

ORDINANCE NO. 10-08

CITY OF FALCON HEIGHTS
RAMSEY COUNTY, MINNESOTA

**AN ORDINANCE AMENDING CHAPTER 10 OF THE
FALCON HEIGHTS CITY CODE CONCERNING
DANGEROUS AND POTENTIALLY DANGEROUS DOGS**

THE CITY COUNCIL OF THE CITY OF FALCON HEIGHTS ORDAINS:

SECTION 1. Section 10-1 of the Falcon Heights City Code is amended by adding the following definitions:

ANIMAL CONTROL AUTHORITY: The City of Falcon Heights.

GREAT BODILY HARM: Bodily injury which creates a high probability of death, or which causes permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

PROPER ENCLOSURE: Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

PROVOCATION: An act that an adult could reasonably expect may cause a dog to attack or bite.

SUBSTANTIAL BODILY HARM: Bodily injury which involves a temporary disfigurement, or which causes a temporary loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

SECTION 2. Chapter 10 of the Falcon Heights City Code is amended by adding Article III to provide as follows:

ARTICLE III. DANGEROUS AND POTENTIALLY DANGEROUS DOGS

10-30. Regulations Regarding Potentially Dangerous Dogs.

(a) *Determination of potentially dangerous dog.* A City animal control officer or other law enforcement official shall determine that a dog is a potentially dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog:

- (1) When unprovoked, inflicts bites on a human or domestic animal on public or private property; or
- (2) When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
- (3) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(b) *Notice of potentially dangerous dog.* Upon a determination by the animal control authority or law enforcement official that a dog is potentially dangerous, the City shall provide a Notice of Potentially Dangerous Dog to the owner of record, or if none, any owner of such dog by personally serving the owner or a person of suitable age at the residence of such owner. Service upon any owner shall be effective as to all owners. The notice shall include the following:

- (1) A description of the dog deemed to be potentially dangerous;
- (2) The factual basis for that determination;
- (3) The identity of officer who has made the determination;
- (4) An order that the owner have a microchip implanted in the dog for identification and provide the City animal control authority with the name of the microchip manufacturer and the serial identification number of the microchip implanted within 30 days of the date of service;
- (5) An order that the owner provide the City animal control authority with written notice of any relocation of the dog from its current residence, providing any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten (10) days prior to any such relocation or new ownership; and
- (6) The criminal penalties for violation of the requirements pertaining to potentially dangerous dogs.

(c) *Appeal of the potentially dangerous dog designation.* Within fourteen (14) days after receipt of the Notice of a Potentially Dangerous Dog any owner may request an appeal of that determination by completing and serving upon the City animal control authority a Request for Appeal of a Potentially Dangerous Dog Designation on the form provided along with the notice, including at a minimum the following information:

- (1) The full name, address, daytime and evening telephone numbers of the person requesting an appeal;
- (2) The full name and address of all of the dog's owners;
- (3) The ownership interest of the person requesting the appeal;
- (4) The names of any witnesses to be called at the hearing;
- (5) A list and copies of all exhibits to be presented at the hearing; and

(6) A summary statement as to why the dog should not be declared potentially dangerous.

Failure to timely submit a completed Request for Appeal shall be deemed a waiver of the right to appeal and consent to the designation of the dog as potentially dangerous.

(d) *Hearing procedure.* The owner of a potentially dangerous dog has the right to a hearing by an impartial hearing officer, who shall be either an impartial employee of the City or an impartial person retained by the City to conduct the hearing.

(1) Within fourteen (14) days after receipt of the Request for Appeal, the hearing officer shall hold a hearing on the request to determine the validity of the potentially dangerous dog designation.

(2) The hearing shall be held at a place to be determined by the animal control authority during the City's normal business hours.

(3) At the hearing, the parties shall have the opportunity to present evidence in the form of exhibits and testimony. Each party may question the other party's witnesses. The strict rules of evidence do not apply and the records of the animal control officer or law enforcement official are admissible without further foundation. Objections as to the evidence presented can be made on the basis of the evidence being incompetent, irrelevant, immaterial or unduly repetitious. The hearing examiner shall admit and give probative weight to evidence, including reliable hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The order of proof shall follow the burden of proof with the initial burden upon the City animal control authority to demonstrate by a preponderance of the evidence that the animal is potentially dangerous. The hearing shall be tape recorded and a full record of the hearing shall be kept by the hearing examiner.

(4) Within ten (10) days of the conclusion of the hearing, the hearing officer shall make written findings of fact and reach a written conclusion as to whether the dog is a potentially dangerous dog pursuant to this Code or state law. Upon receipt of those findings and conclusions or as soon thereafter as reasonably possible, the City animal control authority must personally serve a written copy thereof to the owner who requested the hearing or a person of suitable age at the residence of such owner. The decision of the hearing examiner is final without any further right of administrative appeal. An aggrieved party may obtain review thereof by petitioning the Minnesota Court of Appeals for a Writ of Certiorari not more than thirty (30) days after service of the hearing examiner's written decision.

