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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division Staff

DATE: February 28, 2024

RE: **EVALUATION OF THE DANGEROUS ANIMALS ORDINANCE AND EMMA'S
CLAUSE**

Council Member Fred Durhal III requested that the Legislative Policy Division (LPD) provide a report on the evaluation of Detroit's dangerous animals ordinance and Emma's Clause.

The City of Detroit has experienced a public health and safety crisis with regard to stray and dangerous dogs for decades. A survey of news articles related to the issue of dangerous dogs and high-profile dog attacks in Detroit reveals two primary causes of concern: (1) the large number of stray dogs roaming free throughout the city's neighborhoods and (2) the large number of dogs kept chained or confined and unattended in yards as a form of home security.

According to some estimates, there are as many as 50,000 stray dogs scattered throughout Detroit.¹ These stray dogs have accumulated after being abandoned or by escaping from their owners, and if they are not spayed or neutered, they can continue to breed and exacerbate the stray dog problem in the city. The Detroit Department of Animal Care & Control (DACC) has seen an increase in intakes at their shelters in recent years, with over 2,000 stray intakes in 2023.² The volume of stray dogs in Detroit is far beyond the current shelter capacity of the DACC and community rescue groups.

¹ <https://www.npr.org/sections/thetwo-way/2013/08/21/214151836/detroits-stray-dog-epidemic-50-000-or-more-roam-the-city#:~:text=Hourly%20News-Detroit's%20Stray%20Dog%20Epidemic%3A%2050%2C000%20Or%20More%20Roam%20The%20City,a%20neighborhood%20on%20her%20route.>

² <https://www.axios.com/local/detroit/2023/12/20/stray-dogs-animal-control-dacc>

The increase in strays may be intensified by housing instability, as the increase in strays correlates with the end of COVID-19 eviction moratoriums. The stray dog problem presents a serious danger to the public, particularly to small children, the elderly, and to delivery and utility workers. The city identified 19 stray dog bites in 2023, one of which resulted in the tragic death of a 4-year-old child.³

There is a practice among some Detroit residents to keep a dog tethered in their yard as a form of home security. People tend to choose large, intimidating dogs for this purpose, which are not treated as pets or socialized to interact with humans or other animals. According to the DACC Director, the majority of dog attacks and the most serious dog attacks are the result of these dogs escaping from their tether or enclosure.

The Detroit City Council amended the city's animal control ordinance in 2017 in an attempt to discourage the practice of keeping dogs on a permanent tether, which was a response to the death of another 4-year-old, Xavier Strickland. As stated below, the 3-hour tethering limit imposed by the city's ordinance has proven to be difficult to enforce and is currently being reevaluated. A major consideration when attempting to address this issue is that many people likely keep tethered dogs as a form of security because they feel unsafe in their homes. Therefore, addressing and improving public safety in the city's neighborhoods is likely necessary to discourage this behavior although it is outside the scope of the ordinance at issue.

In February of 2020, the Detroit City Council voted unanimously to make various amendments to the city's animal control ordinance, specifically with regard to the designation and regulation of dangerous animals. The amended section of the ordinance regarding dangerous animals is referred to as "Emma's Clause" in honor of Emma Hernandez, who tragically died after being attacked by several dogs who had escaped from a neighbor's yard.

The purpose of this report is to discuss and evaluate the effectiveness of the current ordinance with regard to public safety and reducing dog attacks on Detroit residents. As part of this report, LPD met with DACC Director Lori Sowle and Deputy Director Carl McClanahan to discuss the DACC's experience enforcing the current ordinance. Additionally, there is a working group comprised of members of City Council staff, the Mayor's staff, the DACC, the General Services Department, the Law Department, and the Legislative Policy Division that is exploring potential amendments to improve the city's ordinance.

