

## ORDINANCE NO. \_\_\_\_\_

An ordinance to amend the Code of the City of Flint by amending Chapter 9, Article II, Division 2, Vicious Dogs, by amending and restating Division 2.

**IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF FLINT:**

**Sec. 1. That the Code of the City of Flint shall be amended by amending and restating Chapter 9, Article II, Division 2, Vicious Dogs, which shall read in its entirety as follows:**

**§ 9-14.4 ANIMALS; KEEPING PROHIBITED.**

It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Flint:

(a) Any warm-blooded, carnivorous or omnivorous, wild or exotic animals, dangerous or undomesticated animals which are not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined in a zoo, or one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or property damage, including, but not limited to nonhuman primates, raccoons, skunks, foxes and wild and exotic cats; but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes.

(b) Any animal, whether warm or cold-blooded, spider or insect having poisonous bites.

(c) Venomous, cold-blooded reptiles and other cold-blooded animals that, if in contact with humans, are capable of inflicting fatal injury to the average human; including, but not limited to, constrictor snakes six (6) feet or more in length, and all non-domesticated carnivores such as crocodiles, piranha fish, sharks and the like.

**§ 9-14.4.1 REMOVAL OF PROHIBITED ANIMAL; EXCEPTIONS.**

(a) Any individual, person, business or corporation who owns an exotic or wild animal as set forth in § 9-14.4 shall have 30 days following the effective date of said section to remove such animal from the City of Flint.

(b) Exceptions to § 9-14.4 shall be as follows:

(1) Duly licensed zoological parks and aquariums that are accredited by the American Association of Zoological parks and Aquariums;

(2) Wildlife sanctuaries;

(3) Nature preserves;

(4) Circuses; and

(5) *Bona fide* scientific, medical, or educational research facilities.

**§ 9-14.4.2 DECLARATION OF PURPOSE.**

**THE CITY DECLARES VICIOUS DOGS, AS DEFINED IN THIS SECTION, HAVE BECOME A SERIOUS AND WIDESPREAD THREAT TO THE HEALTH, SAFETY, AND WELFARE OF THE MEMBERS OF THE GENERAL PUBLIC. IN RECENT YEARS, VICIOUS DOGS HAVE ATTACKED WITHOUT PROVOCATION AND SERIOUSLY INJURED NUMEROUS INDIVIDUALS, PARTICULARLY CHILDREN, AND HAVE ALSO KILLED PEOPLE AND ANIMALS. THE NUMBER AND SEVERITY OF THESE ATTACKS ARE ATTRIBUTABLE TO THE FAILURE OF OWNERS TO REGISTER, CONFINE AND PROPERLY CONTROL VICIOUS DOGS. IT IS FURTHER DECLARED THAT THE OWNING, KEEPING, OR HARBORING OF VICIOUS DOGS IS A NUISANCE WHICH MUST BE REGULATED IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY, AND WELFARE AND/OR ABATED.**

**9-14.5 "VICIOUS DOG" DEFINED.**

For the purpose of this article, the following definition shall apply unless the context clearly indicates or requires a different meaning.

## **VICIOUS DOG.**

~~(1) Any dog with a propensity, tendency or disposition to attack, to cause injury or otherwise endanger the safety of human beings or other domestic animals; or~~

~~—————(2) Any dog which has previously attacked or bitten a human being or other domestic animal other than under the type of circumstances that would be justifiable.~~

~~—————(3) Any dog which has behaved in such a manner that the owner thereof knows or should reasonably know that the dog is possessed of tendencies to attack or bite human beings or other domestic animals other than under the type of circumstances that would be justifiable.~~

(A) "VICIOUS DOG" MEANS 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 WHILE THE OTHER DOG IS ON THE PROPERTY OR UNDER THE CONTROL OF ITS OWNER. HOWEVER, A VICIOUS DOG DOES NOT INCLUDE ANY OF THE FOLLOWING:

(I) A DOG THAT BITES OR ATTACKS A PERSON WHO IS KNOWINGLY TRESPASSING ON THE PROPERTY OF THE DOG'S OWNER.

(II) A DOG THAT BITES OR ATTACKS A PERSON WHO PROVOKES OR TORMENTS THE DOG.

(III) A DOG 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.

(B) ANY DOG THAT THE OWNER KNOWS HAS A TENDENCY OR PROPENSITY OR DISPOSITION TO ATTACK.

(C) "OWNER" MEANS A PERSON WHO OWNS, KEEPS OR HARBORS A DOG

(D) "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.

(E) "SERIOUS INJURY" MEANS PERMANENT, SERIOUS DISFIGUREMENT, SERIOUS IMPAIRMENT OF HEALTH, OR SERIOUS IMPAIRMENT OF A BODILY FUNCTION OF A PERSON.

(F) "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.

## **§ 9-14.6 KEEPING OF VICIOUS DOG THAT HAS NOT VIOLATED 9-14.5(A) REGULATED.**

The keeping of vicious dogs, will be subject to the following standards:

(a) *Leash and muzzle.* No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit such a dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all such dogs on a leash outside of the animal's kennel must be muzzled by muzzling device sufficient to prevent such dog from biting persons or other animals.

(b) *Confinement.* All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel, or structure must have secure sides and a secure top attached to sides. All structures used to confine

such dogs must be locked with a key or combination lock when such animals are within the structure. The structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in ground to a depth no less than two (2) feet. All structures erected to house the dogs must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(c) *Confinement indoors.* No vicious dog may be kept on a porch, patio or in any part of a house or structure 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 where window screens or screen doors are the only obstacle preventing the dog from exiting the structure.

