related to the public interest in protecting others from any potential future harm that could be caused by the potentially dangerous dog. Failure to comply or remove the dog in accordance with the decision of the Board within the timeframe established by the Board shall result in forfeiture of ownership rights to the dog in favor of the city, in which event animal control shall determine the final placement or disposition of the dog.

(Ord. No. 411, § 2, 2-1-11; Ord. No. 449, § 1, 8-16-16)

Statutory reference:

Dangerous animals, see M.C.L. § 287.321 et seq.

8-28A. DANGEROUS DOG.

(A) Determination of a dangerous dog. The determination that a dog is dangerous shall be based on the following specific behaviors exhibited by the dog:

- (1) Exhibits aggressive behaviors that result in further incidents or complaints after having been determined to be a potentially dangerous dog.
- (2) Causes severe injury to a person or domestic animal. For purposes of this section, the term "severe" injury means permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function.
- (3) Kills a person or domestic animal.
- (4) Its use in the commission of a crime, including but not limited to dog fighting and guarding of illegal operations.

(B) Notice of determination. The definition of "dangerous animal" in § 8-3 shall continue for purposes of issuing violations for harboring a dangerous or vicious animal pursuant to § 8-8. An animal control officer shall have the additional authority to make a determination that a dog is to be classified as dangerous under this article if the animal control officer concludes the dog has exhibited the behaviors specified in this section. The owner or keeper of a dog determined to be dangerous shall be provided with a notice containing the following information:

- (1) A summary of the findings that form the basis for the determination that the dog is dangerous.
- (2) Notice of the prohibition of dangerous dogs within the city.
- (3) Notice of the right to appeal, as set forth below.

(C) Mitigating circumstances. An animal control officer shall have discretion to refrain from making a determination of a dangerous dog if the animal control officer determines that the behavior was the result of the victim abusing or tormenting the dog, was directed toward a trespasser or person committing or attempting to commit a crime, or other similar mitigating or extenuating circumstances. The animal control officer retains discretion, however, to classify the dog as potentially dangerous if the mitigating circumstances do not completely dispel concern about the dog's future behaviors.

(D) Impoundment and euthanization. A dangerous dog is not permitted within the city, shall be immediately impounded, and shall be euthanized not less than ten calendar days after a determination is made by an animal control officer.

(E) Right of appeal. The animal control officer shall issue a notice to the owner or keeper of the right to appeal the determination that a dog is dangerous to the Board of Ordinance Appeals within ten calendar days from the date of the notice. The notice shall provide instructions for taking an appeal and indicate that the determination is final and conclusive if an appeal is not taken. The city shall provide notice of the hearing to any victim and/or any owner of an animal victimized by the dangerous dog. If the owner forfeits ownership rights to the dangerous dog or obtains written permission to relocate the dog to another municipality from that municipality's chief administrative officer or chief animal control official prior to the scheduled Board hearing, the matter shall be administratively withdrawn from the agenda. If relocation permission is obtained, the dog shall first be microchipped at the owner's expense with all information required by animal control, including the dog's designation as dangerous in Sterling Heights and information referencing the city's incident report(s). The owner or keeper shall be responsible for all impound fees and costs, regardless of whether the dog is forfeited, removed from the city, or a hearing is held. If a hearing is held, the Board shall determine whether the dog is dangerous and subject to forfeiture and euthanization.

(Ord. No. 411, § 3, 2-1-11; Ord. No. 449, § 2, 8-16-16)