Council Member Durhal posed the following questions to LPD with regard to the current city ordinance:

1. **Effectiveness of Current Ordinance:** Review how effectively the current ordinance is protecting public safety, specifically in preventing dangerous animal attacks. This includes assessing the practicality and enforceability of provisions such as Emma's Clause and the classifications for nuisance and potentially dangerous animals.

- a. General Overview

³ <https://www.cbsnews.com/detroit/news/child-killed-in-mauling-highlights-detroits-stray-dog-problem/>

According to the DACC monthly metrics as of January 2024, the number of calls and dog bite incidents have been trending upward since 2020.⁴ Dog bite reporting rose significantly in 2022 and 2023, as did monthly animal intakes. The number of calls to DACC and officer responses has also risen each year since 2020. These numbers suggest that the most recent amendments to the ordinance have not produced the desired effect of significantly reducing attacks by dangerous animals.

The primary purpose of the City’s previous efforts to address dog attacks through ordinance amendments was to increase punishment for owners that failed to maintain responsible ownership and control of their animals. In contrast, other successful models go beyond a strictly punitive approach.

The “Calgary Model” is an example of effective practices when it comes to animal care and control.⁵ Around the year 2000, the city of Calgary in Alberta, Canada began developing a system to deal with the issue of stray dogs and dog attacks. The resulting Calgary Model is widely recognized as one of the most effective animal control models in the world. As opposed to a more punitive model that prioritizes punishment as a way to increase compliance or a model that sets pet limits or bans of specific breeds, the Calgary Model prioritizes community education and providing positive incentives that support animal and community well-being. Although Detroit has its own unique challenges, the city should consider adopting proven effective methods that go beyond punishment.

b. Enforcement to discourage illegal breeding.

The DACC Director and the working group have identified the regulation of dog breeders as a high priority to reduce the overall dog population and the number of dangerous and stray dogs. While Section 6-5-7 of the ordinance prohibits the breeding of dogs without a permit, the DACC has not developed the permitting process since the provision was added to the ordinance. This makes the current prohibition on dog breeding essentially unenforceable.

Under the current ordinance, the DACC is responsible for issuing and revoking breeder permits. The requirements for obtaining a breeder permit under the ordinance are submitting a completed application form, verifying current licensing and vaccination records for each dog, and paying the applicable permit fee. The DACC must first create an application form for breeders and make it easily available to the public. The DACC must also determine an appropriate fee to charge for permitting and submit the proposed fee to City Council for approval. Because a breeder permit is only valid for one year from the date of issuance under the ordinance, the DACC should follow up with each permitted breeder prior to the expiration of the permit to ensure that the breeder is in compliance.

The ordinance defines a “kennel” as “any facility, except a duly licensed pet shop, where three or more licensed dogs or household animals are boarded, confined, kept, or maintained for *renumeration for the purpose of breeding, boarding, sale, sporting, or any commercial or training purposes.*” Section 6-1-7(f) of the ordinance states:

No person shall maintain or operate a kennel, or construct, maintain, or use an accessory building for a kennel, within the City without obtaining

⁴ <https://detroitmi.gov/sites/detroitmi.localhost/files/2024-01/DACC%20Website%20Dashboard%20-%20December%202023%20-%2001.10.24.pdf>

⁵ <https://www.calgary.ca/bylaws/dogs.html#:~:text=Under%20our%20Responsible%20Pet%20Ownership,has%20the%20right%20of%20occupation.>

all relevant licenses and permits from the Buildings, Safety Engineering, and Environmental Department (BSEED) and written approval by the Department.

Therefore, any facility that keeps 3 or more licensed dogs for the purpose of breeding is considered a “kennel” under the ordinance, which requires the owner to obtain all relevant licenses and permits from BSEED prior to breeding animals in the facility. The DACC should coordinate with BSEED when it receives breeder applications and ensure that any kennel used for breeding is properly licensed and permitted by BSEED. Finally, any breeding facility that breeds 15 or more intact female dogs within a year must obtain a large-scale dog breeding kennel registration from the Michigan Department of Agriculture & Rural Development.⁶

By creating and enforcing a permitting process for dog breeders, the DACC will be able to oversee breeders to ensure that they adhere to specific standards. This could potentially provide a method of oversight and enforcement that would allow the city to encourage responsible breeding practices and shut down illegal breeding operations. Under the current system, there is no method for legitimate breeders to obtain a permit and comply with the ordinance.

