

ORDINANCE NO. ____-17

**CITY OF LATHRUP VILLAGE
OAKLAND COUNTY, MICHIGAN**

**AN ORDINANCE TO AMEND THE
CITY OF LATHRUP VILLAGE CODE OF
ORDINANCES, CHAPTER 10 ANIMALS IN ITS ENTIRETY**

THE CITY COUNCIL OF THE CITY OF LATHRUP VILLAGE ORDAINS:

PART I. TITLE.

This Ordinance shall be known as the “2017 Amendments to the Animal” Ordinance.

PART II. PURPOSE.

It is the purpose and intent of the City of Lathrup Village, through the adoption of this ordinance to promote the public health, safety, comfort, and general welfare of the community through the proper control of animals by their owners and others.

PART III. ORDINANCE AMENDMENT.

That Chapter 10 Animals is hereby amended as follows:

Chapter 10 – ANIMALS

ARTICLE I. - IN GENERAL

Sec. 10-1. - Purpose.

The purpose of this chapter is to promote the public health, safety, comfort, and general welfare of the community through the proper control of animals by their owners and others.

Sec. 10-2. - Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings respectively ascribed to them below:

Animal shall mean any vertebrate other than human beings.

At large shall mean any animal that is off the property of its owner and not under the physical control of a competent person.

Dangerous animal means any wild mammal, reptile, or fowl that is not naturally tame or gentle but is of a wild nature or disposition and that, because of its size, vicious nature, or other characteristics, could constitute a danger to human life or property. The term "dangerous animal" also means and includes any domestic mammal, reptile, or fowl that, because of its size or vicious propensity or other characteristics, could constitute a danger to human life or property.

Dangerous or vicious dog shall mean any dog that is exposed to rabies, or any dog that is capable of inflicting death or serious injury on a person or domesticated animal and that:

- (a) Has, without provocation, attacked or bitten a person engaged in lawful activities;
- (b) Has left the property of its owner and, without provocation, killed or seriously injured another animal;
- (c) Has, without provocation, chased, confronted or approached a person on the street, sidewalk, or public property in a menacing fashion that would put a reasonably prudent person in fear of an attack;
- (d) Has exhibited a propensity, tendency, or disposition to attack, cause injury, or threaten the safety of persons or other domesticated animals without provocation; or
- (e) Has acted in a manner that causes or should cause its owner to know that it is potentially vicious and/or dangerous.

No dog shall be declared "dangerous" for any of the following reasons alone:

- (a) If the dog was protecting or defending a person within the immediate vicinity of the dog from attack or assault;
- (b) If at the time another person was committing a crime or offense upon the property of the owner, or custodian, of the dog;
- (c) If the person was teasing, tormenting, abusing, or assaulting the dog, or in the past had teased, tormented, abused, or assaulted the dog;
- (d) If the dog was attacked or menaced by another domestic animal, or the other domestic animal was on the property of the owner, or custodian, of the dog;
- (e) If the dog was responding to pain or injury, or protecting itself, its kennel, or its offspring;
- (f) If a person or other domestic animal was disturbing the dog's natural functions, such as sleeping or eating;

- (g) Neither growling or barking, nor both, shall alone constitute grounds upon which to find a dog "dangerous."

Exposed to rabies shall mean an animal that has been bitten by or in contact with any animal known to have been exposed to rabies.

Owner shall mean any person or legal entity, excluding governmental bodies and agencies, having a possessory property right in or custody of a dog or other animal, or who harbors, cares for, or exercises control over any animal.

Person shall mean any individual, employee, corporation, company, co-partnership, or association.

Restrained or restraint shall mean an animal that is properly controlled by a leash or otherwise under the reasonable control of the owner or custodian, confined within a vehicle being driven or parked in a place generally open to the public, or confined within the property limits of its owner or keeper.

Sec. 10-3. - Penalty for violation of [this chapter].

Any person violating the provisions of this chapter shall be responsible for a municipal civil infraction, unless another penalty is specified. The fine for each violation of any provision of this chapter punishable as a municipal civil infraction shall be one hundred fifty dollars (\$150.00) for a first offense, three hundred dollars (\$300.00) for a second offense and five hundred dollars (\$500.00) for a third or subsequent offense, unless otherwise specified. In addition to any fine imposed for a violation of this chapter, the owner shall be responsible for any impound fees and/or fees for the destruction of the dog, as provided in this chapter. The court may also issue such injunctive relief as may be necessary to enforce this chapter. The court may also assess the cost of prosecution in addition to the fine.

