

35.260 DANGEROUS ANIMALS CITY OF MOUNT CLEMENS
ord. eff. June , 2009.

35.261 Sec. 1. DEFINITIONS. The following words, terms and phrases when used in this ordinance shall have the meaning ascribed to them in this section, except where the content clearly indicates a different meaning.

(1) **“Dangerous Animal”** shall mean any of the following:

(a) Any mammal, amphibian, fish, reptile, or fowl of a species which due to size, vicious nature or other characteristics would constitute a danger to human life or physical well-being or to animals.

(b) Any animal having a known disposition or propensity to attack, bite, or injure any person or animal without provocation. Where the official records of the Animal Control Officer, City Clerk, Sheriff’s Office, or Clerk of the 41-B District Court indicate that an animal has bitten or attacked any person or animal, it shall be prima facie evidence that said animal is a dangerous animal.

(c) Any animal owned or kept primarily or in part for the purpose of fighting or any animal trained or bred for fighting.

(d) Any animal which is urged by its owner or keeper to attack, or whose owner or keeper threatens to cause such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty and when such animal has the apparent ability to cause injury or harm to such officer.

(e) Any pit bull dog. “Pit bull dog” means any of the following dogs: (a) the Staffordshire Bull Terrier breed of dog; (b) The American Staffordshire Terrier breed of dog; (c) The American Pit Bull Terrier breed of dog; (d) any other breed commonly known as Pit Bull, Pit Bull Dog or Pit Bull Terrier; or (e) Dogs which have the appearance and characteristics of being predominately of the breeds of dogs known as the Staffordshire Bull Terrier, the American Staffordshire Terrier, or the American Pit Bull Terrier. The registration of a dog at any time in any jurisdiction as any of the dogs listed above shall constitute prima facie evidence the animal is a pit bull dog.

(f) A dog or other animal that bites or attacks a person, or a dog that bites or attacks and causes serious injury or death to another dog or animal, while the other dog or animal is on the property or under the control of its owner. However, a dangerous animal *does not* include any of the following under this sub-paragraph:

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

(ii) An animal that bites or attacks a person who provokes or torments the animal;

(iii) 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.

(2) **“Person”** includes any natural person, association, partnership, organization, company or corporation.

(3) **“Own” or “Keep”** means to own, keep, harbor, control, manage, possess, maintain, or have charge or custody of or provide care for.

(4) **“Owner” or “Keeper”** means any person who owns or keeps a dangerous animal.

(5) **“Registered Pit Bull Dog”** means a pit bull for which a permit has been properly obtained within thirty days of the effective date of this ordinance and in accordance with Section 5 hereof.

(6) **“Provoke”** means 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 animal.

(7) **“Serious Injury”** means permanent, serious disfigurement, serious impairment of health, or serious impairment of bodily function of a person.

35.262 Sec. 2. PROHIBITION. Except as provided in Sections 3 and 4, no person shall own or keep any dangerous animal in the City of Mount Clemens.

35.263 Sec. 3. EXCEPTIONS. Any person who meets any of the following exceptions shall be permitted to own or keep an animal described in Section 1 (a) through (f) provided that such person has first properly obtained a permit for the animal as provided in Section 5 and provided that an owner or keeper of a pit bull dog shall also be required to comply with all licensing and vaccination requirements imposed by this Chapter for dogs.

- (1) The keeping of such animal in a bonafide, licensed veterinary hospital for treatment;
- (2) Commercial establishments possessing such animal for the purpose of sale or display;
- (3) The owning or keeping of a registered pit bull dog is subject to the following requirements:
 - i. **Leash.** No person shall permit a registered pit bull dog to go outside its kennel, pen or fence unless such animal is securely leashed with a leash no longer than four feet (4) in length. No person shall permit a pit bull dog to be kept on a chain, rope, or other type of leash outside its kennel, pen or fence unless an adult person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, fences or buildings.
 - ii. **Muzzle.** No person shall permit a registered pit bull dog to go outside its kennel or pen unless such animal is securely muzzled by a muzzling device sufficient to prevent such animal from biting a person or other animals.
 - iii. **Confinement.** All registered pit bull dogs shall be securely confined indoors, or if outdoors, in a securely enclosed and locked pen, kennel, or fence, which pen, kennel or fence shall be no shorter than six (6) feet in height, when not leashed as above provided. Such pen or kennel shall have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs must be locked with a key lock or combination lock when such animals are within the structure. Such kennel or pen must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept clean and in a sanitary condition.
 - iv. **Confinement Indoors.** No pit bull dog may be kept on a porch, patio, or any part of a house or structure or in any manner that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a

- house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
- v. **Signs.** All owners or keepers of registered pit bull dogs within the City shall within thirty (30) days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign shall be posted on the kennel, pen or fence of such animal.
 - vi. **Insurance.** All owners or keepers of registered pit bull dogs must, within ten (10) days of the effective date of this ordinance, obtain public liability insurance in a single incident amount of \$100,000. for bodily injury to or death of any person or persons, or for damage to property owned by any person which may result from the ownership, keeping or maintenance of said animal.
 - vii. **Reporting Requirements.** All owners or keepers of registered pit bull dogs must within ten (10) days of any of the following incidents, provide in writing to the City Clerk the following:
 - (1) The removal from the City or death of a registered pit bull dog;
 - (2) The birth of offspring to a registered pit bull dog; or
 - (3) The move of the owner or keeper or the move of a registered pit bull dog to a new location within the City limits. In such case, the new address of the registered pit bull dog and that of the owner or keeper shall also be reported to the City Clerk.