(e) *Potentially dangerous dog requirements.* It shall be the joint and several responsibility of each owner of any dog kept or harbored within the City and determined to be potentially dangerous under this Section of the Code or under the provisions of a substantially similar local or state law to:

(1) Have a microchip implanted in the dog for identification and provide the City animal control authority with proof thereof, including the name of the microchip manufacturer and its serial identification number, within thirty (30) days of any owner's

receipt of the Notice of Potentially Dangerous Dog or within ten (10) days of the dog's location within the City, whichever occurs first; and

(2) Provide the City animal control authority with written notice of any intended relocation of the dog from its current residence and provide any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten (10) days prior to any such relocation or new ownership.

(3) If the dog is outdoors the dog must be restrained by a substantial chain or leash not longer than six (6) feet and under the physical restraint of a responsible person.

(4) If the dog is outdoors and is not restrained by a substantial chain or leash not longer than six (6) feet under the physical restraint of a responsible person, the Owner must pay the City \$250 per incident. If the dog has been impounded by the City, the \$250 must be paid before the animal is reclaimed by the Owner.

(f) *Review of potentially dangerous dog designation.* Beginning six (6) months after a dog is declared potentially dangerous hereunder, an owner may request annually that the City animal control authority review the designation by serving upon it with a written request for review that includes the full name, address and telephone numbers of the requestor, a list of the names and addresses of all owners of the dog, the requestor's ownership interest, and a summary of the basis for the claimed change in the dog's behavior. The request for review shall be accompanied by all documents in support of the contention that the dog's aggressive behavior has been modified. Within fourteen (14) days of the receipt of the request, the animal control authority shall make a determination in writing as to whether or not to rescind the potentially dangerous dog designation.

10-31. Regulations Regarding Dangerous Dogs.

(a) *Determination of dangerous dog by City.* A City animal control officer or other law enforcement official shall determine that a dog is a dangerous dog if the officer believes, based upon the officer's professional judgment, that a dog:

(1) Has, without provocation, inflicted substantial bodily harm on a human being on public or private property; or

(2) Has killed a domestic animal without provocation while off the owner's property;
or

(3) Has been determined to be a potentially dangerous dog, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(b) *Exemption.* Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:

(1) Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;

(2) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog;
or

(3) Who was committing or attempting to commit a crime.

(c) *Notice of dangerous dog.* Upon a determination by a City animal control officer or other law enforcement official that a dog is dangerous, the City shall provide a Notice of Dangerous Dog to the owner of such dog by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include the following:

- (1) A description of the dog determined to be a dangerous dog; the authority for and purpose of the dangerous dog declaration and seizure, if applicable; the time, place, and circumstances under which the dog was declared dangerous; and if the dog has been seized, the telephone number and contact person where the dog is kept;
- (2) A statement as to whether or not the dog's destruction is being sought by the City; a person claiming an interest in a seized dog may prevent disposition of the dog by posting security in an amount sufficient to provide for the dog's actual costs of care and keeping; and the security must be posted within seven (7) days of the seizure inclusive of the date of the seizure;
- (3) A statement that the owner of the dog may request a hearing concerning the dangerous dog declaration and, if applicable, prior potentially dangerous dog declarations for the dog, and that failure to do so within fourteen (14) days of the date of the notice will terminate the owner's right to a hearing under this section;
- (4) A statement that if an appeal request is made within fourteen (14) days of the notice, the owner must immediately comply with the requirements of Minn. Stat. § 347.52, paragraphs (a) and (c), and until such time as the hearing officer issues an opinion;
- (5) A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have fourteen (14) days from receipt of that decision to comply with all other requirements of Minn. Stat. §§ 347.51, 347.515, and 347.52;
- (6) A form to request a hearing under this subdivision;
- (7) If the dog has been seized, a statement that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law;
- (8) A statement of the requirements to own a dangerous dog in Section 10-31-(g));
and
- (9) The criminal penalties for violations of this Code.

(d) *Requirements upon receipt of a Notice of Dangerous Dog.* After receipt of the notice, the owner must do the following:

- (1) At all times keep the dog either confined in a proper enclosure or muzzled in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration;
- (2) Implant the dog with a microchip for identification and provide the City animal control authority with the name of the microchip manufacturer and the serial identification number of the microchip implanted within fourteen (14) days; and

(3) Provide the City animal control authority with written notice of any relocation of the dog from its current residence and provide any new owner's full name, address, daytime and evening telephone numbers and relocation address at least ten (10) days prior to any such relocation.

