

## NO. 2851

<p><b>AN ORDINANCE ADDING CHAPTER 07 (VICIOUS ANIMALS) TO TITLE 6 OF THE LIVONIA CODE OF ORDINANCES, AS AMENDED.</b></p>
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THE CITY OF LIVONIA ORDAINS:

Section 1. Chapter 07 is hereby added to Title 6 of the Livonia Code of Ordinances, as amended, which chapter shall read as follows:

### CHAPTER 6.07

#### VICIOUS ANIMALS

**Sections:**

- 6.07.010 Purpose and intent.**
- 6.07.020 Definitions.**
- 6.07.030 Determination of a vicious animal.**
- 6.07.040 Requirements for possession of a vicious animal.**
- 6.07.050 Requirements for possession of a potentially vicious animal.**
- 6.07.060 Registration of vicious animals and potentially vicious animals.**
- 6.07.070 Transfer of ownership or possession.**
- 6.07.080 Notice to Police Department.**
- 6.07.090 Restraints when outside proper enclosure.**
- 6.07.100 Confiscation and disposition of animals.**
- 6.07.110 District Court action.**
- 6.07.120 Removal of potentially vicious animal classification.**
- 6.07.130 Penalties for violation.**

**6.07.010 Purpose and intent.** It is the intent of the City of Livonia to protect the health and safety of the public against the risks that vicious and potentially vicious animals pose to persons and other animals in the City. The purpose of this ordinance is to afford animal owners due process if an owner's animal is determined to be a vicious or potentially vicious animal.

**6.07.020 Definitions.** The following words, terms and phrases, when used in this Chapter, shall have the meanings respectively ascribed to them below:

A. "Animal Review Board" means a board consisting of the Director of the Department of Public Works, Chief of the Police Department, Chief of the Fire and Rescue Department, or their respective designees, that shall assemble, as necessary, for purposes of conducting hearings under this Chapter. Although not required, the Animal Review Board may, in the discretion of the Mayor, also appoint a licensed veterinarian, American Kennel Club (AKC) certified animal behaviorist and/or AKC certified animal trainer.

B. "Authorized enforcement officer" means a police officer, animal control officer, or any other person authorized to enforce any City ordinance relating to animals within the City.

C. "Vicious animal" defined.

1. "Vicious animal means":

(a.) A dog or other animal with a known propensity, tendency, or disposition to attack without provocation, to cause injury or to threaten the safety of a person or domestic animal;

(b.) A dog or other animal which has attacked or bitten, without provocation, a person or domestic animal; or,

(c.) Any dog or other animal owned or harbored, primarily or in part, for the purpose of fighting.

2. An animal shall not be considered a "vicious animal" if:

(a.) the animal bites or attacks a person who is trespassing on the property of the animal's owner;

(b.) the animal bites or attacks a person who provokes or torments the animal; or

(c.) the animal responds in a manner that an ordinary and reasonable person would conclude was intended to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

D. "On a suitable leash" defined.

1. "On a suitable leash" means:

(a.) that the animal is attached to a leash that is no more than ten (10) feet in length and of such material that the leash restrains the type and size of animal to which it is attached; and,

(b.) that the leash is continuously held by the person who restrains the animal such that the animal is under the person's physical control.

2. A leashed animal that chases a person or domesticated animal a greater distance than ten (10) feet or that bites a person or domesticated animal

shall create a rebuttable presumption that the animal was not on a suitable leash and under reasonable control.

E. "Owner" means any person, firm, corporation, entity, or organization that owns, possesses, harbors, fosters, keeps, or takes custody of a dog or other animal.

F. "Proper enclosure" defined.

1. "Proper enclosure" means: an enclosure that is constructed and at all times maintained in such a manner as to effectively prevent the animal from escaping the confines of enclosure.

2. Each proper enclosure shall:

(a.) Have secure sides and a top attached to all sides;

(b.) Have a secure floor attached to all sides of the enclosure or embedded in the ground no less than two feet;

(c.) Include measures designed to prevent the entry of young children into the enclosure; and,

(d.) Comply with all other pertinent zoning ordinances and other ordinances, including but not limited to, the size and height of the enclosure, set back, location, and lot coverage.

G. "Provoke" and "provocation" mean 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 other animal.

H. "Potentially vicious animal" defined.

1. "Potentially vicious animal" means: a dog or animal that poses a threat to public safety as demonstrated by any of the following behaviors

(a.) Causing an injury to a person or domestic animal that is less severe than a serious injury; or,

(b.) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner.