Sec. 10-4. - Dogs in public; restraint; immunization required.

No dog shall be permitted at any time to be on a public highway or street, or in a public park, public building, or any other public place, or in any place to which the public is generally invited:

- (a) Except when restrained by the owner thereof or another responsible person, or when confined in a shipping receptacle or vehicle, or when on the premises of a duly-authorized dog training facility or dog park; and
- (b) Unless such dog shall have been immunized against rabies.

Nothing in this section shall be interpreted to prevent an owner from taking his dog to the offices of a veterinarian for the purpose of having the dog immunized.

Sec. 10-5. - Running at large.

(a) No person owning, possessing or harboring any dog shall permit the dog at any time to be on a public street or highway; in a public park, public building or any other public place; any place to which the public is generally invited; on private property other than that owned or occupied by such person, except when held securely in leash or by leash of suitable strength and length by the owner or other person capable of restraining the actions of the dog; or when confined securely in a shipping receptacle or closed automobile. No such dog shall be permitted at any time on such highway or street or other public place unless such dog shall have been immunized against rabies as provided in section 10-126. Nothing in this section shall prevent an owner of a dog from using the dog in hunting or in training the dog off a leash, provided the dog shall be upon private property.

(b) Provided, however, that subsection (a) above does not apply to any piece of city property designated by the city council as "off leash" property.

Sec. 10-6. - Noise.

No person shall harbor or keep any animal, including but not limited to any dog, that by loud, frequent, or habitual barking, yelping, or howling, shall cause an annoyance to the neighborhood, or to people passing to and from upon the street.

Sec. 10-7. - Sanitation.

(a) It shall be unlawful for any owner of an animal to allow or permit such animal to soil, defile, defecate, or commit any nuisance on a public thoroughfare, sidewalk, passageway, bypass, play area, park, or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without permission of the owner of such property, unless:

- (1) Such owner shall immediately remove all droppings deposited by such animal by any sanitary method, and for such purposes shall possess a container of sufficient size to collect and remove the above-mentioned droppings and exhibit the container if requested by any official empowered to enforce this chapter.
- (2) The droppings removed from the aforementioned areas shall be disposed of by the owner of such animal in a sanitary method on the property of the owner of such animal.

(b) Yards shall be kept free of accumulated animal droppings and shall be maintained in a sanitary manner so as not to be a nuisance because of odor or attraction of flies or vermin or be likely to cause contamination to sewers or waterways.

- (c) Nothing in this section is intended to supersede or invalidate any property maintenance provisions set forth in chapter 14 of this Code.

Sec. 10-8. - Exposure to rabies; notice.

It shall be the duty of any owner of an animal which has been attacked or bitten by another animal showing symptoms of rabies to immediately notify the city's police department or county animal control department or health department of the attack and his or her possession of such animal.

Sec. 10-9. - Female animal in heat.

The owner of any female animal in heat shall not permit such animal to be at large in the streets or public places in the city or on any premises other than those of the owner or custodian of such animal. The owner of such animal shall keep such animal confined in a building or a secure enclosure on a leash at all times, so that she will not come in contact with other animals except for intentional breeding purposes and so that she will not create nuisance by attracting other animals.

Sec. 10-10. - Cruelty to animals.

- (a) No person shall willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse, or cruelly beat, strike, or abuse any animal, or by an act, omission, or neglect, cause or inflict any unnecessary or unjustifiable pain, suffering, injury, or death to any animal, whether such animal belongs to such person or to another, except that reasonable force may be employed to drive away vicious or trespassing animals.
- (b) No person owning or possessing any animal shall fail, refuse, or neglect to provide such animal with food, potable water, shade, or shelter, or cruelly or unnecessarily expose such animal in hot, stormy, cold, or inclement weather, or carry such animal in or upon any vehicle in a cruel or inhumane manner.
- (c) Any person convicted of a violation of this section shall be punished by a fine not to exceed \$500.00 or by imprisonment for a period of not more than 90 days or by both such fine and imprisonment. A person convicted of a misdemeanor violation of this Code shall pay the costs of prosecution.