(d) *Signs.* All owners, keepers or harborers of vicious dogs within the City shall within ten (10) days of the effective date of this ordinance display in a prominent place of their premises a sign easily readable by the public using the words "BEWARE OF DOG." In addition, a similar sign is required to be posted on the kennel or pen of the animal.

(e) *Insurance AND LICENSE.* All owners, keepers or harborers of vicious dogs must, within ten (10) days of the effective date of this ordinance provide proof to the City of Flint of A **VALID DOG LICENSE AND** public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons which may result from ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days written notice is first given to the City Clerk of the City of Flint.

(f) *Identification photographs.* All owners, keepers or harborers of vicious dogs must, within ten (10) days of the effective date of this ordinance provide the City Clerk with two color photographs of the registered animal clearly

showing the color and approximate size of the animal.

#### **§9-14.6.1 IMMEDIATE REMOVAL OF DOG**

**THE POLICE MUST NOTIFY GENESEE COUNTY ANIMAL CONTROL TO REMOVE ANY DOG IF THE POLICE HAVE PROBABLE CAUSE THAT THE DOG BIT AS DESCRIBED IN §9-14.5(A). THE DOG SHALL REMAIN AT THE GENESEE COUNTY ANIMAL CONTROL UNTIL THE RESOLUTION OF THE SHOW CAUSE HEARING AS DESCRIBED IN SECTION 9-14.10. THE OWNER SHALL PAY FOR ALL COSTS OF CONFINEMENT.**

#### **§ 9-14.7 REPORTING REQUIREMENTS.**

All owners, keepers or harborers of vicious dogs must, within one day of the incident, report the following information in writing to the City Clerk as required hereinafter:

(a) The removal from the City or death of a vicious dog;

(b) The birth of offspring of a vicious dog;

(c) The new address of a vicious dog should the owner move within the corporate City limits.

(d) The dog is on the loose, has been stolen or has attacked a person.

#### **§ 9-14.8 FAILURE OF OWNER OR KEEPER TO COMPLY.**

It shall be unlawful for the owner, keeper or harbinger of a vicious dog within the City of Flint to fail to comply with the requirements and conditions set forth in this article. Any dog found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment.

#### **§ 9-14.9 VIOLATION AND PENALTIES.**

Any person violating or permitting the violation of any provision of this division for which no other penalty is set forth shall, upon conviction, be fined a sum not less than \$200.00 and not more than \$500.00. In addition to the fine imposed, the court may sentence the defendant to imprisonment in the county jail for a period not to exceed 90 days. Each day that a

violation of this division continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this division shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this division.

#### **§ 9-14.10 HEARING ON ORDER TO SHOW CAUSE; KILLING OR CONFINING OF DOG.**

A District Court Magistrate or a Judge of the District Court shall issue a summons to show cause why a dog should not be killed, upon a sworn complaint that any of the following exist:

(a) A dog, licensed or unlicensed has destroyed property or habitually caused damage by trespassing on the property of a person who is not the owner;

(b) A dog, licensed or unlicensed, has attacked or bitten a person **IN VIOLATION OF 9-14.5(A).**

(c) A dog has shown vicious habits or has molested a person when lawfully on a public right-of-way or in a public place.

(d) A dog, licensed or unlicensed, has run at large contrary to this code any other applicable City ordinance.

#### **§ 9-14.11 RESOLUTION OF HEARING TO SHOW CAUSE; NONCOMPLIANCE WITH ORDER; FINE; COURT COSTS.**

After **THE HEARING REQUIRED IN § 9-14.10** hearing the District Court Judge **SHALL ORDER THE DOG DESTROYED, AT THE EXPENSE OF THE OWNER, KEEPER, OR HARBORER, IF DETERMINED THAT THE DOG BIT OR ATTACKED A HUMAN BEING OR OTHER DOMESTIC ANIMAL AS PROHIBITED BY §9-14.5(A). THE COURT MAY ORDER THE DESTRUCTION OF THE DOG, AT THE EXPENSE OF THE OWNER, IF THE COURT FINDS THAT THE DOG IS A DANGEROUS DOG THAT DID NOT CAUSE SERIOUS INJURY OR DEATH TO A PERSON 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. IN ALL OTHER CIRCUMSTANCES THE COURT** may either order the dog killed, or confined to the

premises of the owner. Failure to comply with the order of a District Court Judge may result in the owner of the dog against which an order has been entered being punished by a fine of not more than \$500.00 or imprisonment in the county jail for not more than 90 days, or both such fine or imprisonment. Court costs for such actions taken shall be taxed against the owner of the dog against whom the complaint was issued.

#### **§9-14.11.1 OWNER RESPONSIBILITY OWNER; MISDEMEANOR**


**(1) THE OWNER KEEPER, OR HARBORER OF AN ANIMAL THAT HAS BEEN ADJUDGED TO BE A VICIOUS DOG UNDER §9-14.5(A), IS GUILTY OF A MISDEMEANOR, PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS, A FINE OF NOT LESS THAN \$250.00 NOR MORE THAN \$500.00, OR COMMUNITY SERVICE WORK FOR NOT LESS THAN 240 HOURS, OR ANY COMBINATION OF THESE PENALTIES.**

#### **§ 9-14.12 SEVERABILITY.**

If any section, sentence, clause or phrase of this division is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this division.

Sec. 2. This ordinance shall become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014, A.D.

  
Darnell Earley, Emergency Manager

APPROVED AS TO FORM:

  
Peter M. Bade, City Attorney

EM SUBMISSION NO.: EME 3292014

PRESENTED: 6-13-14

ADOPTED: 6-19-14