

03/07/2011

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ARTICLES I AND II OF CHAPTER 14, ANIMALS, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO ADD AND MODIFY DEFINITIONS, AMEND REGULATIONS CONCERNING THE CONTROL AND CARE OF ANIMALS AND DOGS, ADOPT REGULATIONS GOVERNING DANGEROUS DOGS, REPEAL CONFLICTING ORDINANCES AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Articles I and II of Chapter 14 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 14-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means dogs, cats, livestock, poultry; ~~or~~ any vertebrate animal other than man.

Dangerous dog means a dog that has bitten, attacked, or inflicted injury on a person or a person's dog, cat or livestock. However, when a dog attacks or bites a dog, cat or livestock, the attacking or biting dog shall not be deemed dangerous (i) if no serious physical injury as determined by a licensed veterinarian has occurred to the dog, cat or livestock as a result of the attack or bite, (ii) if both animals are owned by the same person, (iii) if the attack occurs on the property of the attacking or biting dog's owner or custodian, or (iv) for other good cause as determined by the court. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event.

~~*Dog* means any dog or doglike creature such as a wolf, fox, or the like, when domesticated, whether male, female or unsexed~~ canine or canine crossbreed or hybrid.

Law enforcement officer means the county sheriff and each of his deputies ~~of the county,~~ county animal control personnel, and any person designated as an ordinance enforcement officer for purposes of enforcing this chapter ~~and the city police.~~

Livestock means horses, stallions, colts, geldings, mares, sheep, rams, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids and swine and furbearing animals being raised in captivity.

Owner, when applied to the proprietorship of an animal, means every person having a right of property in the animal and every person who keeps or harbors the animal or has it in his care or custody and every person who permits the animal to remain on or about any premises occupied by him.

Poultry means all domestic fowl, ornamental birds, and game birds possessed or being reared under authority of a breeder's license pursuant to part 427 of Public Act No. 57 of 1995 (MCL 324.42701 et seq.; ~~MSA 13A.42701 et seq.~~).

Reasonable control means with a secure leash of suitable strength and length, in the hands of one able to restrain or move the animal if necessary, so as to enable the attendant to bring the animal to the attendant's side immediately on command; in addition, an enclosed vehicle or container or the owner's occupied property shall be deemed reasonable control.

Vicious dog means a dog that has communicated by its actions or behavior an intention, habit, tendency or propensity to harm a person or animal.

Sec. 14-2. Purpose.

The keeping of animals and their conduct shall be regulated as provided in this chapter.

Sec. 14-3. Impoundment.

(a) All animals ~~picked up~~ taken into custody or otherwise coming within the control of a law enforcement officer because of a violation of this chapter shall be impounded with the county animal control authorities and held for such length of time as required by the county impounding authorities.

(b) Fees for impounding shall be as set by the county impounding authorities.

Sec. 14-4. Authority to destroy.

(a) *Dogs.* A law enforcement officer may kill any dog that he sees in the act of pursuing, worrying, or wounding any livestock or poultry or attacking persons, and there shall be no liability on such officer, in damages or otherwise, for such killing.

(b) *Dangerous animals.* Any law enforcement officer is authorized to destroy any dangerous animal of any kind when it is necessary for the protection of any person or property.

Sec. 14-5. Cruelty.

No person shall cruelly treat any animal in the city in any way. Any person who inhumanely neglects, abuses, tortures, inflicts pain or suffering, beats, underfeeds, overloads, trains or uses for fighting or baiting, or abandons any animal shall be deemed guilty of a violation of this chapter.

Sec. 14-6. Unclean housing.

No person shall cause or allow any stable or place where any animal is or may be kept to become unclean or unwholesome to an extent that it becomes a health problem or nuisance to abutting residences.

Sec. 14-7. Noise.

No person shall harbor or keep any animal that disturbs the peace by loud noises at any time of the day or night.

Sec. 14-8. Diseases.

(a) No person shall allow any domestic animal afflicted with a contagious or infectious disease to ~~run at large or to~~ be exposed in any public place where ~~by~~ the health of ~~man or beast~~ a person or animal may be affected. No such diseased animal shall be ~~shipped~~ transferred or removed from the premises of the owner of the animal, except under the supervision of the mayor or the mayor's designee.

(b) It is the duty of the mayor to secure such disposition of any diseased animal and such treatment of affected premises as to prevent the communication and spread of the contagion or infection, except when the state veterinarian is empowered to act.

Sec. 14-9. Running at large.

(a) *Dangerous animals.* No person shall permit ~~any a~~ dangerous animal ~~or vicious animal~~ of any kind to run at large within the city.

(b) *Domestic animals.* No person shall permit any cattle, horse, swine, sheep, goat, or poultry to run at large in the city. Any domestic animal running at large in any public place in the city shall be impounded in accordance with county regulations.

Sec. 14-10. Picketing.

It shall be unlawful to picket or tie any dangerous or domestic animal in any of the streets of the city ~~for the purposes of grazing or feeding.~~

Sec. 14-11. Exhibitions or parades.

Exhibitions or parades of animals which are ferae naturae in the eyes of the law may be conducted only upon securing a Special Events permit from the city ~~clerk.~~

Sec. 14-12. Sanitary disposal of feces.