Sec. 10-11. - Keeping of animals as accessory use.

Any animal, other than a household pet, that is permitted to be kept as accessory to a principal use of a property shall be housed in accessory buildings meeting the requirements of the zoning ordinance. Notwithstanding any other provision of this Code, including the zoning ordinance, such accessory structure shall be permitted, provided that

is shall not be located in the front yard of any lot, nor nearer than one hundred (100) feet to any adjoining dwelling, nor nearer than twenty-five (25) feet to the dwelling of the owner thereof. Such accessory structure shall be a covered enclosure, and the animal shall be kept within the covered enclosure or within a fenced area complying with the setback requirements below at all times, and shall not be permitted to run at large in any street, alley, or public place, or upon the premises of another.

All enclosures for the keeping of such animal shall be constructed of material that can be easily cleaned and shall be kept in a clean and sanitary condition. The enclosure shall be properly ventilated to prevent drafts and remove odors, shall be of sufficient size to accommodate the animal, and shall be designed so as to prevent rats, mice, or other rodents from being harbored underneath, inside, or inside the walls of the enclosure. The required fenced area shall be a minimum of fifteen (15) feet from the property line (a fence located on a property line shall not satisfy the requirement for a fenced area). The required fenced area must be kept free from trash and accumulated droppings.

Removal or appropriate disposal of droppings is required. Droppings not used for composting or fertilizer shall be removed. All provisions of this Code relating to noise, odor, and sanitation, including the provisions of this article, shall apply to the keeping of animals under this section.

All animals, except livestock and household pets, shall be female. No roosters are permitted on any property. No slaughtering of animals may occur except within the fenced area and in an enclosed building.

Sec. 10-12. - Parental liability.

The parent or guardian of any minor claiming ownership of any animal subject to this chapter shall be deemed to be the owner of such animal and shall be charged for all penalties and fees imposed under this chapter.

Sec. 10-13. - Number limits.

It shall be unlawful for any person to own, possess, keep, or harbor in his household more than four adult dogs. It shall, also, be unlawful for any person to own, possess, keep or harbor in his household more than four adult cats.

Sec. 10-14. - Enforcement of [this chapter].

Any code compliance official of the city and any police officer may employ all proper means for the enforcement of this chapter, and may issue appearance tickets in accordance with this Code.

Secs. 10-15—10-45. - Reserved.

ARTICLE II. - DOG LICENSE

Sec. 10-46. - Required.

(a) It shall be unlawful for any person to own, possess or harbor a dog which is four months old or older, in the city without first having obtained a license therefor from the city clerk in compliance with the provisions set forth in this article.

(b) Any person violating this section shall be responsible for a municipal civil infraction punishable by a civil fine. The fine for each violation of any provision of this chapter punishable as a municipal civil infraction shall be two hundred fifty dollars (\$250.00) for a first offense, five hundred dollars (\$500.00) for a second offense and seven hundred fifty dollars (\$750.00) for a third or subsequent offense, unless otherwise specified

Sec. 10-47. - Application; contents; immunization prerequisite.

Upon application filed on or before February 28 of each year with the city clerk, giving the full name, breed, sex, age, color and markings of the dog, and the name and address of the last previous owner, accompanied by a valid certificate of a current vaccination for rabies, with a vaccine licensed by the United States Department of Agriculture, signed by an accredited veterinarian. The certificate for vaccination for rabies shall state the month and year of expiration for the rabies vaccination, in the veterinarian's opinion. To be valid, the rabies vaccination certificate cannot expire more than 30 days before expiration of the license. There shall be issued to each applicant a license to own or harbor the dog described in the application within the city for the term commencing from March 1 and terminating the last day of February, except as provided in this section.

Sec. 10-48. - Issuance; tag; contents; fees.

At the time of issuing such license, the city clerk shall deliver to each applicant a tag containing the number of the license, the expiration date of the license, and the words, "City of Lathrup Village." For each license the city clerk shall at the time and before issuing the license, and for each renewal of a license, collect from each applicant and pay into the city treasury a fee as established by resolution. In the case of a lost dog tag, the city clerk shall, in every case, demand and collect and pay into the city treasury a fee as established by resolution for the issuance of duplicate tags. The shape of the tag shall be changed each year. Current license and vaccination tags must be worn by the dog for which issued at all times.