2. An animal shall not be considered a "potentially vicious animal" if:

(a.) the person or domestic animal who is injured is trespassing on the property of the animal's owner;

(b.) the animal injures a person who provokes or torments the animal; or,

(c.) the animal responds in a manner that an ordinary and reasonable person would conclude was intended to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

I. "Serious injury" means permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function of a person or domestic animal.

J. "Torment" means an act or omission that causes unjustifiable pain, suffering, and distress to an animal for a purpose such as sadistic pleasure, coercion, or punishment that an ordinary and reasonable person would conclude is likely to precipitate a bite or attack.

**6.07.030 Determination of a potentially vicious animal.**

A. An authorized enforcement officer shall have the authority to make a determination that an animal is potentially vicious, as defined in this Chapter, upon the complaint of any person that an animal is potentially vicious. After the authorized enforcement officer classifies any animal as a potentially vicious animal under this Chapter, the authorized enforcement officer shall notify the animal's owner of such classification. The notice to the owner shall meet the following:

1. The notice shall be in writing and mailed by certified mail to the owner's last known address. If an animal has more than one (1) owner, notice to one (1) owner shall be sufficient for purposes of this Chapter.
2. The notice shall include a summary of the authorized enforcement officer's findings that form the basis for the animal's classification as a potentially vicious animal.
3. The notice shall be dated and shall state that the owner has a right to request a hearing on the classification within fifteen (15) days from the date of the notice.
4. The notice shall state that the Animal Review Board shall conduct the hearing.
5. The notice shall state that if the owner does not request such a hearing within fifteen (15) days from the date of the notice, the classification of the animal as a potentially vicious animal shall be final and conclusive for all purposes.
6. The notice shall include a form to request a hearing before the Animal Review Board and shall provide specific instructions on mailing or delivering such a request.

B. When the Animal Review Board receives a request for a hearing from an owner, it shall schedule such a hearing within thirty (30) days of receipt of the request. The City Clerk shall notify the owner in writing by certified mail to the owner's last known address of the date, time and place of the hearing; such notice shall be made to the owner at least ten (10) days prior to the date of the hearing. At the hearing, the owner shall be given the opportunity to testify and to present evidence. The Animal Review Board shall also receive such other evidence and hear such other testimony as it may find reasonably necessary to make a determination to sustain, modify or overrule the classification of the animal by the authorized enforcement officer. The Animal Review Board shall notify the owner in writing by certified mail of its determination on the matter. If the determination is made that the animal is a potentially vicious animal, the notice shall specify the date upon which that determination is effective. Unless the Board determines that a later date is appropriate in a particular case, the effective date of the determination shall be the date of the authorized enforcement officer's classification.

C. If the identity of the owner of an animal that the authorized enforcement officer has classified as a potentially vicious animal cannot be determined, the animal shall be immediately confiscated with notice of same and a description of the animal given to the Police Department and the local humane society. If the animal's owner claims such animal, the animal shall be released to its owner, together with a copy of the notice specified in subsection (A) of this section, provided that the owner has satisfied the requirement of Sections 6.07.040 or 6.07.050. If the animal remains unclaimed for seven (7) days, the animal shall be turned over to the local animal welfare society or examined by a veterinarian and/or the local animal welfare society to determine the viability of the animal or appropriate course of destruction of the animal if necessary.

**6.07.040 Requirements for possession of a vicious animal.**

A. Any owner of a vicious animal shall be jointly and severally responsible with all other owners of such animal for compliance with the requirements of this section.

B. No person shall own, possess, keep, harbor, or have custody or control of a vicious animal except in compliance with all of the following requirements:

1. A vicious animal shall not be permitted to remain in the City unless it is properly registered as provided in this Chapter and as otherwise required by law or ordinance.
2. Except under the circumstances otherwise specifically permitted by this Chapter, a vicious animal shall at all times be maintained inside a proper enclosure.

3. The premises where a vicious animal is kept shall be posted with a clearly visible sign warning that there is an animal on the premises that presents a danger to human beings. Such sign shall also include a symbol sufficient to convey without words the message that there is an animal on the premises that presents a danger to human beings.
4. The owner of a vicious animal shall maintain at all times a policy of insurance in a minimum amount of one million five hundred thousand dollars (\$1,500,000.00) to cover claims for any personal injuries inflicted by the animal, which policy shall be issued by an insurer authorized to transact business in the State of Michigan. The owner of a vicious animal shall be required to provide proof of insurance upon demand by an authorized enforcement officer.
5. The owner of a vicious animal shall attend and successfully complete an available animal obedience class with the vicious animal, as offered through a certified program, and shall produce evidence of such attendance and successful completion.
6. No person shall own, possess, keep, harbor, or have custody or control of more than one (1) vicious animal per household.
7. All animals determined to be vicious animals shall be spayed or neutered within thirty (30) days from the date of such determination. Proof that the vicious animal was spayed or neutered shall be provided by the owner of the vicious animal to the Livonia Department of Public Service within seven (7) days of the date that the animal was spayed or neutered.

