

CITY OF STERLING HEIGHTS
MACOMB COUNTY, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTERS 1, 2, AND 8 OF THE CITY CODE
TO IMPLEMENT NEW REGULATIONS GOVERNING DOGS WITHIN THE
CITY

THE CITY OF STERLING HEIGHTS ORDAINS:

SECTION 1. Purpose.

The purposes of this ordinance are declared to be the following:

- (1) Predominantly, to promote responsible ownership of dogs in the City of Sterling Heights and protect the health and safety of the public against the harm that dogs are capable of causing.
- (2) To provide for stronger penalties relating to attacks by dogs causing serious harm or death to persons or other animals.
- (3) To establish guidelines and procedures to be utilized by Animal Control and other City personnel for implementation of this ordinance.
- (4) To establish a more expedient form of due process for addressing potential forfeiture, removal, or restriction of dogs in violation of the City's ordinances or which have been involved in an attack or altercation.

SECTION 2. Section 8-28 of Chapter 8 of the City Code of Ordinances is deleted and replaced to read as follows:

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, and to impose precautionary restrictions on such dogs in an effort to prevent a serious injury from occurring.

(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) Commits three violations of this chapter within a 24-month period.

(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 appeal 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 provide instructions for taking an appeal and indicate that the determination is final and conclusive if an appeal is not taken.

(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 period of 3 full years without any violations of this chapter. The decision to remove the potentially dangerous classification shall be made in the first instance by animal control. 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) Requirements for possession of a potentially dangerous dog.

No person shall own, possess, keep, harbor, or have custody of a potentially dangerous dog except in compliance with the following requirements:

(1) A potentially dangerous dog shall be restrained while on the property of the owner or keeper by secure fencing when outside and not on a leash. The fencing shall be in good repair and any gates providing ingress or egress shall be self-locking.

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

(3) 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. Proof of the microchipping shall be provided to the animal control officer and, upon submission of an application for a dog license or license renewal after the dog has been determined to be potentially dangerous, the city clerk. The owner shall ensure that the microchip information provided to the city is kept up to date.

(4) The owner shall provide two recent color photographs of the dog, which clearly show the color and approximate size of the animal, to the animal control officer and, upon submission of an application for a dog license or license renewal after the dog has been determined to be potentially dangerous, the city clerk.

(5) The owner shall obtain and maintain public liability insurance with policy coverage in the minimum amount of \$250,000. Proof of compliance shall be provided to the animal control officer and, upon submission of an application for a dog license or license renewal after the dog has been determined to be potentially dangerous, the city clerk.

(6) The potentially dangerous dog shall meet the requirements of the AKC's Canine Good Citizen Program, the breed-specific testing performed by the American Temperament Test Society, or a program deemed their equivalent by the city manager in an administrative order. Dogs that are under one (1) 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 listed in the city manager's administrative order. Proof of successful completion of the program shall be submitted to the animal control officer and, upon submission of an application for a dog license or license renewal after the dog has been determined to be potentially dangerous, the city clerk. For every future violation of this chapter 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 subsection, may be imposed by animal control as a condition of continuing to keep the dog within the city unless the dog is classified as a dangerous dog by virtue of the nature of the violation or due to multiple violations within 24 months.

(7) The owner or keeper of a potentially dangerous dog must, within 10 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.

(8) 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 requirement imposed by this chapter for annual licensing of an animal.

(9) A potentially dangerous dog older than 12 weeks of age that is owned, kept, or harbored by a person who has been convicted of a violent felony against persons or animals, as defined by federal or state law, or a felony violation of any state or federal controlled substance law, shall be spayed or neutered.

(E) Penalties.

(1) Except as provided in subsection (E)(2), any person who owns, harbors, keeps, or possesses a potentially dangerous dog in violation of any of the provisions of this section, 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 \$500.00; for a second violation, \$750.00; and for all subsequent violations, \$1,000.00 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 subsection (E)(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. If the owner or keeper corrects all correctable violations to the satisfaction of an animal control officer or forfeits ownership rights to the potentially dangerous dog prior to the scheduled Board hearing, the matter shall be administratively withdrawn from the agenda, unless uncorrectable violations remain to be addressed by the Board. The owner or keeper shall be responsible for all impound fees and costs, regardless of whether the violations are corrected, the animal is forfeited, or a hearing is held. If a hearing is held, the Board shall:

- (i) Determine whether the violations have been corrected and whether, and under what conditions, the potentially dangerous dog may be returned to the owner or keeper.
- (ii) Determine whether any violations of this section remain uncorrected and, if so, whether any additional time shall be afforded for correcting the violations.
- (iii) If no additional time is to be afforded, or upon expiration of the additional time

without correction of the violations, or if the violations are incapable of being corrected by their nature, determine whether the potentially dangerous dog shall be subject to forfeiture, euthanization, removal from the City, or return to the owner or keeper subject to any conditions imposed by the Board, including but not limited to 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. The Board may impose any 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.

SECTION 3. Section 8-28A is added to Chapter 8 of the City Code of Ordinances to read as follows:

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.

(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 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. 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 prior to the scheduled Board hearing, the matter shall be administratively withdrawn from the agenda. 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.

SECTION 4. Subsection (E) is added to Section 8-55 of Chapter 8 of the City Code of Ordinances to read as follows:

(E) Any person who owns or harbors an animal after a court has ordered relinquishment of animal ownership rights is guilty of a misdemeanor, punishable as provided in this section.

SECTION 5. Section 8-10(A) of Chapter 8 of the City Code of Ordinances shall be amended to read as follows:

8-10. IMPOUNDMENT.