Secs. 10-49—10-75. - Reserved.

ARTICLE III. - REGULATION OF DANGEROUS ANIMALS

Sec. 10-75. - Purpose and intent.

It is the intent of the City of Lathrup Village to protect the health and safety of the public against the risks that dangerous and potentially dangerous animals pose to persons and other animals in the city. Further, it is the intent of the City of Lathrup Village to afford animal owners due process when the owner's animal is classified as a dangerous or potentially dangerous animal.

Sec. 10-76. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings respectively ascribed to them below:

Animal review board means a board consisting of the city manager, police chief, and the Mayor of the City of Lathrup Village or their respective designated deputies or assistants, that shall assemble for purposes of conducting hearings under this article. Although not required, the animal review board may, in the discretion of the city council, also include a licensed veterinarian, American Kennel Club (AKC) certified animal behaviorist and/or AKC certified animal trainer, appointed by city council.

Authorized enforcement officer means a police officer and any officer authorized under section 2-2 of this code to issue appearance tickets in the city.

Dangerous or vicious dog shall mean any dog that is exposed to rabies, or any dog that is capable of inflicting death or serious injury on a person or domesticated animal and that:

- (a) Has, without provocation, attacked or bitten a person engaged in lawful activities;
- (b) Has left the property of its owner and, without provocation, killed or seriously injured another animal;
- (c) Has, without provocation, chased, confronted or approached a person on the street, sidewalk, or public property in a menacing fashion that would put a reasonably prudent person in fear of an attack;
- (d) Has exhibited a propensity, tendency, or disposition to attack, cause injury, or threaten the safety of persons or other domesticated animals without provocation;
or
- (e) Has acted in a manner that causes or should cause its owner to know that it is potentially vicious and/or dangerous.

No dog shall be declared "dangerous" for any of the following reasons alone:

- (a) If the dog was protecting or defending a person within the immediate vicinity of the dog from attack or assault;
- (b) If at the time another person was committing a crime or offense upon the property of the owner, or custodian, of the dog;
- (c) If the person was teasing, tormenting, abusing, or assaulting the dog, or in the past had teased, tormented, abused, or assaulted the dog;
- (d) If the dog was attacked or menaced by another domestic animal, or the other domestic animal was on the property of the owner, or custodian, of the dog;
- (e) If the dog was responding to pain or injury, or protecting itself, its kennel, or its offspring;
- (f) If a person or other domestic animal was disturbing the dog's natural functions, such as sleeping or eating;
- (g) Neither growling or barking, nor both, shall alone constitute grounds upon which to find a dog "dangerous."

Final determination date means the fifteenth day after the date of the notice of the authorized enforcement officer's classification of an animal as a dangerous animal or potentially dangerous animal under subsection 10-77(a); provided, however, that if a completed request for a review hearing has been timely submitted to the city clerk pursuant to subsection 10-77(b) and the review board determines that the animal is a dangerous animal or potentially dangerous animal, the final determination date means the effective date of the review board's determination under subsection 10-77(c).

On a suitable leash means both:

- (1) 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 is capable of restraining, and does restrain the type and size of animal to which it is attached; and
- (2) That such a leash is continuously held by a person who is reasonably able to and does restrain and prohibit the animal from being out of that person's physical control.

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 constitutes prima facie evidence that such animal is not kept on a suitable leash.

Owner means any person, firm, corporation or organization that owns or harbors a dog or other animal.

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

- (1) Causing an injury to a person or domestic animal that is less severe than a serious injury;
- (2) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner; or
- (3) Running at large in violation of section 10-5 of this Code three (3) or more times within any twelve-month period.

Proper enclosure means a physical enclosure that is constructed and at all times maintained in such a manner as to effectively prevent the animal from escaping the confines of the enclosure. An invisible fence does not constitute a proper enclosure.

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.

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

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.

Sec. 10-77. - Determination of a dangerous animal.

