

ORDINANCE NO. C-9-2020
CITY OF FARMINGTON HILLS
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE FARMINGTON HILLS CODE OF ORDINANCES TO AMEND CHAPTER 6, "ANIMALS," ARTICLE III "DANGEROUS ANIMALS," SECTIONS 6-52, 6-53, 6-54, 6-55, 6-57 AND 6-60, FOR PURPOSES OF AMENDING THE DEFINITION OF "DANGEROUS ANIMAL," ADDING A RIGHT OF APPEAL TO CIRCUIT COURT, REQUIRING AFFIDAVITS TO CONFIRM DEATH OR TRANSFER OF LOCATION OR OWNERSHIP OF DANGEROUS ANIMALS, AND CLARIFYING OTHER DEFINITIONS AND LANGUAGE.

THE CITY OF FARMINGTON HILLS ORDAINS:

Section 1 of Ordinance. Ordinance Amendment.

The Farmington Hills City Code, Chapter 6, "Animals," Article III, "Dangerous Animals," Sections 6-52, 6-53, 6-54, 6-55, 6-57 and 6-60 are hereby amended 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. 6-52. – Definitions.

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

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.

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.

Dangerous animal means any of the following: a dog or other animal that bites or attacks a person; a dog or other animal that causes a serious injury to a person; or a dog or other animal that bites or attacks and causes serious injury or death to another dog or domestic animal. However, a dangerous animal does not include any of the following:

- (1) An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner;

- (2) An animal that bites or attacks a person who provokes or torments the animal; or
- (3) 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.

Final determination date means the fifteenth day after the date of the notice of the authorized enforcement officer's classification of an animal as a dangerous animal or potentially dangerous animal under subsection 6-53(a); provided, however, that if a completed request for a review hearing has been timely submitted to the city clerk pursuant to subsection 6-53(b) and the review board determines that the animal is a dangerous animal or potentially dangerous animal, the final determination date means the effective date of the review board's determination under subsection 6-53(c).

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.

Owner means any person, firm, corporation or organization that owns or harbors a dog or other animal.

Potentially dangerous animal means a dog or animal that poses a threat to public safety as demonstrated by any of the following behaviors:

- (1) Causing an injury to a person or domestic animal that is less severe than a serious injury;
- (2) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner; or
- (3) Being in violation of section 6-34 of this Code three (3) or more times within any twelve-month period.

Proper enclosure means a physical enclosure that is constructed and at all times maintained in such a manner as to effectively prevent the animal from escaping the confines of the enclosure. An invisible fence does not constitute a proper enclosure.

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.

Serious injury means permanent and serious disfigurement, serious impairment of health, or serious impairment of a bodily function of a person.

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. 6-53. - Determination of a dangerous animal, review, and appeal.

- (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 acting or has acted in a manner that falls within the definitions of either a dangerous animal or potentially dangerous animal. 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 it shall be hand delivered or mailed by certified mail to the owner's last known address. If an animal has more than one (1) owner, notice to one (1) 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 review hearing on the classification within fifteen (15) days from the date of the notice.
 - (4) The notice shall state that the animal review board shall conduct the hearing, if a review is requested timely and in accordance with this section.
 - (5) The notice shall state that if the owner does not request such a hearing within fifteen (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 the appropriate form to request a review hearing before the animal review board, shall provide notice of the required fee as established by resolution of the city council, and shall provide specific instructions on mailing or delivering such a request.

- (b) A request for a review of a decision of an authorized enforcement officer under this section must be made within fifteen (15) days from the date of the authorized enforcement officer's notice on a form provided by the city clerk for such purposes and must include all of the following:
- (1) A description of the animal and whether it was determined by the authorized enforcement officer to be a potentially dangerous animal or a dangerous animal;
 - (2) An indication of the date of the determination by the authorized enforcement officer;
 - (3) Every reason supporting and establishing why the determination of the authorized enforcement officer was incorrect and should be overturned or modified;
 - (4) The name, address, and telephone number of the person requesting the review hearing;
 - (5) The nonrefundable administrative and processing fee established by resolution of the city council; and
 - (6) Such other information deemed necessary by the city clerk for purposes of processing the request.
- (c) When the animal review board receives a complete request for a review hearing from an owner in accordance with subsection (b), above, 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, and 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 or hand delivery of its determination on the matter. If the determination is made that the animal is a dangerous animal or a potentially dangerous animal, the effective date of the determination shall be the date of the notice of said determination.
- (d) 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. 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 four (4) days, the animal shall be either turned over to the county animal control division, or if not accepted by the animal control division examined

by a veterinarian and/or an authorized representative of the county animal control division to determine the viability of the animal and the appropriate course of disposition or destruction of the animal if necessary .