35.264 Sec. 4. EXEMPTION. The prohibition as provided in Section 2 shall not apply to:

- (1) The transportation of animals through the City when the person transporting such animal has taken adequate safeguards to protect the public; or
- (2) The keeping of any dangerous animal by the City or its designees for law enforcement purposes.

35.265 Sec. 5. SPECIAL REGISTRATION REQUIRED. In addition to the requirements of a dog license, Owners shall be required to register their pit bull dog with the City Clerk's office within ninety (90) days of the effective date of this ordinance. Registrations shall be done only by adults and only by the person who is the owner or keeper of the animal. Registration shall be done according to the following procedures:

(1) An initial application for a pit bull registration pursuant to this ordinance shall be made to the City Clerk no later than ninety (90) days following the effective date of this ordinance. A registration shall be valid for the duration of the pet license. An application for registration shall be made prior to the expiration of the valid pet license. Applications shall be made on a form provided by the City Clerk.

(2) The Application shall contain the following information: (a) the name, address, and telephone number of the applicant; (b) a statement that the applicant is the owner or the keeper of the animal; (c) the name, address, and telephone number of any other owner or keeper of the animal; (d) the address of the location where the animal will be kept; (e) a general description of the animal for which the permit is sought; (f) an acknowledgment of receipt of a copy of this ordinance; (g) a signature by each owner or keeper of the animal; (h) a photocopy of a valid Michigan driver's license or Michigan identification card.

(3) The application shall be accompanied by: (a) two identical color photographs of the animal taken within the previous thirty days clearly showing the color and approximate size of the animal; (b) proof of compliance with the insurance provisions of section 3(3)(vi) hereof.

(4) A fence inspection fee shall be paid by the person or persons registering a pit bull. Said inspection fee shall be paid at the time of registration. A six (6) foot fence shall be installed in accordance with the provisions hereof and any other City fence ordinances no later than four (4) months from the effective date of this ordinance.

35.266 Sec. 6. FAILURE TO COMPLY. It shall be unlawful for the owner or keeper of any dangerous animal to fail to comply with the requirements and conditions of this ordinance.

35.267 Sec. 7. NOTICE OF VIOLATION. When the Animal control Officer or other designee of the City has knowledge of a possible violation of this ordinance, the Animal Control Officer or City designee, shall forthwith cause the matter to be investigated. If after investigation there is reasonable ground to believe there has been a violation of this ordinance, the animal Control Officer or City designee shall forthwith deliver written notice to the owner or keeper of the animal that is the subject of the violation requiring such person to safely remove said animal from the City within five days of the date of said notice or provide proof that the violation has been resolved. Such owner or keeper shall remove said animal from the City within the required period of time and a citation for said violation may be issued. Such notice shall not be required when a dangerous animal has caused serious injury or death to any person or animal or has escaped and is at large in which case the Animal Control Officer shall cause said animal to be immediately seized and impounded.

35.268 Sec. 8. SWORN COMPLAINT.

(1) Upon a sworn complaint that an animal is a dangerous animal and the animal has caused serious injury or death to a person or has caused serious injury or death to another domesticated animal, 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.

(2) Upon the filing of a sworn complaint as provided in section 8(1), of this subsection, the court or magistrate 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 animal shall not be returned to the owner until it has a current rabies vaccination and a license as required by law.

(3) After a hearing, the 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 or other domesticated 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 or other domesticated animal, but is likely in the future to cause serious injury or death to a person or in the past has been adjudicated a dangerous animal.

(4) If the court or magistrate finds that an animal is a dangerous animal but has not caused serious injury or death to a person, the court shall notify the animal control authority for the City of the finding of the court, the name of the owner of the dangerous animal, and the

address at which the animal was kept at the time of the finding of the court. In addition, the court shall order the owner of that animal to do one or more of the following:

- (i) Take specific steps to ensure that the animal cannot escape or non-authorized individuals cannot enter the premises;
- (ii) Have the animal sterilized;
- (iii) Take any other action appropriate to protect the public.

35.269 Sec. 9. ADDITIONAL PROVISIONS.

(1) **Severability.** Should any section, subsection, clause or phrase of this ordinance be declared by a court of competent jurisdiction to be invalid, the validity of the ordinance as a whole or in part, shall not be affected other than the part invalidated.

(2) **Savings Clause.** This ordinance does not affect or impair any act done, offense committed or right accruing, or acquired, or liability, penalty, forfeiture, or punishment pending or incurred prior to the effective date of this ordinance.

(3) **Repealer.** To the extent that any other ordinance, or section or portion thereof, conflicts with or is inconsistent with this ordinance, that ordinance, or section or portion thereof, is hereby repealed.

35.270 Sec. 10. ENFORCEMENT. Enforcement authorized; interference prohibited. This chapter shall be enforced by those persons or agencies designated by the City. It shall be a violation of this chapter to interfere with an enforcement officer in the performance of his or her duties.

35.271 Sec. 11. PENALTY:

A violation of this ordinance shall be a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than \$500. and/or 90 days in jail, or both.

35.272 Sec. 12. EFFECTIVE DATE. This ordinance shall be effective immediately upon publication and shall allow for a 90 days compliance period from the effective date for all establishments and individuals to obtain proper certifications and licenses.

(Ord. No. 35.260, ord. eff. June, 2009)