(a) An authorized enforcement officer shall have the authority to make a determination that an animal is dangerous, or potentially dangerous, as defined in this article, upon the complaint of any person that an animal is dangerous or potentially dangerous. When the authorized enforcement officer classifies any animal as a dangerous animal or potentially dangerous animal under this article, 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 it shall be hand delivered or 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 article.
- (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 dangerous animal or potentially dangerous animal.

- (3) The notice shall be dated and shall state that the owner has a right to request a review 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 dangerous animal or potentially dangerous animal shall be final and conclusive for all purposes.
 - (6) The notice shall include the appropriate form to request a review hearing before the animal review board, shall provide notice of the required fee as established by resolution of the city council, and shall provide specific instructions on mailing or delivering such a request.
- (b) A request for a review of a decision of an authorized enforcement officer under this section must be made within fifteen (15) days from the date of the authorized enforcement officer's notice on a form provided by the city clerk for such purposes and must include all of the following:
- (1) A description of the animal and whether it was determined by the authorized enforcement officer to be a potentially dangerous animal or a dangerous animal;
 - (2) An indication of the date of the determination by the authorized enforcement officer;
 - (3) Every reason supporting and establishing why the determination of the authorized enforcement officer was incorrect and should be overturned or modified;
 - (4) The name, address, and telephone number of the person requesting the review hearing;
 - (5) The nonrefundable administrative and processing fee established by resolution of the city council; and
 - (6) Such other information deemed necessary by the city clerk for purposes of processing the request.
- (c) When the animal review board receives a complete request for a review hearing from an owner in accordance with subsection (b), above, 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 of the date, time and place of the hearing; such notice shall be made to the owner at least five (5) 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 or hand delivery of its determination on the matter. If the determination is made that the animal is a dangerous animal or a potentially dangerous animal, the effective date of the determination shall be the date of the notice of said determination.

(d) If the identity of the owner of an animal that the authorized enforcement officer has classified as a dangerous animal or a potentially dangerous 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. 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. If the animal remains unclaimed for four (4) days, the animal shall be examined by a veterinarian and/or an authorized representative of the county animal control division to determine the viability of the animal or appropriate course of destruction of the animal if necessary.

Sec. 10-78. - Requirements for possession of a dangerous animal.

(a) Any owner of a dangerous animal shall be jointly and severally responsible with all other owners of such animal for compliance with the requirements of this article. Except where a different date for compliance with a requirement is specifically identified in this article, the dangerous animal owner's or owners' responsibility for compliance with the requirements of this article shall commence on the final determination date.

(b) No person shall own, possess, keep, harbor, or have custody or control of a dangerous animal except in compliance with all of the following requirements:

(1) A dangerous animal shall not be permitted to remain in the city unless it is properly registered as provided in this article and as otherwise required by law or ordinance within thirty (30) days of the final determination date.

(2) Except under the circumstances otherwise specifically permitted by this article, a dangerous animal shall at all times be maintained inside a proper enclosure.

(3) The premises where a dangerous 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) Within thirty (30) days of the final determination date, the owner of a dangerous animal shall maintain at all times a policy of insurance in a minimum amount of one million dollars (\$1,000,000.00) to cover claims for any personal injuries inflicted by the animal, which policy shall be issued by an insurer, as the case may be, authorized to transact business in the State of Michigan.

(5) Within thirty (30) days of the final determination date the owner of a dangerous animal shall begin attending, and within seventy-five (75) days after the final determination date, the owner of a dangerous animal shall successfully complete an animal obedience class with the dangerous animal, as offered through a certified program, and shall produce evidence of such attendance and successful completion by the dangerous animal. In the instance of a dog that has been determined to be a dangerous animal, evidence of successful completion of an animal obedience class shall require the production of a canine good citizenship certificate for the dog by a certified tester pursuant to the standards of the American Kennel Club. In the instance of other animals that have been determined to be dangerous animals under this article, evidence of successful completion of an animal obedience class shall require a certificate from the trainer who performed the training program certifying that the animal satisfied all requirements of the class and that the animal is obedient.

(6) Within thirty (30) days of the final determination date, the owner of a dangerous animal shall in addition to any other penalty authorized by law make full restitution to any victim of the dangerous animal's course of conduct that gives rise to this determination.

Sec. 10-79. - Requirements for possession of a potentially dangerous animal.