- (e) Parties aggrieved by a final determination of the animal review board may file an appeal of the determination with the Oakland County Circuit Court, provided such appeal is filed in said court within twenty-one (21) days of the effective date of the animal review board's determination. The filing of an appeal shall not operate to stay the effect of the review the animal review board's decision. Such stay may be accomplished by order of the court.

Sec. 6-54. - Requirements for possession of a dangerous animal.

- (a) Any owner of a dangerous animal that is owned, possessed, kept or harbored in the city shall be jointly and severally responsible with all other owners of such animal for compliance with the requirements of this article. Except where a different date for compliance with a requirement is specifically identified in this article, the dangerous animal owner's or owners' responsibility for compliance with the requirements of this article shall commence on the final determination date.
- (b) No person shall own, possess, keep, harbor, or have custody or control of a dangerous animal in the city 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 within thirty (30) days of the final determination date.
 - (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) Within thirty (30) days of the final determination date, the owner of a dangerous animal shall maintain at all times a policy of insurance in a minimum amount of one million dollars (\$1,000,000.00) 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) Within thirty (30) days of the final determination date the owner of a dangerous animal shall begin attending, and within seventy-five (75) days after the final determination date, the owner of a dangerous animal shall successfully complete an animal obedience class with the

dangerous animal, as offered through a certified program, and shall produce evidence of such attendance and successful completion by the dangerous animal. In the instance of a dog that has been determined to be a dangerous animal, evidence of successful completion of an animal obedience class shall require the production of a canine good citizenship certificate for the dog by a certified tester pursuant to the standards of the American Kennel Club. In the instance of other animals that have been determined to be dangerous animals under this article, evidence of successful completion of an animal obedience class shall require a certificate from the trainer who performed the training program certifying that the animal satisfied all requirements of the class and that the animal is obedient.

Sec. 6-55. - Requirements for possession of a potentially dangerous animal.

- (a) Any owner of a potentially dangerous animal that is owned, possessed, kept or harbored in the city shall be jointly and severally responsible with other owners of such animal for compliance with the requirements of this article. Except where a different date for compliance with a requirement is specifically identified in this article, the potentially dangerous animal owner's or owners' responsibility for compliance with the requirements of this article shall commence on the final determination date.
- (b) No person shall own, possess, keep, harbor, or have custody of a potentially dangerous animal in the city 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, within thirty (30) days of the final determination date.
 - (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) Within thirty (30) days of the final determination date, the owner of a potentially dangerous animal shall begin attending, and within seventy-five (75) days after the final determination date, the owner of a potentially dangerous animal shall successfully complete an animal obedience class with the animal, as offered through a certified program, and shall produce evidence of such attendance and successful completion by the dangerous animal. In the instance of a

dog that has been determined to be a potentially dangerous animal, evidence of successful completion of an animal obedience class shall require the production of a canine good citizenship certificate for the dog by a certified tester pursuant to the standards of the American Kennel Club. In the instance of other animals that have been determined to be potentially dangerous animals under this article, evidence of successful completion of an animal obedience class shall require a certificate from the trainer who performed the training program certifying that the animal satisfied all requirements of the class and that the animal is obedient.

Sec. 6-56. - 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 fifty dollars (\$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 this article, as applicable, have been and are being met. An animal that has commenced an animal obedience class in a timely manner under either subsection 6-54(b)(5) or subsection 6-55(b)(4) with its owner may be issued a registration, which registration shall be subject to successful completion of the class in accordance with said subsections.
- (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. The registration year shall be the period from the date of initial registration to the next December thirty-first, inclusive, unless otherwise provided. All registrations expire on the thirty-first day of December unless suspended or revoked.

Sec. 6-57. - Transfer of ownership or possession, death.

Upon the transfer of ownership or possession of any dangerous animal or potentially dangerous animal, the owner or transferor shall provide the police chief with a signed, sworn, and notarized affidavit, approved by the City Attorney, identifying the animal and its designation under this article, certifying that: full ownership, custody, control, and possession of the animal has been transferred and granted to another person; the name, address and telephone numbers of the new owner of the animal; the effective date of the transfer; that the animal no longer resides with the affiant; that the affiant does not intend to have the animal returned at any time to their premises; and that, if the animal is returned to the affiant's premises, affiant will notify an animal enforcement officer and comply

with all requirements applicable to the animal under this article. Any transferee of a dangerous animal or potentially dangerous animal shall be presumed to have notice of the animal's classification as such. Upon the death of any dangerous animal or potentially dangerous animal, the owner shall provide the police chief with a signed, sworn, and notarized affidavit, approved by the City Attorney, identifying the animal and its designation under this article and stating that the animal is deceased.

