

**CITY OF DEARBORN HEIGHTS  
ORDINANCE NO. H-12-10**

AN ORDINANCE OF THE CITY OF DEARBORN HEIGHTS, PROVIDING THAT THE CODE OF ORDINANCES, CITY OF DEARBORN HEIGHTS, BE AMENDED BY ADDING SECTION 6-98 REGULATING THE TETHERING OF DOGS AND BY AMENDING SECTIONS 6-163 AND 6-165 CONCERNING DANGEROUS OR VICIOUS ANIMALS

THE CITY OF DEARBORN HEIGHTS ORDAINS THAT THE CODE OF ORDINANCES OF THE CITY OF DEARBORN HEIGHTS, MICHIGAN, IS HEREBY AMENDED BY ADDING A SECTION TO BE NUMBERED 6-98 WHICH SHALL READ AS FOLLOWS AND BY AMENDING SECTIONS 6-163 AND 6-165 SUCH THAT THEY ARE AMENDED TO READ AS FOLLOWS:

SECTION I.

**Sec. 6-98. Tethering.**

(a) It shall be unlawful for any person to attach chains or tethers, restraints or implements directly to a dog without the proper use of a collar, harness, or other device designed for that purpose and made from a material that prevents injury to the animal.

(b) No person shall:

(1) Continuously tether a dog for more than two continuous hours, except that tethering of the same dog may resume after a hiatus of three continuous hours, for up to three hours' total time on tether per day; provided that for the purpose of tethering a dog, a chain, leash, rope, or tether shall be at least ten feet in length; or

(2) Use a tether or any assembly or attachments thereto to tether a dog that shall weigh more than one-eighth of the animal's body weight, or due to weight, inhibit the free movement for the animal within the area tethered; or

(3) Tether a dog on a choke chain or in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, or other man made or natural obstacles; or

(4) Tether a dog without access to shade when sunlight is likely to cause overheating, or appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below 40 degrees Fahrenheit, or to tether a dog without securing its water supply so that it cannot be tipped over by the tether; or

(5) Tether a dog in an open area where it can be teased by persons or an open area that does not provide the dog protection from attack by other animals; or

(6) Tether an animal in an area where bare earth is present and no steps have been taken to prevent the surface from becoming wet and muddy in the event of precipitation.

(c) *Relationship to Section 6-86.* A person may be charged with a violation of this section 6-98 and with a violation of section 6-86 out of the same transaction or occurrence. However, a violation of section 6-86 is a misdemeanor while a violation of this section 6-98 is a municipal civil infraction. As such, a violation of this section 6-98 shall not be treated as a lesser included offense of section 6-86.

**Sec. 6-163. Violations of this article: municipal civil infractions, penalties, imposition of other expenses, equitable relief; finding that animal constitutes a dangerous or vicious animal without finding of violation of this article; effect of code on victim's remedies.**

(a) *In general.* Any person who violates a provision of this article shall be responsible for a municipal civil infraction. Except as otherwise provided at subsection 6-166(a) or at subsection 6-165(c)(2), the civil fine for each violation of any provision of this article shall be five hundred dollars (\$500.00) for a first offense; one thousand dollars (\$1,000.00) for a second offense within a twelve-month period; and one thousand five hundred dollars (\$1,500.00) for a third or subsequent offense within a twelve-month period. In addition, the person found responsible shall be liable for costs of prosecution, other costs allowed by law, impound fees, and/or animal destruction fees. Further, the court may grant the city such other equitable relief as may be necessary to enforce this article as well as to protect and to enhance the public peace, health, safety, and welfare whether or not a person has been found responsible for a violation of this article.

(b) Finding that animal constitutes a dangerous or vicious animal with or without finding of violation of this article.

(1) Regardless of whether the person charged with violating any provision of this article is actually found responsible for a violation of this article, the court shall make a finding about whether any of the animals involved in the case is a dangerous or vicious animal as defined at section 6-162

(2) If a person is charged with at least one violation of this article, and an element to establish that the person is responsible for a charged offense is that at least one (1) animal involved in the offense is a dangerous or vicious animal, then the default of the person charged with such an offense shall be deemed to be a finding by the court that any involved animal is a dangerous or vicious animal provided that the animal is or animals are identified or described in the citation giving rise to the charge or charges.

(3) The court's finding that an animal is a dangerous or vicious animal shall bar

future challenges that the animal is not a dangerous or vicious animal unless the finding is overturned on appeal or by a later order of the court.

(4) However, the court's finding that the animal is not a dangerous or vicious animal shall not bar allegations in any subsequent proceeding that the animal actually is a dangerous or vicious animal because: (i) the burden of proving that the animal is a dangerous or vicious animal is on the prosecution; (ii) additional evidence and information obtained after an initial finding that the animal is not a dangerous or vicious animal may still bear on the issue of whether the prosecution has met its burden and/or whether the animal has become vicious for purposes of the subsequent proceeding; and (iii) it is presumed that a dangerous or vicious animal will remain a dangerous or vicious animal with the passage of time.

(c) *Effect on victim's remedies.* Nothing in this Code, chapter, article, or section shall be construed to limit the remedies of a victim or a potential victim of an animal bite or attack as may otherwise exist under state law.