Because the ordinance already grants the DACC with the authority to create the permitting process, it may not be necessary to amend the ordinance. Instead, the DACC can develop and outline the permitting process in its administrative regulations. This may allow for the DACC to be more flexible when developing the process because it will not have to return to City Council for continual ordinance amendments. As part of this effort, the DACC and the city must do public outreach and education to ensure that breeders who want to be in compliance with the ordinance are given the opportunity to do so.

c. Tethering

As it is written, Section 6-2-2 of the ordinance is very difficult to enforce. The ordinance states that dog owners shall not “continuously tether a dog for more than three hours per day.” In order to enforce this provision, DACC officers have to observe a dog on a tether for more than the 3 continuous hours called for in the ordinance before taking any action. This is not practical from an enforcement perspective, and it is not an effective use of the officers’ time, especially in circumstances where it is clear that an owner keeps a dog on a tether consistently.

Under the Calgary Model, dog owners are prohibited from leaving tethered animals unsupervised for any period of time, even on private property. Detroit should consider amending the tethering provisions of the ordinance to discourage owners from leaving dogs tethered and unsupervised for even short periods of time. Allowing dog owners to leave dogs tethered outdoors indefinitely as a form of home security is not only inhumane for the animal, especially during winter months, but it presents a danger to the public if the dog is able to escape from fencing or an enclosure, or if a child is able to enter the yard. The working group exploring proposed amendments to the dangerous animals ordinance is currently looking at ways to improve the tethering language to make it more enforceable.

In addition to creating a punitive mechanism to discourage dog owners from tethering or leaving their dogs outside for extended periods of time, the city should explore ways to help dog owners to better secure fences and enclosures if they are unable to do so themselves.

⁶ <https://www.michigan.gov/mdard/licensing/animal/large-scale-dog-breeding-kennel>

d. Registration

Registration is essential for the city to be able to identify and regulate dogs within the city. By and large, the DACC Director has found that many residents are unaware of the registration requirements for dogs. The current registration process must be done in person or by mail. The dangerous animals ordinance working group recognizes that the registration process must be as simple as possible to encourage maximum compliance. The DACC is currently looking to provide an efficient method of registering animals online.

Under the current language, dogs must have a rabies vaccine as a prerequisite to registration. This is a barrier to registration because state law requires that rabies vaccines must be administered by licensed veterinarians. Detroit has a shortage of veterinarians, which creates long wait times for vaccines. Additionally, paying for a vet appointment and transporting a dog to the vet can be difficult for some Detroit residents. The Detroit City Council recently passed a resolution calling for a change in state law that would allow DACC officers to administer rabies vaccines on site. This would remove a significant barrier to the registration process.

The DACC is also seeking the authority from the state legislature to administer microchips on-site when they respond to calls. The microchips contain information that links the dog with the owner. Because of this, if a dog gets loose and it is picked up by the DACC, they can return the dog to the owner without having to house the dog in a crowded kennel. As part of their community outreach, the DACC wants to emphasize this benefit of microchipping to the public. Also, there are organizations that will donate microchips to the DACC at no cost to the city.

e. Difficulty of removing dangerous dogs

The portion of the Detroit ordinance known as “Emma’s Clause” establishes the City’s process for responding to potentially dangerous animals, which is substantially similar to the Calgary Model. In summary, the process is as follows:

- DACC receives a verifiable complaint that an animal may be dangerous.
- DACC evaluates the complaint and, where it is warranted, conducts a dangerous animal investigation.
- An officer or investigator visits the property where the animal is kept.
- The DACC investigator assigned to the investigation makes a written recommendation concerning the incident and the animal and whether the Administrator should issue a dangerous animal determination.
- The animal may not be removed pending the outcome of the investigation except for limited circumstances.
- Upon review of the written recommendation of the investigator, the Administrator has the authority to make a dangerous animal determination.

