

## ORDINANCE NO. 2020-4

## CHAPTER 6

## ARTICLE III

AN ORDINANCE to amend Chapter 6 of the 2019 Detroit City Code, *Animal Care, Control and Regulation*, Article III, *Dangerous Animals*, by amending Section 6-3-1 to add a provision to be known as "Emma's Clause" in honor and memory of Emma Valentina Hernandez, the nine year old girl that was mauled to death on August 19, 2019, when multiple dogs escaped from a neighbor's yard; to require mandatory actions as part of the Detroit Animal Care and Control Division investigation and evaluation of a verifiable complaint of a dangerous animal; to set forth such mandatory actions such as visit(s) to the residential address, and a requirement that notes and photographs be taken; posting of notice to contact the Animal Care and Control Division within a set timeframe from the posting of notice; and to establish an accelerated procedure to address an individual's failure to contact the Animal Care and Control Division.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:

**Section 1.** Chapter 6 of the 2019 Detroit City Code, *Animal Care, Control, and Regulation*, Article III, *Dangerous Animals*, be amended by amending Section 6-3-1 to read as follows:

## CHAPTER 6.

ANIMAL CARE, CONTROL,  
AND REGULATION

## ARTICLE III. DANGEROUS ANIMALS

**Sec. 6-3-1. Dangerous animal investigation; determination by the Administrator or the Administrator's designee; Emma's Clause requiring mandatory contact with Animal Care and Control Division; appeal of dangerous animal determination; treatment of animals issued dangerous animal determination; treatment of animals seized or surrendered prior to dangerous animal determination.**

(a) Upon the receipt of a verifiable complaint from an individual or other report of an attack, a bite, a dog fight, an injury, an observation of threatening behavior, or other reason to cause a reasonable person to believe that a dog or other animal may be dangerous, the Animal Care and Control Division shall evaluate the complaint or report and, where the factual circumstances warrant, may conduct a dangerous animal investiga-

tion. Where practicable, the investigation shall include interviewing the complainant, any victim or victims of the attack or animal bite and any witness or witnesses who observed the subject animal, and visiting the scene where the reported incident took place.

(b) This subsection shall be known as "Emma's Clause" in honor and memory of Emma Valentina Hernandez, a nine year old girl that was mauled to death on August 19, 2019, when multiple dogs escaped from a neighbor's yard.

Upon the receipt of a verifiable complaint from an individual regarding an unsecured or inadequate enclosure or fencing to contain an animal at a residential location, or other reason to cause a reasonable person to believe that a dog or other animal may be dangerous, the Animal Care and Control Division shall evaluate the complaint or report and, where the factual circumstances warrant, shall conduct a dangerous animal investigation which shall include:

(1) A mandatory visit to the residential address to make contact with owner of the property or the owner of the animal;

(2) During the visit to the residential address, the animal control officer or investigator shall observe, note and photograph the enclosure or fencing to contain an animal at a residential location to assist in the determination of its sufficiency;

(3) If personal contact cannot be made with the owner of the property or the owner of the animal, a notice shall be posted at the residence requiring that the owner of the property or the owner of the animal contact Animal Care and Control Division within 48 hours of the date of the posting; and

(4) After the expiration of the 48 hour period and without contact from the owner of the property or the owner of the animal at that residential address, the Animal Care and Control Division may attempt a second visit or, with the assistance of the Law Department, initiate show cause proceedings at 36th District Court, or both.

(c) The Animal Care and Control Division investigator who is assigned to the dangerous animal investigation shall make a written recommendation concerning the incident and the animal and whether the Administrator, or the Administrator's designee, should issue a dangerous animal determination, including the factual basis for the recommendation. For purposes of making a recommendation under this section, the investigating officer may review and rely upon a written police report concerning an animal attack,

bite, threatening behavior, or other observation that an animal may be dangerous. Any animal that is the subject of a dangerous animal investigation shall not be moved or harbored at another location, excepting transport to a licensed veterinary facility for purposes of a rabies quarantine, or have its ownership transferred, pending the outcome of the investigation or any hearings related to the determination of whether the animal is a dangerous animal under this section.

(d) The Administrator or the Administrator's designee, shall review the recommendation contained in the dangerous animal investigation, and, after such review, shall have the authority to issue a dangerous animal determination concerning the subject dog or animal.

(e) Upon a dangerous animal determination, the Animal Care and Control Division shall provide the owner of the animal a written notification of the determination by first class mail. Within ten days from the date of the receipt of the mailing, the owner of the animal may file a written request for a hearing to review the determination at the 36th District Court. Pending any hearing or resolution on the dangerous animal determination, the animal shall be confined in accordance with the requirements imposed by the Administrator or the Administrator's designee, pursuant to Section 6-3-2 of this Code, including confinement in a securely fenced or enclosed area. Where the owner fails to request a hearing within the ten-day period after receipt of the notice, the dangerous animal determination made by the Administrator, or the Administrator's designee, shall become final and the animal shall be issued a dangerous animal determination under this section.

(f) Where the Administrator, or the Administrator's designee, makes a dangerous animal determination under Subsection (d) of this section and the animal has caused severe injury or death to any person or animal, the Administrator, or the Administrator's designee, may seek an order from the 36th District Court to euthanize the animal. Where the Administrator, or the Administrator's designee, makes a second dangerous animal determination under Subsection (c) of this section for a subsequent incident, the Administrator, or

the Administrator's designee, may seek an order from the 36th District Court to euthanize the animal. The Administrator, or the Administrator's designee, shall take into consideration the severity and the total circumstances of injury to any person or to any animal prior to seeking review and shall abide by the procedures and judgment of the 36th District Court if an order to euthanize the animal is sought.

(g) Whenever an animal is seized or brought to the Animal Care and Control Division for having attacked or bitten a person or another animal, the Animal Care and Control Division shall hold and care for the animal during the pendency of a dangerous animal determination. The Animal shall not be released unless:

(1) The owner enters into an agreement with the Administrator, or the Administrator's designee, pursuant to Section 6-3-2 of this Code; or

(2) An order from the 36th District Court compels release of the animal to the owner.

(h) No animal held by the Animal Care and Control Division for a dangerous animal determination shall be euthanized prior to receipt of an order from the 36th District Court.

**Section 2.** This ordinance is hereby declared necessary to preserve the public peace, health, safety, and welfare of the People of the City of Detroit.

**Section 3.** All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.

**Section 4.** In the event this ordinance is passed by two-thirds majority of City Council Members serving, it shall become effective upon publication in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this ordinance is passed by less than a two-thirds majority of City Council Members serving, it shall become effective on the thirtieth day after publication in accordance with Section 4-118(2) of the 2012 Detroit City Charter.

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JANICE M. WINFREY  
City Clerk