


## MEMORANDUM

**TO:** Lawrence Garcia, Corporation Counsel  
City of Detroit

**CC:** Honorable Colleagues  
Louise Jones, Senior City Clerk

**FROM:** Council President Brenda Jones 

**DATE:** September 3, 2019

**RE:** Xavier Strickland Ordinance Update and Amendments

---

Prior to the tragic incident with Emma Hernandez, my office, the Law Department and the Health Department began a thorough review of the Xavier Strickland Ordinance during the spring. The amended ordinance was scheduled to be finalized and submitted to the Public Health and Safety Standing Committee for consideration. As a result of the tragic death of Emma Hernandez, additional amendments to the law have been submitted and are under review. Due to the urgent nature of this issue and the threat to public safety, I request that the Law Department work diligently with my office and the Health Department to submit a final draft of the amended Xavier Strickland Ordinance **within one (1) month**.

Please see the current changes and recently proposed changes below:

### **CURRENT XAVIER STRICKLAND ORDINANCE AMENDMENTS:**

#### **1. Addition of new dangerous animal classifications and definitions:**

##### Nuisance (New Classification with Definition and Enforcement)

*Nuisance animal determination means a written declaration or order issued by the Administrator, or the Administrator's designee, finding that a dog or other animal is a nuisance animal as defined by this article.*

- Nuisance animal means an animal running at large, on public property or any private property that is not the property of its owner or keeper, whose behavior constitutes a nuisance, which includes:
- Making physical contact with a person or other animal in a harassing manner;
- Unreasonably disturbs or annoys the quiet, comfort, and repose of persons in the vicinity by loud, frequent, habitual, or repeated barking, howling, or yelping;
- Defecating, digging, or urinating upon any building, lawn, plant, shrub, tree, or any other public property or private property, that is not the property of the owner, without being removed by the owner; or
- Damaging inanimate personal property.

Potentially Dangerous (New Classification with Definition and Enforcement)

*Potentially dangerous animal determination means a written declaration or order issued by the Administrator, or the Administrator's designee, finding that a dog or other animal is a potentially dangerous animal as defined by this article.*

- Potentially dangerous animal means an animal that:
  - Without provocation, chases or menaces a person or domesticated animal in an aggressive manner, causing injury to a person or domesticated animal;
  - In a menacing manner, approaches without provocation any person or domesticated animal as if to attack; or
  - Has demonstrated a propensity to attack without provocation or otherwise to endanger the safety of human beings or domesticated animals.

Dangerous Animal (New Definition and Enforcement)

*Dangerous animal determination means a written declaration or order issued by the Administrator, or the Administrator's designee, finding that a dog or other animal is a dangerous animal as defined by this article.*

- Dangerous animal means an animal that:

- Has attacked, bitten, or otherwise caused injury to a person without provocation; or
- Has attacked, bitten, or otherwise caused injury to another domesticated animal without provocation; or
- Has chased or approached any person on one or more occasion and without provocation on any public property, or on any private property that is not the property of the animal's owner, in an apparent attempt to attack or injure the person.

**2. Addition of interdepartmental hearing process and penalties for Nuisance violations:**

Reporting and Hearing

- Any resident of the City may submit to the Department a complaint of nuisance behavior which shall include:
  - Allegations of nuisance behavior for a minimum of two interactions for any complaint of an animal that unreasonably disturbs or annoys the quiet, comfort, and repose of persons in the vicinity by loud, frequent, habitual, or repeated barking, howling, or yelping; or
  - Allegations of nuisance behavior for a minimum of a two week time frame for any complaint of an animal that defecates, digs, or urinates upon any building, lawn, plant, shrub, tree, or any other public property, or any private property, other than the that is not the property of the animal's owner, without being abated by the owner.
- Upon receipt of a verifiable nuisance complaint, the Animal Care and Control Division shall evaluate the complaint and, where factual circumstances warrant, conduct a nuisance animal hearing.
- Notification for the nuisance animal hearing shall be made to the animal owner and the petitioner via US mail within 14 days of submission of the nuisance complaint.
- The Administrator, or the Administrator's designee, shall hear testimony regarding the alleged nuisance behavior and shall have the authority to issue a nuisance animal determination.