It shall be unlawful for any person in control of an animal ~~traveling~~ upon a public property or right-of-way to fail to pick up and remove from such public property or right-of-way such animal's feces, manure or solid waste.

ARTICLE II. DOGS

DIVISION 1. GENERALLY

Sec. 14-41. Nuisances.

In addition to any penalty imposed on any owner or other person, any dog found in the city either without a license or running at large under conditions set forth in section 14-43 is declared to be a nuisance and shall be impounded at the direction of a law enforcement officer. Any impounding shall be governed by the rules, regulations and fees established by the county.

Sec. 14-42. Disturbing the peace.

No owner shall permit a dog to disturb the peace and quiet of the neighborhood by barking or making other loud or unusual noises.

Sec. 14-43. Running at large.

No person owning, possessing or harboring a dog shall permit the dog to run at large in the city ~~unless such dog is under the immediate control of its owner or an immediate member of the family.~~

Sec. 14-44.—Confinement in public.

No dog shall be permitted at any time to be on a highway, in a public park, in a public building or in any other public place, except when held securely ~~in-leash~~ by a leash of suitable

strength and length ~~by~~ and under the reasonable control of the owner thereof or other responsible person or when confined in a shipping receptacle or closed automobile.

Sec. 14-454. Destruction of property.

No owner at any time shall allow any licensed or unlicensed dog to destroy property or to habitually trespass in a damaging way on property of persons other than the owner.

Sec. 14-465. Vicious dogs.

No person shall permit any vicious ~~or ferocious~~ dog or dog sick with or liable to communicate hydrophobia or other contagious or infectious disease to be in any public place or to be otherwise exposed to or a threat to any person or property.

Sec. 14-476. Trespass liability.

Any dog that enters any field or enclosure which is owned by or leased by a person producing livestock or poultry, unaccompanied by its owner or its owner's agent, shall constitute a trespass, and the dog's owner shall be liable in damages.

Sec. 14-487. Biting.

(a) *Prohibited.* No owner at any time shall allow any licensed or unlicensed dog to attack, molest or bite a person or other animal.

(b) *Quarantine.* Whenever any dog bites a person, the owner of the dog shall immediately notify a law enforcement officer, who shall order the dog held on the owner's premises or shall have it impounded for a period of two weeks.

(c) *Examination for rabies.* The dog shall be examined immediately after it has bitten anyone and again at the end of the two-week period.

(d) *Release.* If at the end of two weeks a veterinarian is convinced that the dog is then free from rabies, the dog shall be released from quarantine or from the pound, as the case may be.

(e) *Death.* If the dog dies in the meanwhile, it shall be sent to the state department of health for examination for rabies.

DIVISION 2. CONTROL OF DANGEROUS DOGS

Sec. 14-48. Determination.

(a) Any law enforcement officer who has reason to believe that a dog is a dangerous dog shall make a sworn complaint applying to the district court or magistrate for the issuance of a summons requiring the dog's owner to appear before the district court or magistrate at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law enforcement officer successfully makes an application for the issuance of a summons, he shall contact the county animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous. The animal control officer shall confine the dog until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines the owner can confine the dog in a manner that protects the public safety, he may permit the owner to confine the dog until such time as

evidence shall be heard and a verdict rendered. The court may compel the owner, custodian or harbinger of the dog to produce the dog. If, after hearing the evidence, the court determines the dog is a dangerous dog, the court shall order the dog's owner to comply with the provisions of this section. The procedure for appeal and hearing shall be the same as provided by law for municipal civil infractions. The City shall be required to prove its case by preponderance of the evidence.

(b) No dog shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of dog prohibited. No dog shall be found to be a dangerous dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the dog's owner or custodian, (ii) committing, at the time, a willful trespass upon the premises occupied by the dog's owner or custodian, or (iii) provoking, tormenting, or physically abusing the dog, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the dog at other times. No police dog that was engaged in the performance of its duties at the time of the acts complained of shall be found to be a dangerous dog. No dog that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog.

(c) If the owner of a dog found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this division.

Sec. 14-49. Dangerous dog registration.

(a) The owner of any dog found to be a dangerous dog shall, within 30 calendar days of such determination, obtain a dangerous dog registration certificate from the City Clerk for a fee of \$200, in addition to other fees that may be authorized by law or ordinance. All certificates obtained pursuant to this subsection must be renewed annually by March 1. The City Clerk shall provide a copy of the dangerous dog registration certificate and verification of compliance to the County Animal Control Office and State Veterinarian.

(b) All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the dog's current rabies vaccination, if applicable, (ii) that the dog has been neutered or spayed, and (iii) that the dog is and will be confined in a proper physical enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; (ii) the dog has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation; (iii) the dog and its owner are enrolled in or have successfully completed the American Kennel Club's Canine Good Citizen Program, or a program deemed by the City Clerk to be equivalent. (An owner whose dog has commenced a dog obedience program in a timely manner under this subsection may be issued a registration certificate which will be subject to successful completion of the program); and (iv) the owner has liability insurance coverage with limits of at least \$250,000 that covers animal bites.

