

ORDINANCE NO. 11-02

**AN ORDINANCE AMENDING CHAPTER 7
OF THE NEW HOPE CODE BY ADDING
SECTION 7-3 REGULATING DANGEROUS
AND POTENTIALLY DANGEROUS ANIMALS**

The City Council of the City of New Hope ordains:

Section 1. Section 7-3 “**Regulation of dangerous and potentially dangerous animals**” of the New Hope City Code is hereby added to Chapter 7 of the Code to read as follows:

Sec. 7-3. Regulation of dangerous and potentially dangerous animals.

Except as otherwise provided in §7-3 of this Code, the regulatory and procedural provisions of Minn. Stat. §§347.50 to 347.565 are adopted by reference.

(1) *Definitions:* For the purpose of §7-3, the terms defined in this section have the meanings given them.

a. **Dangerous animal** means any animal that has:

- i. without provocation, inflicted substantial bodily harm on a human being on public or private property;
- ii. killed a domestic animal without provocation while off the Owner's property;
- iii. been found to be potentially dangerous, and after the Owner has notice that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals; or
- iv. displays evidence that it has been or will be used for fighting and whose Owner is in possession of training apparatus, paraphernalia, or drugs intended to be used to prepare or train an animal for fighting.

b. **Great bodily harm** has the meaning given it under Minn.Stat. § 609.02, subd. 8.

c. **Potentially dangerous animal** means any animal that:

- i. when unprovoked, inflicts bites on a human or domestic animal on public or private property;
- ii. 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 animal Owner's property, in an apparent attitude of attack; or

iii. has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

d. **Proper enclosure** means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the animal. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal 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 animal from exiting.

e. **Provocation** means an act that an adult could reasonably expect may cause an animal to attack or bite.

f. **Substantial bodily harm** has the meaning given it under Minn.Stat. § 609.02, subd. 7a.

g. **Dangerous animal tag.** A standardized tag affixed to an animal's collar containing the dangerous animal symbol as described in Minn.Stat. § 347.51 identifying an animal as dangerous.

(2) **Exemptions.** This section does not apply to an animal owned and controlled by local, state and federal law enforcement agencies that are used in law enforcement or related activities. Animals may not be declared potentially dangerous or dangerous if the threat, injury, or danger was sustained by a person who was:

a. Committing a willful trespass or other tort upon the premises occupied by the Owner of the animal;

b. Provoking, tormenting, abusing or assaulting the animal, or who can be shown to have a history of repeatedly provoking, tormenting, abusing, or assaulting the animal; or

c. Committing or attempting to commit a crime.

(3) **Potentially dangerous animal.**

a. **Notice to Owner of Declaration.** The Animal Control Officer shall notify the Owner by delivering, mailing, or posting on the Owner's

residence a notification informing the Owner of the declaration of its animal as potentially dangerous, the basis for the declaration, the procedure for appealing the declaration, and the result of the Owner's failure to appeal the declaration as described in §7-3(3)b. of this Code.

- b.* **Appeal.** An appeal of the declaration must be submitted on the form supplied by the city. The completed form and appeal fee set out in Chapter 14 of this Code must be returned to the police department within fourteen days after notification. The appeal shall consist of a record review by the Chief of Police, or the Chief's designee. The Owner shall be notified of the results of the record review within ten days of the receipt of the completed appeal form and fee. If the Owner fails to appeal the declaration within fourteen days, the Owner forfeits the right to appeal and the declaration of the animal as potentially dangerous is final. If the declaration is upheld, the Owner must comply with all applicable requirements.
- c.* **Registration.** Any person who has an animal that has been designated as a potentially dangerous animal pursuant to this section or pursuant to Minn.Stat. § 347.50, must register the animal as a potentially dangerous animal with the city subject to the following conditions:

 - i.* The Owner shall make the potentially dangerous animal available to be photographed by the Animal Control Officer for identification purposes at a time and place specified by the Animal Control Officer.
 - ii.* The registration of the potentially dangerous animal must be renewed annually with the city until the animal is deceased or is determined to be no longer potentially dangerous. The current Owner of a potentially dangerous animal must notify the Animal Control Officer in writing of the death of the animal or its transfer to another owner or to another location within 30 days of the animal's death or transfer. If requested by the city, the Owner must execute an affidavit under oath setting forth the circumstances of the animal's death and disposition or the complete name, address and telephone number of the person to whom the animal was transferred. The Animal Control Officer, or its designee, shall be allowed to inspect the animal and the place where the animal is now located at any reasonable time.

iii. The Owner of a potentially dangerous animal must be 18 years of age or older.