**6.07.050 Requirements for possession of a potentially vicious animal.**

A. Any owner of a potentially vicious animal shall be jointly and severally responsible with other owners of such animal for compliance with the requirements of this section.

B. No person shall own, possess, keep, harbor, or have custody of a potentially vicious animal except in compliance with all of the following requirements:

1. A potentially vicious animal shall not be permitted to remain in the City unless it is properly registered as provided in this Chapter and as otherwise required by law or ordinance.
2. Except under the circumstances otherwise specifically permitted by this Chapter, a potentially vicious animal shall at all times be maintained inside a proper enclosure.

3. The premises where a potentially vicious animal is kept shall be posted with a clearly visible sign warning that there is an animal on the premises that is potentially vicious to human beings. Such sign shall also include a symbol sufficient to convey without words the message that there is an animal on the premises that presents a potential danger to human beings.
4. Within ninety (90) days from the date that an animal has been designated a potentially vicious animal, the owner of a potentially vicious animal shall attend and successfully complete an available animal obedience class with the animal, as offered through a certified program, and shall produce evidence of such attendance and successful completion.

**6.07.060 Registration of vicious animals and potentially vicious animals.**

A. No vicious animal or potentially vicious animal shall be permitted to remain in the City unless it is registered in accordance with this Chapter. In addition to the annual registration and/or licensing fees otherwise required by law and ordinance, the owner of a vicious animal or a potentially vicious animal shall pay a fee of fifty dollars (\$50.00) per year and shall register such owner's animal with the Police Department as a vicious animal or a potentially vicious animal according to the classification and determination previously made under this Chapter. No vicious animal or potentially vicious animal shall be registered unless the owner can provide sufficient evidence that all of the provisions in Sections 6.07.040 and 6.07.050, as applicable, have been and are being met.

B. The registration provided by this section shall be nontransferable. The registration shall be renewed annually or upon the earlier of the transfer of ownership or possession of the animal or a change in the location of the animal's primary habitat.

**6.07.070 Transfer of ownership or possession.** Upon the transfer of ownership or possession of any vicious animal or potentially vicious animal, the transferor shall provide the Police Chief with the name, address and telephone numbers of the new owner of the animal and the effective date of the transfer. The owner of a vicious animal or potentially vicious animal shall be obligated to inform any prospective owner of that vicious animal or potentially vicious animal that the animal has been determined to be a vicious animal or potentially vicious animal. The failure of any owner of a vicious animal or potentially vicious animal to notify a prospective owner of the animal's designation as a vicious animal or potentially vicious animal shall constitute a violation of this ordinance. Any transferee of a vicious animal or potentially vicious animal shall be presumed to have notice of the animal's classification as such.

**6.07.080 Notice to Police Department.** The owner of a vicious animal or potentially vicious animal shall notify the Police Department in person or in writing within twenty-four (24) hours of the occurrence of any one (1) of the following events:

A. The animal has escaped or has otherwise ceased to be in the custody of the owner for any reason, unless the owner knows such animal to be physically secured and restrained or confined in the custody of another competent adult who is aware of the requirements set forth in this ordinance.

B. Such animal has attacked a human being or domestic animal.

C. Such animal has been sold, given or otherwise transferred to the ownership or possession of another person. If the vicious animal has been sold, given, or transferred to the ownership or possession of another person residing within the City of Livonia, the owner shall provide the name, address, and telephone number of the new owner of the vicious animal.

D. The animal has died.

E. The animal no longer resides in the City of Livonia.

**6.07.090 Restraints when outside proper enclosure.** It shall be unlawful for the owner of a vicious animal or a potentially vicious animal to permit the animal to be outside a proper enclosure unless the animal is properly muzzled, restrained on a suitable leash, and under the physical restraint of a responsible person at all times.

**6.07.100 Confiscation and disposition of animals.**

A. A vicious animal shall be immediately confiscated by the authorized enforcement officer upon the determination that one (1) or more of the following circumstances exists:

1. The owner of the animal does not have the proper liability insurance required by Section 6.07.040
2. The animal is not validly and currently registered as is required by Section 6.07.060.
3. The animal is not maintained in a proper enclosure as is required by Section 6.07.040

4. The animal is not under the restraints required by Section 6.07.090, whether or not such animal is then in the custody or possession of its owner.
5. The owner has failed to take the animal to obedience classes as required by Section 6.07.040.
6. The vicious animal attacked, without provocation, a person or domestic animal.