Within 14 days of the date of the nuisance animal hearing, the Animal Care and Control Division shall provide the owner of the animal a written notification of the Administrator, or Administrator's designee, determination by first class mail.

Nuisance Penalties may include:

- Installation and maintenance of any enclosure, pen, or structure used to confine the animal out of doors shall be a minimum of six feet in height and constructed so that the sides shall be embedded into the ground by a depth of at least two feet;
- Installation and maintenance of a privacy fence, as permitted by law, to limit views to neighboring yards or the street; and
- Mandatory attendance at a dog training class within 30 days of issuance of the nuisance determination and submission of a certificate of program completion to be submitted to the Department.

**3. POTENTIALLY DANGEROUS AND DANGEROUS ANIMAL INVESTIGATION, DETERMINATION AND PENALTIES** *(ADDITION OF POTENTIALLY DANGEROUS. NO CHANGE FOR DANGEROUS ANIMALS.)*

Investigation and Determination

- Upon the receipt of a verifiable complaint from an individual or other report of an attack, a bite, a dogfight, an injury, an observation of threatening behavior, or other reason to cause a reasonable person to believe that a dog or other animal may be potentially dangerous or dangerous, the Animal Care and Control Division shall evaluate the complaint or report and, where the factual circumstances warrant, may conduct a potentially dangerous animal or dangerous animal investigation. Where practicable, the investigation shall include interviewing the complainant; any victim or victims of the menacing behavior, the attack, or animal bite; any witness or witnesses who observed the subject animal; and visiting the scene where the reported incident took place.

**City of Detroit**  
CITY COUNCIL  
COUNCIL PRESIDENT BRENDA JONES

- The Animal Care and Control Division investigator who is assigned to the potentially dangerous animal or dangerous animal investigation shall make a written recommendation concerning the incident and the animal; and whether the Administrator, or the Administrator's designee, should issue a potentially dangerous animal or dangerous animal determination, including the factual basis for the recommendation.
- Any animal that is the subject of a potentially dangerous animal or dangerous animal investigation shall not be moved to, or harbored at, another location, except for the transport of the animal to a licensed veterinary facility for purposes of a rabies quarantine; nor have its ownership transferred, pending the outcome of the investigation or any hearings related to the determination of whether the animal is a potentially dangerous animal or dangerous animal under this section.
- The Administrator, or the Administrator's designee, shall review the recommendation contained in the potentially dangerous animal or dangerous animal investigation, and, after such review, shall have the authority to issue a potentially dangerous animal or dangerous animal determination concerning the subject dog or animal.
- Upon a potentially dangerous animal or dangerous animal determination, the Animal Care and Control Division shall provide the owner of the animal a written notification of the determination by first class mail. Within ten days from the date of the receipt of the mailing, the owner of the animal may file a written request for a hearing to review the determination at the 36th District Court.
- Pending any hearing or resolution on the potentially dangerous animal or dangerous animal determination, the animal shall be confined in accordance with the requirements imposed by the Administrator or the Administrator's designee pursuant to penalties listed below, including confinement in a securely fenced or enclosed area.
- Where the owner fails to request a hearing within the ten day period after receipt of the notice, the potentially dangerous animal or dangerous animal determination made by the Administrator, or the Administrator's designee, shall become final and the animal shall be issued a potentially dangerous animal or a dangerous animal determination under this section.