(e) *Appeal of the dangerous dog designation.* Within fourteen (14) days after receipt of the Notice of Dangerous Dog any owner may request an appeal of that determination by completing and serving upon the City animal control authority a Request for Appeal of Dangerous Dog Designation on the form provided along with the notice, including at a minimum the following information:

- (1) The full name, address, daytime and evening telephone numbers of the person requesting an appeal;
- (2) The full name and address of all of the dog's owners;
- (3) The ownership interest of the person requesting the appeal;
- (4) The names of any witnesses to be called at the hearing;
- (5) A list and copies of all exhibits to be presented at the hearing; and
- (6) A summary statement as to why the dog should not be declared dangerous.

Failure to timely submit a completed Request for Appeal shall be deemed a waiver of the right to appeal and consent to the designation of the dog as dangerous.

(f) *Hearing procedure and costs.* The owner of a dangerous dog has the right to a hearing by an impartial hearing officer, who shall be either an impartial employee of the City or an impartial person retained by the City to conduct the hearing.

- (1) Within fourteen (14) days after receipt of the Request for Appeal, the hearing officer shall hold a hearing to determine the validity of the dangerous dog declaration.
- (2) The hearing shall be held at a place to be determined by the City animal control authority during the City's normal business hours.
- (3) At the hearing, the parties shall have the opportunity to present evidence in the form of exhibits and testimony. Each party may question the other party's witnesses. The strict rules of evidence do not apply and the records of the animal control officer or law enforcement official are admissible without further foundation. Objections as to the evidence presented can be made on the basis of the evidence being incompetent, irrelevant, immaterial or unduly repetitious. The hearing examiner shall admit and give probative weight to evidence, including reliable hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs. The order of proof shall follow the burden of proof with the initial burden upon the City animal control authority to demonstrate by a preponderance of the evidence that the animal is dangerous. The hearing shall be tape recorded and a full record of the hearing shall be kept by the hearing examiner.
- (4) Within ten (10) days of the conclusion of the hearing, the hearing officer shall make written findings of fact and reach a written conclusion as to whether the dog is a dangerous dog pursuant to this Code or state law. A separate finding shall be made as to whether or not the dog should be destroyed by the City animal control authority in

accordance with Section 10-31-(j). Upon receipt of those findings and conclusions or as soon thereafter as reasonably possible, the City animal control authority must personally serve a written copy thereof to the owner who requested the hearing or a person of suitable age at the residence of such owner. The decision of the hearing examiner is final without any further right of administrative appeal. An aggrieved party may obtain review thereof by petitioning the Minnesota Court of Appeals for a Writ of Certiorari not more than thirty (30) days after service of the hearing examiner's written decision.

(5) In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 will be the responsibility of the dog's owner.

(g) *Dangerous dogs requirements.* Upon a determination after a hearing that the dog is dangerous under this Code or state law, or upon the expiration of the fourteen (14) day appeal period where no owner serves upon the City animal control authority a timely and proper Request for Appeal of the Dangerous Dog Designation, or upon the relocation of a dog to this City from another location where the dog was previously declared dangerous under either state law or a local law substantially similar to this Section, it shall be the joint and several responsibility of each owner of the dangerous dog kept or harbored within the City to strictly comply with the following requirements:

(1) Keep the dog in a proper enclosure or, if the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash not longer than six (6) feet and under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration. The premises where the dog is kept must prominently post a visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property;

(2) Register the dog as a dangerous dog with the City of Falcon Heights in accordance with state law and renew the registration of the dog annually until the dog is deceased. The City will issue a certificate of registration upon proof that the requirements of this section have been satisfied. If the dog is removed from the jurisdiction, it must be registered as a dangerous dog in its new location;

(3) Cause the dog to be implanted with a microchip for identification and provide the City animal control authority with the name of the microchip manufacturer and the serial identification number of the microchip implanted within fourteen (14) days of the date the dog was determined to be dangerous;

(4) Maintain affixed to the dog's collar at all times a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, as approved by the state's commissioner of public safety;

(5) Cause the dog to be sterilized at the owner's expense and provide the City animal control authority with proof thereof, including the name, address and telephone number of the veterinarian who performed the procedure, within thirty (30) days of the date the dog was determined to be dangerous. If the owner does not have the dog sterilized within thirty (30) days, the City animal control authority shall seize the dog and have it sterilized at the owner's expense;

- (6) Provide the City animal control authority with written notice of the death of the dog within thirty (30) days thereof and if requested execute an affidavit under oath setting forth the circumstances of the dog's death and disposition;
- (7) Provide the City animal control authority with written notice of any intended relocation of the dog from its current residence on record and provide any new owner's full name, address, daytime and evening telephone numbers and the relocation address at least ten (10) days prior to any such relocation or new ownership;
- (8) Accompany the sale or transfer of the dog to another owner with a written statement signed and notarized by the transferee listing his or her full name, address, daytime and evening telephone numbers and acknowledging that the City animal control authority has identified the dog as dangerous and provide a copy thereof to the City animal control authority;
- (9) Provide the owner of real property where the dangerous dog will reside with a written disclosure that the City animal control authority has identified the dog as dangerous prior to entering into a lease agreement and at the time of any lease renewal; and
- (10) Obtain a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the animal control authority in the sum of at least \$300,000, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog.