B. A potentially vicious animal shall be confiscated upon the determination that one (1) or more of the following circumstances exists:

1. The animal is not validly and currently registered as required by Section 6.07.060.
2. The animal is not maintained in a proper enclosure as is required by Section 6.07.050.
3. The animal is not under the restraints required by Section 6.07.090, whether or not such animal is then in the custody or possession of its owner.
4. The owner has failed to take the animal to obedience classes as required by Section 6.07.050.

C. Any animal that is confiscated under either subsection (A) or (B) of this section shall be returned to its owner upon the owner's compliance with the provisions of this Chapter and upon the payment of the actual costs of boarding the animal with the first available private kennel, plus a confiscation fee of fifty dollars (\$50.00) upon the first confiscation of any animal, one hundred dollars (\$100.00) upon the second, and two hundred dollars (\$200.00) upon the third or subsequent confiscation. The foregoing shall be in addition to the penalties otherwise provided for under this Chapter.

D. If the confiscated animal remains unclaimed for a period of seven (7) days after written notice of the confiscation to the owner, or if the identity of the owner cannot be determined and seven (7) days have passed after a description of the animal has been given to the Police Department and the local humane society and the animal remains unclaimed, then the animal shall be turned over to the local animal welfare society or examined by a veterinarian and/or the local animal welfare society to determine the viability of the animal or appropriate course of destruction of the animal if necessary. If a confiscated animal is destroyed, all costs associated with it shall be paid by the owner of the confiscated animal.

**6.07.110 District Court action.**

A. In lieu of the notice and hearing requirements in this Chapter, the authorized enforcement officer may file a sworn complaint in District Court that an animal is a vicious animal and that the animal has caused serious injury or death to a person or has caused serious injury or death to a dog or other domestic animal, without provocation. 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.

B. Upon the filing of a sworn complaint as provided in subsection (A), the District Court 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 expense of the boarding and retention of the animal shall be borne by the owner.

C. After a hearing, the District Court shall order the destruction of the animal, at the expense of the owner, if the animal is found to be a vicious animal that caused serious injury or death to a person, dog or other domestic 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 vicious animal that did not cause serious injury or death to a person but is instead a potentially vicious animal that is likely in the future to cause serious injury or death to a person or in the past has been adjudicated as a vicious animal.

D. If the Court finds that an animal is a vicious animal that has not caused serious injury or death to a person, or is a potentially vicious animal, the Court shall notify the animal control authority for the City of Livonia of the finding of the Court, the name of the owner of the vicious animal or potentially vicious animal, and the address at which the animal is kept. In addition, the Court shall order the owner of the animal to do one (1) or more of the following:

1. Have the animal tattooed or micro-chipped in such a manner as to enable the animal to be readily identified as having been determined to be a vicious or potentially vicious animal.
2. Take specific steps, such as escape-proof fencing or enclosure, including a top or roof, to ensure that the animal cannot escape and unauthorized individuals cannot enter the premises.
3. Obtain and maintain liability insurance sufficient to protect the public from any damage or harm caused by the animal.

4. Take any other action appropriate to protect the public, including ordering animal obedience classes at a licensed facility.

**6.07.120 Removal of potentially vicious animal classification.** The owner of a dog that has been determined to be a potentially vicious animal shall be given the opportunity to request that the classification of the dog as a potentially vicious animal should be reconsidered and removed, which request may be granted by the District Court or Animal Review Board, as applicable, if the owner demonstrates that the dog has been incident free for more than eighteen (18) months, the dog and owner have successfully completed obedience training, the dog has been issued and maintained a canine good citizenship certificate by a certified tester pursuant to the standards of the American Kennel Club, and the owner has complied in all respects with the provisions of this chapter of the code and any applicable court orders.

**6.07.130 Penalties for violation.** In addition to the penalties set forth elsewhere in this Chapter, and those penalties in MCL 287.321 et seq., the owner of a vicious animal or a potentially vicious animal that fails to comply with the provisions of this Chapter shall be guilty of a ninety-three (93) day misdemeanor, punishable by confinement of up to ninety-three (93) days in jail, a fine of up to five hundred dollars (\$500.00), or both.

Section 2. 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 3. Should any portion of this ordinance be held invalid for any reason, such holding shall not be construed as affecting the validity of any of the remaining portions of this ordinance.

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The above ordinance was passed at the regular meeting of the Council of the City of Livonia held Wednesday, January 27, 2010, at 8:00 p.m.

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Linda Grimsby, City Clerk

The foregoing ordinance was authenticated by me on this 28<sup>th</sup> day of January, 2010.

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Jack E. Kirksey, Mayor

Approved as to form:

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Donald L. Knapp, Jr., City Attorney  
Dated: January 28, 2010