**City of Detroit**  
CITY COUNCIL  
COUNCIL PRESIDENT BRENDA JONES

- Where the Administrator, or the Administrator's designee, makes a dangerous animal determination under Subsection (c) of this section and the animal has caused severe injury or death to any person or animal, the Administrator, or the Administrator's designee, may seek an order from the 36th District Court to euthanize the animal.
- The Administrator, or the Administrator's designee, shall take into consideration the severity and the total circumstances of injury to any person or to any animal prior to seeking review, and shall abide by the procedures and judgment of the 36th District Court if an order to euthanize the animal is sought.
- Whenever an animal is seized or brought to the Animal Care and Control Division for having attacked or bitten a person or another animal, the Animal Care and Control Division shall hold and care for the animal during the pendency of a potentially dangerous animal or a dangerous animal determination. The animal shall not be released unless:
  - The owner enters into an agreement with the Administrator, or the Administrator's designee, pursuant to penalties listed below, or
  - An order from the 36th District Court compels release of the animal to the owner.
  - No animal held by the Animal Care and Control Division for a potentially dangerous animal or dangerous animal determination shall be euthanized prior to receipt of an order from the 36th District Court.

**Penalties**

- In all cases where an animal has been issued a potentially dangerous animal or a dangerous animal determination, and the animal is not euthanized, the Administrator, or the Administrator's designee, shall make the determination of whether the animal may be returned to its owner. As part of the terms of return, the Administrator, or the Administrator's designee, shall order the owner to comply with the following requirements:
- The owner shall maintain proper licensing and up-to-date vaccinations for the animal;

**City of Detroit**  
CITY COUNCIL  
COUNCIL PRESIDENT BRENDA JONES

- Where the animal was capable of reproduction prior to the potentially dangerous animal or dangerous animal determination, the animal must be sterilized;
- When the animal is on the owner's property, the animal must be confined securely indoors or securely outdoors within a locked enclosure, pen, or structure that prevents the entry of any person and the escape of the confined animal. Any enclosure, pen, or structure used to confine an animal that has been issued a potentially dangerous or dangerous animal determination shall be a minimum of six feet in height. Where the enclosure, pen, or structure used to confine the animal does not have a bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least two feet. Any enclosure, pen, or structure, including any fencing, used for the purpose of compliance with this section is required to be humane and provide protection from the weather for the animal. Every owner of an animal that has been issued a potentially dangerous or dangerous animal determination shall allow inspection of the required enclosure, pen, or structure by the Animal Care and Control Division to ensure compliance;
- While off the owner's property, an animal that has been issued a potentially dangerous or dangerous animal determination must be securely muzzled to prevent the possibility of biting and under restraint by a substantial chain or leash not exceeding six feet in length by a person 18 years of age or older who is responsible for the animal at all times when the animal is off the owner's property. The muzzle must be made and attached in a manner that does not cause injury to the animal or impair its vision or respiration, but must prevent the animal from biting any person or animal; and
- The owner must permit the Animal Care and Control Division to perform an annual inspection of the animal and all enclosures, pens, or structures used to house the animal at a time suitable to the Department and to the owner; and
- The owner of the animal that has been issued a potentially dangerous or dangerous animal determination must post a warning notice on any premises where the animal is harbored, kept, or sheltered in a place conspicuously visible to the public stating in bold, black letters at least six inches in height: "WARNING! DANGEROUS ANIMAL. KEEP AWAY."

- In addition to the above requirements, the Administrator, or the Administrator's designee, may order the owner of an animal that has been issued a potentially dangerous animal or a dangerous animal determination under Section 6-3-1 of this Code to comply with any one or more of the following requirements:
  - The owner must confine the dangerous animal to the secure enclosure described above at all times and only allow the animal out of the enclosure when off the owner's property in conditions mentioned above, where necessary, to obtain veterinary care or to comply with a court order;
  - The owner and the animal must complete a course of animal obedience training approved by the Animal Care and Control Division;
  - The owner must purchase an approved form of external identification from the Animal Care and Control Division, indicating to other residents that the animal is dangerous; or
  - The owner must obtain and provide proof of current liability insurance in an amount determined by the Administrator, or the Administrator's designee, to be sufficient to compensate and protect the public from any damage or harm caused by the animal.