Sec. 14-50. Confinement and restraint.

(a) While on the property of its owner, a dog that has been determined to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure or pen of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure or pen shall have secure sides and a secure top attached to the sides and shall be designed to provide the dog with shelter from the elements of nature. If the structure or pen does not also have a secure bottom or floor securely attached to the sides, then the sides must be embedded into the ground no less than one (1) foot. A hidden, in-ground electronic, fenceless or invisible fence pet containment system without a physical structure or pen as described in this subsection does not constitute a proper enclosure.

(b) While off its owner's property, a dog that has been determined to be a dangerous dog shall be kept on a leash no longer than four feet and muzzled in such a manner as not to cause injury to the dog or interfere with the dog's vision or respiration, but so as to prevent it from biting a person or another animal.

Sec. 14-51. Notification.

After a dog has been determined to be a dangerous dog, the dog's owner shall immediately cause the County Animal Control authority to be notified if the animal (i) becomes loose or unconfined; or (ii) bites a person or attacks another animal; or (iii) is sold, given away, or dies. An owner of a dangerous dog who relocates to a new address shall, within 10 calendar days of relocating, provide written notice to the City Clerk for the old address from which the animal has moved and the new address to which the animal has been moved.

Sec. 14-52. Violation.

(a) Any owner of a dog is guilty of a misdemeanor if the dog previously determined to be a dangerous dog pursuant to this division, attacks and injures or kills a cat or dog belonging to another person, or bites a person or attacks a person causing bodily injury. The provisions of this subsection shall not apply to any dog that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the dog is a police dog engaged in the performance of its duties at the time of the attack.

(b) The owner of any dog that has been found to be a dangerous dog who fails to comply with the requirements of this division, including but not limited to failure to confine the dog in a proper and maintained enclosure, failure to post or maintain clearly visible warning signs, failure to properly leash and muzzle the dog while off the owner's property, failure to successfully complete a dog obedience program, or failure to maintain required insurance is guilty of a misdemeanor.

DIVISION 23. LICENSE

Sec. 14-76. Required.

It shall be unlawful for any person to own, possess or harbor a dog six months of age or over in the city without first having obtained a license as provided in this division.

Sec. 14-77. Application.

(a) *Conditions.* It shall be the duty of any person to apply for a dog license when the person:

- (1) Owns or harbors a dog before March 1 and on or before any dog becomes six months of age;
- (2) Forthwith becomes a resident of the city; or
- (3) Becomes an owner of such dog.

(b) *Information.* The applicant for a dog license shall give his full name and address, if any, and the breed, sex, age and color of the dog.

Sec. 14-78. Proof of rabies vaccination.

An application for a dog license shall be accompanied by proof of vaccination of the dog by a valid certificate of vaccination for rabies signed by an accredited veterinarian, and containing the information listed in subsection 14-77(b) and the type and manufacturer of the vaccine used.

Sec. 14-79. Fees.

Dog license fees shall be established by the county.

Sec. 14-80. Issued elsewhere.

(a) *County license.* A county dog license issued either by the county or by another municipality shall be honored and accepted by and within the city.

(b) *Other municipalities.* Other licenses issued by other municipalities shall not be so honored or accepted, and the owner of any dog with a license so issued by another municipality shall apply for and obtain a license issued by this city within 30 days of coming into and residing within the city.

Sec. 14-81. Issuance.

(a) *Generally.* A license to own or harbor a dog shall be issued by the city treasurer upon application made therefor and upon compliance of the requirements for a license, together with payment of the license fee as promulgated by the county.

(b) *Duration.* The treasurer shall issue a license to own or harbor a dog for the term commencing at the date of such license and terminating on December 31 following.

(c) *License tag.* A dog license tag shall be issued in accordance with the following:

- (1) *Issuance.* With each license so issued there shall be delivered to the applicant a tag of metal or other durable material, which shall have stamped or engraved thereon the year when issued, together with the words "License, Oakland County," and number of the license.
- (2) *Replacement.* Upon satisfactory proof that the tag issued by the treasurer as provided for in this section has been lost, the treasurer is authorized to issue a duplicate tag without payment of a fee.

Sec. 14-82. Proof of licensing.

(a) *Tag on dog.* The dog license tag shall be affixed to a substantial collar furnished by the owner which, with the tag attached, shall at all times be kept on the dog for which the license is issued.

(b) *Production on request.* A person who owns or harbors a dog shall produce proof of a valid license upon request of a law enforcement officer.

Sec. 14-83. Transferability.

No license or license tag issued for one dog shall be transferred to another dog.

Sec. 14-84. Impoundment of unlicensed dogs.

Any dog found unlicensed after March 1 of each year by a law enforcement officer may be seized and impounded by such officer for a period of not less than 72 hours.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. All violations of this ordinance shall be misdemeanors and upon conviction thereof shall be punishable by a sentence of not more than ninety (90) days of confinement to jail or by a fine of not more than \$500, or both, in the court's discretion.

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, following its publication in the *Rochester Post* on _____, 2011.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on _____, 2011.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON _____, 2011.

Jane Leslie, Clerk
City of Rochester Hills