- d.* **Microchip implantation.** Any animal that is determined to be potentially dangerous by the city pursuant to the definition and process contained in this section or pursuant to Minn.Stat. § 347.50 shall be implanted with a microchip for identification purposes within fourteen days of the final declaration of the animal as potentially dangerous. All costs related to purchase and implantation of the microchip shall be borne by the Owner of the animal. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the Owner, the city may have a microchip implanted in the animal at the Owner's expense. Upon request, the Owner or custodian of a potentially dangerous animal must make the animal available to the Animal Control Officer, or its designee, for an inspection to determine whether a microchip has been implanted.
- e.* **Sterilization.** The city may require a potentially dangerous animal to be sterilized at the Owner's expense within 30 days of the final declaration of the animal as potentially dangerous. If the Owner does not have the animal sterilized, the Animal Control Officer, or its designee, may arrange for and have the animal sterilized at the Owner's expense. Upon request, the Owner of a potentially dangerous animal must make the animal available to the Animal Control Officer, or its designee, for an inspection or provide proof in the form of a statement from a licensed veterinarian to determine whether the animal has been sterilized.
- f.* **Obedience Class.** The city may require that the Owner and its potentially dangerous animal attend and complete an approved obedience class.

(4) Dangerous Animals.

- a.* **Notice to Owner of Declaration.** The Animal Control Officer shall notify the Owner of the declaration by delivering, mailing or posting a notification on the Owner's residence. The notice shall include:
- i.* a description of the animal; the authority for and purpose of the dangerous animal declaration and seizure, if applicable; the time, place, and circumstances under which the animal was declared dangerous; and the telephone number and contact person where the animal is being kept, if applicable;

subsection as well as those provided in Minn.Stat. §§ 347.51, 347.515, and 347.52. After being presented with sufficient evidence that the state law and city requirements have been met as provided below and in state law, the City shall issue a certificate of registration to the Owner of a dangerous animal subject to the following conditions:

- i.* The Owner shall make the dangerous animal available to be photographed by the Animal Control Officer for identification purposes at a time and place specified by the Animal Control Officer.
- ii.* The registration of the dangerous animal must be renewed annually with the city until the animal is deceased or is determined to be no longer dangerous. The current Owner of the dangerous animal must notify the Animal Control Officer in writing of the death of the animal or its transfer to another owner or to another location within 30 days of the animal's death or transfer. If requested by the city, the Owner must execute an affidavit under oath setting forth the circumstances of the animal's death and disposition or the complete name, address and telephone number of the person to whom the animal was transferred.
- iii.* The Owner of the dangerous animal must be 18 years of age or older.
- iv.* The Owner of a dangerous animal must post a sign with the uniform dangerous animal warning symbol in a conspicuous location near the front door of the property. The city shall provide the Owner with a warning symbol for posting on the Owner's property pursuant to Minn.Stat. § 347.51, subd. 2a. The city may charge the registrant a reasonable fee for the symbol.
- v.* A dangerous animal must be securely confined indoors or confined in a secure outdoor enclosure suitably sized for the animal and otherwise meeting the requirements of a proper enclosure. An enclosure is secure and proper within the meaning of this section if it meets the following minimum specifications:
 - 1.* a floor area of thirty-two (32) square feet per animal kept in such enclosure;

2. a sidewall height of five (5) feet, constructed of eleven (11) gauge or heavier wire with openings that do not exceed two (2) inches and ;
3. if the enclosure is on a permeable surface, the fence must be buried a minimum of eighteen (18) inches into the ground;
4. the support posts are one and one-quarter (1 1/4) inch or larger steel pipe buried a minimum of eighteen (18) inches into the ground;
5. A cover over the entire kennel that is constructed of the same gauge wire as the sidewalls or heavier with openings no greater than two (2) inches;
6. An entrance/exit self closing, self locking gate constructed of the same material as the sidewalls and with openings no greater than two (2) inches; and
7. is in compliance with all zoning setbacks requirements unless a variance is obtained.

When the animal is confined in an enclosure, all access points of the enclosure must be locked. The Animal Control Officer may seize a dangerous animal that is unconfined while on the Owner's property and not otherwise restrained as required by §7-3(4)f.

- vi. A dangerous animal shall be sterilized at the Owner's expense within 30 days of the final determination of the animal as dangerous. If the Owner does not have the animal sterilized, the Animal Control Officer, or its designee, may arrange for and may have the animal sterilized at the Owner's expense. Upon request, the Owner of a dangerous animal must make the animal available to the Animal Control Officer, or its designee, for an inspection to determine whether the animal has been sterilized.
- vii. Any animal that is determined to be dangerous by the city pursuant to the definition contained within this section or pursuant to Minn.Stat. § 347.50 shall be implanted with a microchip for identification purposes within fourteen days of the final determination of the animal as dangerous. All costs related to purchase and implantation of the microchip shall be borne by the Owner of the animal. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the Owner, the city may have a microchip implanted in the

animal at the Owner's expense. Upon request, the Owner or custodian of a dangerous animal must make the animal available to the Animal Control Officer, or its designee, for an inspection to determine whether a microchip has been implanted.