- Upon a dangerous animal determination, the DACC must notify the owner and provide 10 days for the owner to request a review by the 36th District Court.
- If the animal has caused severe injury or death to a person or animal or if an animal is designated as dangerous for a second time, the Administrator may seek an order from 36th District Court to euthanize the animal.
- If the animal has attacked a person or animal, the DACC will hold and care for the animal pending a determination.
- The animal will not be returned to the owner until the owner enters into an agreement to satisfy several conditions regarding vaccinations, registration, spaying/neutering, muzzling, and proper confinement of the animal.
- If the DACC returns the animal, the owner must agree to annual inspection to ensure that the owner is in compliance.

This process requires a significant amount of time and resources as it is intended to balance the rights of the property owner with the city's interest in protecting public safety by prohibiting dangerous animals within city limits. Although the process is burdensome, the DACC has found that irresponsible dog owners are more willing to relinquish their ownership of their dangerous dogs when they are faced with the costs and requirements of coming into compliance with the city's ordinance. The working group is examining whether it is possible to expedite the dangerous animal designation process. Any consideration of increasing fines or fees must balance the desire to penalize individuals for willful violations with the ability of individuals to pay when those individuals want to willingly comply with the ordinance.

- f. Lack of evidence, reluctance of neighbors/community to testify.

The DACC Director has expressed that a major obstacle to effective enforcement is the unwillingness of neighbors and community members to provide evidence and testify in court regarding a dangerous animal. Neighbors will often contact DACC about a dangerous animal, and they may have already taken pictures or video evidence. Unfortunately, if the neighbor is unwilling to testify to the authenticity of the evidence, it is inadmissible in court. Without the cooperation of neighbors and community members, the DACC is limited to the evidence that it collects directly.

The city and the DACC need to engage in significant community outreach by utilizing all available media outlets including public access channels, social media, and the city's website in order to change the culture of non-cooperation with DACC. This outreach needs to emphasize that the goal of enforcing the city's ordinance is not about punishment, but instead is about protecting everyone in the community, especially small children. Neighbors and community members have invaluable information that could help DACC reduce the number of incidents with dangerous animals. It is understandable that neighbors who live next to dangerous dog owners are reluctant to go on the record and inform the city. The DACC and the city must explore ways to connect with community members and make the public understand that the safety of their neighborhood depends on their participation with the DACC.

2. **Animal Control Division Staffing:** Evaluate whether the Animal Control Division is adequately staffed and equipped to respond to complaints and enforce the ordinance.

The DACC budget for fiscal year 2023-2024 was \$7.5 million. According to the DACC monthly metrics, they receive over 6,000 calls per month on average.⁷ The data also shows that the DACC responds to calls with officers between 1,500 and 2,000 times per month. Even assuming that a percentage of these calls does not require officers to respond in-person, the DACC appears to be stretched thin when it comes to their ability to respond to calls.

The DACC has about 7 investigators and 20 officers to respond to the massive amount of calls each month. The DACC only has 9 trucks, which are aging and in need of constant repair. At the beginning of February 2024, only 6 of the trucks were operable. Hypothetically, if the DACC had to respond to half of the calls in the average month (6,000 calls) with 6 trucks, each truck would have to respond to roughly 17 calls per day. This suggests that the DACC is in need of resources for both staffing and equipment.