(A) A police or animal control officer may seize and take into custody or possession any animal running at large in violation of this chapter, or any animal which is suspected of having rabies, or which has bitten a human or harmed another domesticated animal. A person may seize and take into custody or possession any animal found running at large or trespassing upon the premises owned or occupied by that person. A person who takes an animal into custody or possession pursuant to this section, or who has been bitten by an animal, or who owns an animal and knows that a person has been bitten by the animal, shall immediately notify the Police Department or other law enforcement agency. The Police Department or law enforcement

agency shall promptly take custody or possession of the animal.

SECTION 6. Section 8-29(A) of Chapter 8 of the City Code of Ordinances shall be amended to read as follows:

8-29. RABIES; QUARANTINE; DESTRUCTION OF DANGEROUS DOGS AND CATS.

(A) Any dog or cat which is suspected of having rabies or any dog or cat which has bitten a human shall be confined, quarantined, and observed for a period of ten days by one of the following methods:

(1) Quarantine at the Macomb County Animal Shelter or another animal control facility for all incidents involving harm to a human or death to another domesticated animal; or

(2) For all other incidents, if authorized by an animal control officer of the city, the confinement may be at a hospital or kennel under the supervision of a veterinarian of the owner's choice, or at the owner's residence in a fenced-in yard or pen, in the owner's home, or on a chain of sufficient strength to contain the animal. In no event shall the owner permit a quarantined animal to leave the owner's residence or to have contact with animals or persons outside the owner's family.

SECTION 7. Section 8-29(D) of Chapter 8 of the City Code of Ordinances shall be amended to read as follows:

8-29. RABIES; QUARANTINE; DESTRUCTION OF DANGEROUS DOGS AND CATS.

(D) The ten-day confinement period may be extended by an animal control officer of the city if warranted by circumstances involving harm caused to a person or to a domesticated animal, and no animal shall be released until the permission of the Police Department is obtained. In such cases, the animal control officer who issued a criminal citation shall advise the court that an expedited hearing date is requested due to the continuing impoundment of the animal. During the confinement period, no rabies vaccination shall be administered.

SECTION 8. Subsection (H) is added to Section 8-4 of Chapter 8 of the City Code of Ordinances to read as follows:

(H) Leave an animal in a yard or outdoor enclosure without someone at home who is monitoring and supervising the animal and who is capable of controlling the animal.

SECTION 9. Section 8-55 of Chapter 8 of the City Code of Ordinances shall be amended to read as follows:

8-55. VIOLATIONS, PENALTIES.

(A) A person who violates this chapter is guilty of a misdemeanor unless otherwise specified in § 1-9(C) or elsewhere, and shall pay the costs of the prosecution. In addition, the violation is punishable by one or more of the following unless a contrary provision is otherwise set forth:

- (1) Imprisonment for not more than 90 days.
- (2) A fine of not less than \$500.
- (3) Community service work of not more than 120 hours.
- (4) Relinquishment of the privilege of animal ownership, either permanently or for a defined period of time set by the court.
- (5) Regardless of whether relinquishment is ordered, the court may order the defendant to pay the costs of care, housing, and veterinary medical care for the animal as applicable.
- (6) Private or group obedience classes, evaluation by a behavior specialist, and/or completion of a responsible ownership course.

(B) A person who violates § 8-52(A) is guilty of a misdemeanor punishable by a fine of not more than \$100, and shall pay the costs of the prosecution.

(C) A person who violates § 8-41(A) is responsible for a municipal civil infraction punishable by a fine as set forth in § 1-26(B) of the city code, except that the court shall **instead assess a fine in accordance with the schedule set forth in § 1-26(A)** upon receipt of certification by the city clerk and/or an animal control officer of the city that the person, before the appearance date on the citation, properly licensed and registered the dog as required by this chapter, including payment of all licensing, registration, and late fees.

(D) A law enforcement officer may issue an appearance ticket for any misdemeanor violation of this article as described in subsection (A).

(E) In addition to any other action authorized by this article and by state law, a law enforcement officer may bring an action to do one or more of the following:

- (1) Obtain a declaratory judgment that a method, act, or practice is a violation of this article.
- (2) Obtain an injunction against a person who is engaging, or about to engage, in a method, act, or practice that violates this article.

SECTION 13. Section 1-26(B) of the City Code of Ordinances shall be amended to alphabetically insert the following language at the beginning of the list:

<i>Chapter Title</i>	Code Section	Fine
Animals and Fowl	8-10(F), 8-28(D), 8-41(A)	\$500 for each first violation, \$750 for the first repeat offense, \$1,000 for any second or subsequent repeat offense

SECTION 14. All other provisions of the code of Ordinances not specifically amended shall remain in full force and effect.

SECTION 15. This ordinance shall become effective immediately upon publication of a notice of adoption.

This ordinance was introduced at a _____ meeting of the City Council of the City of Sterling Heights on the _____ day of _____, 2011, and was duly adopted at a _____ meeting of the City Council of the City of Sterling Heights on the _____ day of _____, 2011.

RICHARD J. NOTTE, Mayor

WALTER C. BLESSED, City Clerk

INTRODUCED: _____
ADOPTED: _____
PUBLISHED: _____
EFFECTIVE: _____

CITY OF STERLING HEIGHTS

Ordinance No: _____

NOTICE OF ADOPTION OF ORDINANCE

The City of Sterling Heights has adopted an ordinance that amends Chapters 1, 2, and 8 of the City Code to implement new regulations governing dogs within the City. The ordinance shall be effective upon publication of this Notice of Adoption. A copy of the ordinance can be inspected or obtained from the City Clerk's office in City Hall, 40555 Utica Road, Sterling Heights, Michigan 48311-8009, during normal business hours.