Sec. 6-58. - 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 twenty-four (24) hours of the occurrence of any one (1) 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. 6-59. - 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. 6-60. - Confiscation and disposition of animals.

- (a) A dangerous animal may be immediately confiscated by an authorized enforcement officer or a county animal control officer upon a determination by such an officer that one (1) or more of the following circumstances exists:
 - (1) The owner of the animal does not have the proper liability insurance as required by section 6-54.
 - (2) The animal is not validly and currently registered as required by section 6-56.
 - (3) The animal is not maintained in a proper enclosure as required by section 6-54.
 - (4) The animal is not under the restraints required by section 6-59, whether or not such animal is then in the custody or possession of its owner.

- (5) The owner has failed to attend obedience classes with the animal or the animal has failed to successfully complete such obedience classes, as required by section 6-54.
- (b) A potentially dangerous animal may be confiscated by an authorized enforcement officer or a county animal control officer upon a determination by such an officer that one (1) or more of the following circumstances exists:
 - (1) The animal is not validly and currently registered as required by section 6-56.
 - (2) The animal is not maintained in a proper enclosure as required by section 6-55.
 - (3) The animal is not under the restraints required by section 6-59, whether or not such animal is then in the custody or possession of its owner.
 - (4) The owner has failed to attend obedience classes with the animal or the animal has failed to successfully complete such obedience classes, as required by section 6-55.
- (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, plus a confiscation fee of fifty dollars (\$50.00) upon the first confiscation of any animal, one hundred dollars (\$100.00) upon the second and two hundred dollars (\$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 four (4) days after written notice of the confiscation to the owner, or if the identity of the owner cannot be determined and a description of the animal has been given to the police department and the animal remains unclaimed, then the animal shall be either turned over to the county animal control division, or if not accepted by the animal control division examined by a veterinarian and/or an authorized representative of the county animal control division to determine the viability of the animal and the appropriate course of disposition or destruction of the animal if necessary.

Sec. 6-61. - 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 (1) 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. 6-62. - Removal of potentially dangerous animal classification.

The owner of a dog that has been determined to be a potentially dangerous animal may 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 (18) 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. A request submitted to the animal review board for removal of a potentially dangerous animal classification under this section must be made on a form provided by the city clerk for such purposes and must include a nonrefundable administrative and processing fee established by resolution of the city council and such other information deemed necessary by the city clerk for purposes of processing the request.

Sec. 6-63. - 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.

All ordinances, parts of ordinances, or sections of the City Code in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect, and the Farmington Hills Ordinance Code shall remain in full force and effect, amended only as specified above.

Section 3 of Ordinance. Savings.

The amendments of the Farmington Hills Code of Ordinances set forth in this ordinance do not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendments of the Farmington Hills Code of Ordinances set forth in this ordinance.

Section 4 of Ordinance. Severability.

If any section, clause or provision of this ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any court of competent jurisdiction, the validity of the ordinance as a whole, or in part, shall not be affected other than the part invalidated, and such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this ordinance shall stand and be in full force and effect.

Section 5 of Ordinance. Effective Date.

The provisions of this ordinance are ordered to take effect twenty -one (21) days after enactment.

Section 6 of Ordinance. Date and Publication.

This ordinance is declared to have been enacted by the City Council of the City of Farmington Hills at a meeting called and held on the 9th day of November, 2020, and ordered to be given publication in the manner prescribed by law.

Ayes: Barnett, Boleware, Knol, Massey, Newlin and Steckloff
Nays: None
Abstentions: None
Absent: Bridges

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

I, the undersigned, the qualified and acting City Clerk of the City of Farmington Hills, Oakland County, Michigan, do certify that the foregoing is a true and complete copy of the Ordinance adopted by the City Council of the City of Farmington Hills at a meeting held of the 9th day of November, 2020, the original of which is on file in my office.

Pamela B. Smith, City Clerk
City of Farmington Hills

Introduced: October 26, 2020
Enacted: November 9, 2020
Published: November 19, 2020
Effective: November 30, 2020