In addition to the condition of the trucks, the vehicles are also not outfitted with computers that would allow the DACC to issue tickets on-site in a similar manner that parking enforcement is able to do. DACC officers only have outdated tablets with limited functionality. As a result, officers have to travel to the office to do much of their administrative work, which is an inefficient use of time when they could be in the field responding to calls. Current resources also only allow the DACC to operate from 7 a.m. to 7 p.m., which prevents them from responding to nighttime incidents until the next morning. These issues should be discussed with City Council during upcoming annual budget hearings.

Overall, it is likely that the DACC has institutionally suffered from a lack of consistent leadership. The DACC has seen several directors come and go over the last decade, most of whom only serve for short periods of time. The DACC was also organizationally moved from the Police Department to the Health Department before again being moved to the General Services Department all within the last decade.

3. **Community Engagement and Awareness:** Investigate the effectiveness of the annual community engagement mandate and the outreach efforts, especially regarding informing residents about laws, reporting mechanisms, and responsible pet ownership.

According to the DACC, in general, Detroit residents are not aware of the requirements of pet ownership as outlined in the ordinance. In the majority of cases, the DACC is educating and engaging with the public on an individual basis when responding to calls. Whenever possible, the DACC will work with residents to provide them with necessary resources and connect them to local organizations that can provide assistance. However, this outreach needs to be broadened beyond a case-by-case basis.

The DACC and the working group recognize that more public outreach is needed. The DACC should utilize the city's media outlets and website to release instructional and educational videos and should hold regular meetings/webinars where it can educate the public and direct them to helpful resources. As an example, Calgary holds regular meetings in public parks and even instituted school

⁷ <https://detroitmi.gov/sites/detroitmi.localhost/files/2024-01/DACC%20Website%20Dashboard%20-%20December%202023%20-%2001.10.24.pdf>

programs on responsible pet ownership. The DACC's website should also consolidate all of the resources available to dog owners from the city and from partnerships with community organizations.

4. **Judicial Enforcement and Collaboration:** Assess the level of enforcement and awareness within the judicial system regarding the ordinance's changes, tools, and the responsibilities of pet owners.

In general, the DACC Director feels that the judicial system is aware of the requirements of the ordinance and issues orders and warrants in a timely manner. However, there was an incident in 2023 where the 36th District Court lost roughly 1/3 of all tickets issued by the DACC without explanation. This is a cause for concern going forward, and it must be rectified.

The DACC Director also believes that allowing individuals who have been given citations to attend court via Zoom often delays the process and hampers their ability to get individuals to comply. Requiring individuals to come to court in person may create a difference in terms of perception, as appearing before a judge in person feels more official than attending a hearing from home. In-person hearings may incentivize individuals to voluntarily comply with the DACC once they realize the stakes involved. Additionally, the DACC has found that Zoom hearings often get delayed or adjourned due to technical issues. This draws out the enforcement process and may require the DACC to house and expose their staff to a dangerous animal for a longer period of time than necessary.

5. **Conclusion**

The most recent amendments to the Detroit dangerous animal ordinance have had somewhat limited success. Certainly, there are improvements that can be made to the ordinance, specifically with regard to regulation of breeders and with the tethering provisions. However, in the opinion of the DACC and proponents of the Calgary model, the city's strategy in dealing with dangerous animals must focus on addressing the behavior of dog owners on a broad level through education and outreach. Addressing the issue of dangerous animals will also likely require efforts beyond ordinance amendments, as economic and housing instability contributes to the stray dog population and a lack of public safety makes residents feel the need to keep dangerous dogs for home security.

In addition to punishing individuals who willfully violate the city's ordinance, Detroit must find ways to incentivize responsible pet ownership. This requires an examination of how to streamline the city's processes and bringing together local organizations and stakeholders to fill in gaps in service. If residents can't afford to comply, they should be directed to resources that can assist them whenever possible. Additionally, the city needs to communicate regularly with the public regarding the benefits of compliance, for example, the benefits of microchipping and registration when a dog is lost. The city should prioritize public education and public input when making any changes to its ordinance so that it can maximize compliance and, hopefully, eliminate the instances of vicious dog attacks.