(a) Any owner of a potentially dangerous animal shall be jointly and severally responsible with other owners of such animal for compliance with the requirements of this article. Except where a different date for compliance with a requirement is specifically identified in this article, the potentially dangerous animal owner's or owners' responsibility for compliance with the requirements of this article shall commence on the final determination date.

(b) No person shall own, possess, keep, harbor, or have custody of a potentially dangerous animal except in compliance with all of the following requirements:

- (1) A potentially dangerous animal shall not be permitted to remain in the city unless it is properly registered as provided in this article and as otherwise required by law or ordinance, within thirty (30) days of the final determination date.
- (2) Except under the circumstances otherwise specifically permitted by this article, a potentially dangerous animal shall at all times be maintained inside a proper enclosure.
- (3) The premises where a potentially dangerous animal is kept shall be posted with a clearly visible sign warning that there is an animal on the premises that is potentially dangerous 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 thirty (30) days of the final determination date, the owner of a potentially dangerous animal shall begin attending, and within seventy-five (75) days after the final determination date, the owner of a potentially dangerous animal shall successfully complete an animal obedience class with the animal, as offered through a certified program, and shall produce evidence of such attendance and successful completion by the dangerous animal. In the instance of a dog that has been determined to be a potentially dangerous animal, evidence of successful completion of an animal obedience class shall require the production of a canine good citizenship certificate for the dog by a certified tester pursuant to the standards of the American Kennel Club. In the instance of other animals that have been determined to be potentially dangerous animals under this article, evidence of successful completion of an animal obedience class shall require a certificate from the trainer who performed the training program certifying that the animal satisfied all requirements of the class and that the animal is obedient.
- (5) Within thirty (30) days of the final determination date, the owner of a potentially dangerous animal shall in addition to any other penalty authorized by law make full restitution to any victim of the potentially dangerous animal's course of conduct that gives rise to this determination.

Sec. 10-80. - Registration of dangerous animals and potentially dangerous animals.

- (a) No dangerous animal or potentially dangerous animal shall be permitted to remain in the city unless it is registered in accordance with this article. In addition to the

annual registration and/or licensing fees otherwise required by law and ordinance, the owner of a dangerous animal or a potentially dangerous 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 dangerous animal or a potentially dangerous animal according to the classification and determination previously made under this article. No dangerous animal or potentially dangerous animal shall be registered unless the owner can provide sufficient evidence that all of the provisions in this article, as applicable, have been and are being met. An animal that has commenced an animal obedience class in a timely manner under either subsection 10-78(b)(5) or subsection 10-79(b)(4) with its owner may be issued a registration, which registration shall be subject to successful completion of the class in accordance with said subsections.

(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. The registration year shall be the period from the date of initial registration to the next December thirty-first, inclusive, unless otherwise provided. All registrations expire on the thirty-first day of December unless suspended or revoked.

Sec. 10-81. - Transfer of ownership or possession.

Upon the transfer of ownership or possession of any dangerous animal or potentially dangerous 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. Any transferee of a dangerous animal or potentially dangerous animal shall be presumed to have notice of the animal's classification as such.

Sec. 10-82. - Notice to police department.

The owner of a dangerous animal or potentially dangerous animal shall notify the police department in person or by telephone within twenty-four (24) hours of the occurrence of any one (1) of the following events:

- (1) 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.
- (2) Such animal has attacked a human being.
- (3) Such animal has been sold, given or otherwise transferred to the ownership or possession of another person.
- (4) The animal has died.

- (5) The animal is leaving the City of Lathrup Village.

Sec. 10-83. - Restraints when outside proper enclosure.

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

Sec. 10-84. - Confiscation and disposition of animals.

(a) A dangerous animal may be immediately confiscated by an authorized enforcement officer or a county animal control officer upon a determination by such an officer that one (1) or more of the following circumstances exists:

- (1) The owner of the animal does not have the proper liability insurance as required by section 10-75.
- (2) The animal is not validly and currently registered as required by section 10-80.
- (3) The animal is not maintained in a proper enclosure as required by section 10-78.
- (4) The animal is not under the restraints required by section 10-83, whether or not such animal is then in the custody or possession of its owner.
- (5) The owner has failed to attend obedience classes with the animal or the animal has failed to successfully complete such obedience classes, as required by section 10-78.