(h) *Confiscation of dangerous dogs.*

- (1) *Seizure.* The City animal control authority shall immediately seize any dangerous dog if:
 - (a) after fourteen (14) days after the owner has notice that the dog is dangerous, the dog is not validity registered;
 - (b) after fourteen (14) days after the owner has notice that the dog is dangerous, the owner does not secure the property liability insurance or surety coverage;
 - (c) the dog is not maintained in a proper enclosure; or
 - (d) the dog is outside the proper enclosure and not under physical restraint of a responsible person.
- (2) *Subsequent offenses; seizures.* In addition, if the dog's owner is convicted of violating this Section or state laws regulating dangerous dogs, the court as a part of its sentence may order that the dog be confiscated and destroyed in a proper and humane manner and that the owner pay the costs incurred in confiscating, confining and destroying the dog. Where an owner is convicted of violating this Section or state laws regulating dangerous dogs and is thereafter charged with a subsequent such violation relating to the same dog, the dog must be summarily seized and impounded by the animal control authority. Upon conviction of that subsequent offense, the court shall order as part of its sentence that the dog be destroyed in a proper and humane manner and that the owner pay the cost of confiscating, confining and destroying the dog. If the owner is not convicted and the dog is not reclaimed by the owner within seven (7) days after the

owner has been notified that the dog may be reclaimed, the dog may be disposed of in a proper and humane manner. Any person who harbors, hides or conceals or aids and abets the harboring, hiding or concealment of a dog determined to be dangerous under this Code or state laws regulating dangerous dogs shall be guilty of a misdemeanor.

(i) *Reclaiming seized dog.* A confiscated dangerous dog not subject to destruction under this Section may be reclaimed by an owner upon payment of impoundment and boarding fees and presenting proof of compliance with all of the requirements of this Section or state laws regulating dangerous dogs. A confiscated dog not reclaimed under this Section within seven (7) days may be destroyed in a proper and humane manner with the owner being responsible for the costs of confiscation, boarding and destruction.

(j) *Destruction of dog in certain circumstances.* Where the City animal control authority seeks to destroy a dog it has designated as dangerous, it must provide the owner with specific notice, in writing, of its intent to destroy the animal and provide the owner with a full and fair opportunity for a hearing on this issue in the context of the Appeal of the Dangerous Dog Designation in Section 10-31(e). The City animal control authority may destroy a dog in a proper and humane manner, with the owner being responsible for the costs of confiscation, boarding, and destruction, if:

- (1) The dog inflicted substantial or great bodily harm on a human on public or private without provocation;
- (2) The dog inflicted multiple bites on the victim or bites on multiple victims on public or private property without provocation;
- (3) The dog bit multiple human victims on public or private property in the same attack without provocation;
- (4) The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack;
- (5) The owner of the dog has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals; and
- (6) Unless the animal is destroyed another unprovoked attack on a human being is likely and that therefore the destruction of the animal is necessary to protect the public health, safety and welfare.

(k) *Review of dangerous dog designation.* Beginning six (6) months after a dog is declared dangerous hereunder, an owner may request annually that the City animal control authority review the designation by serving upon it with a written request for review that includes the full name, address and telephone numbers of the requestor, a list of the names and addresses of all owners of the dog, the requestor's ownership interest, and a summary of the basis for the claimed change in the dog's behavior. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. Within fourteen (14) days of the receipt of the request, the animal control authority shall make a determination in writing as to whether or not to rescind the dangerous dog designation. Should the designation be rescinded, the dog shall nonetheless continue to be considered potentially dangerous and subject to the requirements of this Code.

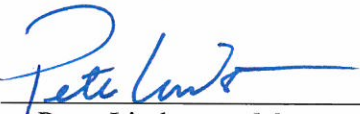
10-32. Law Enforcement.

This Article does not apply to potentially dangerous dogs or dangerous dogs used by law enforcement officials for police work.

SECTION 3. This ordinance shall be effective immediately upon its passage.

ADOPTED this 22nd day of September, 2010, by the City Council of Falcon Heights, Minnesota.

CITY OF FALCON HEIGHTS

BY: 
Peter Lindstrom, Mayor

ATTEST:


Justin Miller, City Administrator/Clerk