(d) *Equitable powers of court.* Pursuant to MCL 600.8302(4), the court may issue and enforce any judgment, writ, or order necessary to enforce this article or necessary to prevent future violation of this article. The court may issue and enforce any such judgment, writ, or order as the court in its discretion may deem necessary provided either that a person has been found to be responsible for a violation of this article or that an animal has been found to constitute a dangerous or vicious animal pursuant to this article. For purposes of illustration only, and not as a limitation on the authority and discretion of the court, the court may issue and enforce a judgment, writ, or order that requires an animal to be destroyed; requires removal of an animal from the city; imposes conditions on keeping the animal in the city beyond those imposed by section 6-164; requires the owner of the animal to pay restitution to any victim of the animal; or otherwise protects the public peace, health, safety, and welfare of the city.

#### **Sec. 6-165. Animals in public; animal attacks; animals constituting nuisances.**

(a) *In public.* The owner of a dangerous or vicious animal shall not allow such animal at any time to be on a public highway or street, in a public park, in a public building, or in any other public place or any place to which the public is generally invited unless:

(1) Such animal is held securely by a leash of suitable strength and no more than four (4) feet in length by the owner thereof or other responsible person, or when confined in a shipping receptacle or automobile;

(2) Such animal is muzzled by a muzzling device sufficient to prevent such animal from biting persons or animals; and

(3) Such animal has been immunized against rabies.

(b) *Running at large.* The owner of a dangerous or vicious animal shall not permit or allow such animal to run at large. A violation of section 6-94 is a lesser included offense of this section 6-165(b).

(c) *Attacks by animals.*

(1) The owner of a dangerous or vicious animal shall not permit or allow the animal to attack a person engaged in lawful activities; to leave the property of its owner and attack or seriously injure another animal; or to chase, confront, or approach a person engaged in lawful activities on a street, sidewalk, or public property in a menacing fashion such as would put a reasonably prudent person in fear of attack.

(2) The owner of an animal shall not permit or allow the animal to attack a person engaged in lawful activities; to leave the property of its owner and attack or seriously injure another animal; or to chase, confront, or approach a person engaged in lawful activities on a street, sidewalk, or public property in a menacing fashion such as would put a reasonably prudent person in fear of attack. A violation of this paragraph (2) of this subsection (c) shall be a lesser included offense of paragraph (1) of this subsection (c). A person violating this paragraph (2) of subsection (c) shall be responsible for a class B municipal civil infraction.

(d) *Nuisance animals.*

(1) Any animal that is unlicensed or that does not have an animal license on its person and that is running at large is deemed to be a "nuisance animal" for purposes of this subsection (d) of this section 6-165. Any such nuisance animal is deemed to be a nuisance *per se* that may be seized and impounded by the city. Nuisance animals that have been seized and/or impounded by the city shall only be given to an owner of the animal after the animal is properly licensed or proof of proper animal licensing is provided and after any expenses associated with the seizure and/or impoundment of the animal have been paid to the city or its agent. All such expenses shall be paid within a reasonable time. Any owner of such a nuisance animal shall be responsible for any expenses associated with the seizure and/or impoundment of the animal whether or not he or she attempts to regain possession of the animal.

(2) Any nuisance animal that has attacked a person engaged in lawful activities, has left its owner's property and attacked or seriously injured another animal, or has approached a person engaged in lawful activities on a street, sidewalk, or public property in a menacing fashion such as would put a reasonably prudent person in fear of attack shall be subject to the provisions of paragraph (1) of this subsection (d) of this section 6-165. Likewise, any owner of such an animal shall be subject to the provisions of paragraph (1) of this subsection (d) of this section 6-165. Additionally, any such nuisance animal and any of its owners

shall also be subject to the requirements of this paragraph (2) of this subsection (d) of this section 6-165. Such nuisance animal shall not be released unless and until all other requirements of law have been met and the city has satisfied itself that the nuisance animal does not constitute a threat to the city, its residents, or any animals lawfully in the city. If the city deems the nuisance animal to be a threat to the public, its residents, and/or animals lawfully in the city, then the person seeking the release of the nuisance animal may petition the court for the release of the nuisance animal within a reasonable time of its seizure and/or impoundment. In addition to complying with the licensing and payment of expenses requirements set forth at paragraph (1) of this subsection (d) of this section 6-165, the person petitioning for the release of the nuisance animal shall not have standing to petition the court for the release of the nuisance animal unless and until he or she provides security to the court for the costs of any additional expenses that may be incurred by the city up through the time that the court may hear the matter. At the hearing, the burden shall be on the person petitioning for the release of the nuisance animal to show that the nuisance animal is not a threat to the public, the city's residents, and/or animals lawfully in the city. Regardless of the outcome of any hearing, any owner of the nuisance animal shall be responsible for any expenses associated with the seizure and/or impoundment of the nuisance animal whether or not he or she attempts to regain possession of the animal.

## SECTION II.

### **REPEAL**

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

## SECTION III.

### **SEVERABILITY**

Should any section, subsection, clause, or phrase of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

## SECTION IV.

### **EFFECTIVE DATE**

This ordinance shall become effective upon publication as provided by law.

SECTION V.

**AUTHENTICATION**

This is to certify that the undersigned do hereby authenticate the foregoing record of the ordinance herein set forth.

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DANIEL S. PALETKO, Mayor

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WALTER J. PRUSIEWICZ, Clerk

**CERTIFICATION**

I hereby certify that the foregoing is a true and correct copy of this ordinance adopted by the Council for the City of Dearborn Heights at a regular meeting of the Council held on the 11th day of September, 2012, and became effective by publication in the official newspaper of the City of Dearborn Heights on the 24th day of October, 2012.

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WALTER J. PRUSIEWICZ, Clerk

Publication Date: October 24, 2012.