(b) A potentially dangerous animal may be confiscated by an authorized enforcement officer or a county animal control officer upon a determination by such an officer that one (1) or more of the following circumstances exists:

- (1) The animal is not validly and currently registered as required by section 10-80.
- (2) The animal is not maintained in a proper enclosure as required by section 10-79.
- (3) The animal is not under the restraints required by section 10-83, whether or not such animal is then in the custody or possession of its owner.

(4) The owner has failed to attend obedience classes with the animal or the animal has failed to successfully complete such obedience classes, as required by section 10-79.

(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 article and upon the payment of the actual costs of boarding the animal, plus a confiscation fee of one hundred fifty dollars (\$150.00) upon the first confiscation of any animal, two hundred dollars (\$200.00) upon the second and three hundred dollars (\$300.00) upon the third or subsequent confiscation. The foregoing shall be in addition to the penalties otherwise provided for under this article.

(d) If the confiscated animal remains unclaimed for a period of four (4) days after written notice of the confiscation to the owner, or if the identity of the owner cannot be determined and a description of the animal has been given to the police department and the animal remains unclaimed, then the animal shall be examined by a veterinarian and/or an authorized representative of the county animal control division to determine the viability of the animal or appropriate course of destruction of the animal if necessary.

Sec. 10-85. - District court action.

(a) In lieu of the notice and hearing requirements in this article, the authorized enforcement officer may file a sworn complaint in district court that an animal is a dangerous 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 is to 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 dangerous 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 dangerous animal that did not cause serious injury or death to a person but is instead a potentially dangerous 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 dangerous animal.

(d) If the court finds that an animal is a dangerous animal that has not caused serious injury or death to a person, or is a potentially dangerous animal, the court shall notify the animal control authority for Oakland County of the finding of the court, the name of the owner of the dangerous animal or potentially dangerous 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 dangerous or potentially dangerous 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 order animal obedience classes at a licensed facility.

Sec. 10-86. - Removal of potentially dangerous animal classification.

The owner of a dog that has been determined to be a potentially dangerous animal may request that the classification of the dog as a potentially dangerous 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. A request submitted to the animal review board for removal of a potentially dangerous animal classification under this section must be made on a form provided by the city clerk for such purposes and must include a nonrefundable administrative and processing fee established by resolution of the city council and such other information deemed necessary by the city clerk for purposes of processing the request.

Sec. 10-87. - Penalties for violation.

In addition to the penalties set forth elsewhere in this article, and those penalties in MCL 287.321 et seq., the owner of a dangerous animal or a potentially dangerous animal that fails to comply with the provisions of this article shall be guilty of a misdemeanor, punishable in the manner set forth in section 1-7(c) of this code.

Secs. 10-88 – 10-125 Reserved.

ARTICLE VI. - CHICKENS

Sec. 10-129. - Generally.

- (a) Any person residing in R-1 or R-3 residential zoned district property, in a single-family detached structure, after obtaining a permit from the city, may keep not more than three hen (female) chickens for personal use only and not for any business or commercial use.
- (b) Notwithstanding this section, private restrictions on the use of property shall remain enforceable. Private restrictions include but are not limited to, deed restrictions, neighborhood association by-laws, and covenant deeds.
- (c) Chickens may be kept as family pets or to lay eggs for personal consumption only.
- (d) Slaughtering of any chickens on the property is prohibited.

Sec. 10-130. - Licensing and inspections.

- (a) Completed applications shall be submitted to the building and code enforcement department along with the fee which shall be determined by city council resolution. Approved permit holders shall schedule an inspection within 30 days of permit issuance. Failure to schedule an inspection shall result in an automatic revocation of the permit. If an inspection identifies noncompliance with any of the requirements set forth in this section, the permit holder shall have 15 days to achieve compliance with the requirements or the building official may revoke the permit or seek prosecution of the violation as a civil infraction under the Lathrup Village Code.
- (b) Permits shall be valid for up to one year, shall be non-transferable, site-specific and shall expire on March 31st of each year. A person who wishes to continue keeping chickens shall obtain a new permit prior to expiration of the previous permit. Application for a new permit shall be pursuant to the procedures and requirements applicable at the time a person applies for a new permit.