**RECENTLY SUBMITTED AND NEWLY REQUESTED XAVIER STRICKLAND ORDINANCE AMENDMENTS UNDER RESEARCH AND REVIEW:**

1. **For animals of 18 inches in height or over and 35 pounds in weight or heavier:**
- Mandatory registration and approval of a special animal license with a fee to be determined by the Department of Animal Care and Control with the following requirements:
    - No previous potentially dangerous or dangerous animal complaints, investigations, or violations
    - Mandatory criminal background check
    - No outstanding blight violations

- Proof of professional training courses
  - Mandatory Spay/Neuter unless approved for a breeder's license
  - Mandatory annual inspection and renewal
  - Suspension of license if the following occurs:
    - Nuisance Animal Complaint
    - Potentially Dangerous Complaint
    - Dangerous Animal Complaint
  - Revoke license if the following occurs:
    - Animal is captured at large
    - Nuisance Animal Determination
    - Potentially Dangerous Determination
    - Dangerous Animal Determination
  - Mandatory tracking device
  - Mandatory requirement of liability insurance
  - Must be 21 years of age
  - Limited number of licenses issued annually
- Mandatory breeder's license if the owner wishes not to spay/neuter the animal with the following restrictions:
    - Registered animal and possession of a special animal license
    - No previous potentially dangerous or dangerous animal complaints, investigations, or violations
    - Mandatory background check
    - No outstanding blight violations
    - Mandatory annual inspection and renewal
    - Mandatory Spay/Neuter unless approved for a breeder's license
    - Proof of professional training courses
    - Suspension of license if the following occurs:
      - Nuisance Animal Complaint
      - Potentially Dangerous Complaint
      - Dangerous Animal Complaint
    - Revoke license if the following occurs:
      - Animal is captured at large
      - Nuisance Animal Determination
      - Potentially Dangerous Determination

- Dangerous Animal Determination
  - Mandatory requirement of liability insurance for animals
  - Must be 21 years of age
  - Limited number of licenses issued annually
- If the mandatory enclosure, pen, or structure used to confine the animal does not have a bottom secured to the sides, the sides shall be embedded into the ground at a depth of at least two feet. Any enclosure, pen, or structure, including any fencing, used for the purpose of compliance with this section is required to be humane and provide protection from the weather for the animal. Every owner of an animal meeting the height and weight restrictions must have an annual inspection of the required enclosure, pen, or structure by the Animal Care and Control Division to ensure compliance.
- Mandatory sterilization if the animal is captured at large
- Increased fines and penalties if owner possesses animal without one or more of the aforementioned licenses

**2. For enforcement of rules and regulations:**

- Public Nuisance: Add language to strengthen the owner or proxy's responsibility to clean-up any waste or feces, whether on private or public property; include ticketing penalties (Three strikes: First@\$100, Second@\$250, Third@\$500 and confiscation)
- *Emma's Clause*: During the course of complaint follow up, mandatory house visit. If the resident is not present or if a Detroit Animal Care and Control Department employee is not able to speak with the dog owner, a notice must be left at the home notifying the owner to contact the Detroit Animal Care and Control Department within 48 hours or a ticket will be issued and fine assessed. If the owner is not home or avoids the initial contact, a placard or door knocker shall be placed on their residence requiring a "show cause" appearance within 48 hours of the time and date placed on the notice. If the owner fails to comply, it will result in:

- A ticket to be sent by certified mail to the owner in the amount of
  - \$500 and/or 90 days in jail;
  - Notification that the law department will initiate confiscation procedures to forcibly impound the animal; this includes a search warrant to breach the suspected location to confiscate the animal within 10 days
- Amend reporting requirement to quarterly with an annual “live appearance” review that includes attendance by the DACC Director and Health Director.
- Mandatory appointment of a Detroit Animal Care and Control Director. In case of a vacancy, a report must be issued to the City Council and the Health Department has 30 days to fill the vacancy.
- Mandatory city-wide marketing and outreach beginning February 1 until April 1 informing residents of dangerous animals policies and procedures and response period for residents to report animals in their neighborhoods; followed by deployment of Animal Care and Control officers to canvass and respond to any complaints and concerns as a result of the outreach.
- Mandatory annual city-wide enforcement sweep to assist the Detroit Animal Care and Control with the following:
  - Identify and capture stray animals
  - Build city-wide animal register
  - Locate owners in violation with any of the stipulations within the Xavier Strickland Ordinance.