(Ord. No. 433-14, pt. II, 9-22-2014)

Sec. 10-131. - Number limits.

A person residing in R-1 or R-3 residential zoned district property, in a single-family detached structure who keeps hen chickens shall comply with all of the following requirements:

- (1) Keep no more than three hen chickens at any time.
- (2) Roosters or male chickens and any other type of fowl or poultry are prohibited.

Sec. 10-132. - Structure.

- (a) Chickens shall be maintained in a fully enclosed structure or a fenced enclosure and shall be kept in the enclosed structure or fenced enclosure at all times. Fenced enclosures are subject to all fence provisions of section 5.1 of the Lathrup Village Zoning Code with the exception that the material used may be chicken wire. An enclosed structure shall be constructed of permanent materials and shall be properly maintained in accordance with the property maintenance code adopted by the city in section 14-152 of the Lathrup Village Code, as amended.
- (b) Chicken "coop" will be considered an accessory structure and must meet all requirements of Lathrup Village Zoning Ordinance section 3.7, except that the structure need not be on a concrete foundation slab. Prior to construction an approved accessory structure permit must be on file with the building and code enforcement department. Permit application shall include any structural or plat drawings or other information required by the department. The department shall issue a permit where the application is in compliance with all requirements, regulations and ordinances of the city.
- (c) The accessory use, coop and pen shall be designed to provide safe and healthy living conditions for chickens while minimizing adverse impacts on other residents and the neighborhood. The coop and pen shall meet the following additional requirements:
 - (1) The coop and pen shall be setback a minimum of ten feet from all property lines of adjacent property and be located a minimum of 30 feet from the nearest wall of any adjacent dwelling. No enclosed structure shall be located within any side or rear yard setback area. An enclosed structure or fenced enclosure shall not be located closer than ten feet to any residential structure on an adjacent parcel.
 - (2) The coop and pen shall be a maximum of six feet in height and shall not exceed a total of 80 square feet.
 - (3) The use of corrugated metal/fiberglass, sheet metal, plastic tarps, scrap lumber or similar materials is prohibited. The coop and pen must be completely enclosed with a top and/or cover.
 - (4) The coop and pen shall have a rat wall or similar block foundation to prevent burrowing animals from gaining access.
- (d) All structures and enclosures for the keeping of chickens shall be constructed and maintained so as to prevent rats, mice, or other rodents or vermin from being harbored underneath or within the walls of the structure or enclosure in compliance with sections 10-6 and 10-7 of the Lathrup Village Code.

- (e) All feed and other items associated with the keeping of chickens likely to attract rats, mice, or other rodents or vermin shall be secured and protected in sealed containers.

Sec. 10-133. - Care of animals.

- (a) Chickens shall be kept in compliance with the Michigan Department of Agriculture Generally Accepted Agricultural and Management Practices for the Care of Farm Animals, as it relates to laying chickens, as amended, except as otherwise provided in this section.
- (b) Chickens shall not be kept in any location on the property other than in the backyard. For purposes of this section, "backyard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the single-family structure and extending to the side lot lines.

Sec. 10-134. - Violation—Penalty.

A violation of any provision of this article shall be a civil infraction and shall be punishable by a fine of not less than \$100.00 for the first offense. Individuals, partnerships, corporations and/or their agents or managers may be cited for noncompliance with this article.

Secs. 10-135—10-160. – Reserved

PART IV. SEVERABILITY.

If any section, subsection, clause, phrase, or portion of this article is for any reason held invalid by a court of competent jurisdiction, such portion shall be deemed a separate and distinct provision, and such holding shall not affect the validity of the remaining portions.

PART V. SAVINGS.

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this ordinance takes effect are saved and may be consummated according to the law in force where they commenced.

PART VI. EFFECTIVE DATE.

This Ordinance shall be published in the manner required by law and shall become effective ten (10) days after the date of its publication. A copy of the ordinance shall also be made available for public use and inspection in the office of the City Clerk.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL, CITY OF LATHRUP
VILLAGE, OAKLAND COUNTY, MICHIGAN THIS _____ DAY OF _____, 2017.

Yvette Talley, City Clerk

Date of Introduction: _____
Date of Adoption: _____
Date of Publication of
Notice of Adoption: _____