- viii. The Owner of a dangerous animal must obtain a surety bond or a policy of liability insurance from a company authorized to conduct business in Minnesota in the amounts set forth in Minn.Stat. § 347.51, subd. 2.
- d. **Obedience Class.** The city may require that the Owner and its dangerous animal attend and complete an approved obedience class.
- e. **Dangerous animal tag required.** The Owner of an animal designated as dangerous must obtain from the city and affix an additional tag to the animal's collar identifying the animal as dangerous and containing the dangerous animal symbol as further set forth in Minn.Stat. § 347.51. The city may charge the Owner a reasonable fee for the dangerous animal tag.
- f. **Restraint.** If a dangerous animal is outside of the proper enclosure, it must be securely muzzled and restrained with a chain not exceeding three feet in length, and having a tensile strength sufficient to restrain it. The animal's muzzle must be designed in a manner that will prevent it from biting any person or animal but that will not cause injury to the animal or interfere with its vision or respiration.
- g. **Removal of dangerous animal classification.** Beginning six months after an animal is declared a dangerous animal, pursuant to Minn.Stat. § 347.51, subdivision 3a, the Owner may request on an annual basis that the city review the animal's designation as a dangerous animal. The Owner must provide evidence that the animal's behavior has changed due to the animal's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the Chief of Police or the Chief's designee, finds sufficient evidence that the animal's behavior has changed, the city may rescind the dangerous animal classification or take any other reasonable action suggested by the facts. The Owner of the animal shall be notified in writing of the review results within ten days of receipt of the request.

- h.* **Concealment.** Any person who harbors, hides, or conceals an animal declared dangerous that has been ordered into custody shall be guilty of a misdemeanor.

(5) Seizure of Dangerous Animals.

- a.* **Seizure.** The Animal Control Officer shall immediately seize a dangerous animal if:

 - i.* after fourteen days after the Owner has notice that the animal is dangerous, the animal is not validly registered under Minn.Stat. § 347.51;
 - ii.* after fourteen days after the Owner has notice that the animal is dangerous, the Owner does not secure the proper liability insurance or surety coverage;
 - iii.* the animal is not maintained in the proper enclosure;
 - iv.* the animal is outside the proper enclosure and not under physical restraint of a responsible person; or
 - v.* the animal is not sterilized within 30 days.
 - vi.* If an Owner of an animal is convicted of a crime for which the animal was originally seized, the court may order that the animal be confiscated and destroyed in a proper and humane manner, and that the Owner pay the costs incurred in confiscating, confining, and destroying the animal.
- b.* **Reclaimed.** A dangerous animal seized under §7-3(4)h. of this Code may be reclaimed by the Owner of the animal upon payment of impounding and boarding fees, and presenting proof to the Animal Control Officer, or its designee, that the requirements of Minn.Stat. §§ 347.51 and 347.52 will be met. An animal not reclaimed as provided herein within seven days of its seizure may be disposed of as provided under Minn.Stat. § 347.541, subdivision 3, and the Owner is liable for costs incurred in confining and disposing of the animal.
- c.* **Subsequent Offenses.** If a person has been convicted of a misdemeanor for violating a provision of Minn.Stat. §§347.51, 347.515, or 347.52, and the person is charged with a subsequent violation relating to the same animal, the animal will be seized by the Animal Control Officer. If the Owner is convicted of the crime for

which the animal was seized, the court shall order that the animal be destroyed in a proper and humane manner and the Owner pay the cost of confining and destroying the animal. If the Owner is not convicted and the animal is not reclaimed by the Owner within seven days after the Owner has been notified that the animal may be reclaimed, the animal may be disposed of as provided under Minn.Stat. §35.71, subdivision 3.

- d. **Prevention of Disposition of Seized Animals.** A person claiming an interest in a seized animal may prevent disposition of the animal by posting security in an amount sufficient to provide for the animal's actual cost of care and keeping. The security must be posted within seven days of the seizure inclusive of the date of the seizure.
- e. **Right to a Hearing When Animal Seized.** The Owner of any seized animal has the right to a hearing before an impartial hearing officer. The notice and hearing requirements provided in §§7-3(4)a. and b. of this Code shall apply.

(6) Restrictions on future ownership.

- a. **Convictions.** A person may not own an animal if he or she has been convicted of any of the violations set forth in Minn.Stat. §347.542. This prohibition applies to any member of that same person's household.
- b. **Non-Compliance.** An Owner of a potentially dangerous animal or dangerous animal that fails to comply with the requirements of this section or state law may be prohibited or restricted from future ownership or custody of other animals. An Owner in violation of this section or state law shall be notified in writing and may request a hearing within 14 days of the receipt of the notice of violation. If a hearing is requested, the Chief of Police, or Chief's designee, shall schedule a hearing before an impartial hearing officer within 14 days of the receipt of the request. A hearing fee shall be paid to the city prior to the scheduling of the hearing. The Owner shall be notified of the hearing results in writing within ten days.

(7) Penalty.

- a. A person who violates a provision of Minn.Stat. §§ 347.51, 347.515, or 347.52 is guilty of a misdemeanor.

- b. It is a misdemeanor to remove a microchip from a dangerous or potentially dangerous animal, to fail to renew the registration of a dangerous animal, to fail to account for a dangerous animal's death or change of location where the animal will reside, to sign a false affidavit with respect to a dangerous animal's death or change of location where the animal will reside, or to fail to disclose ownership of a dangerous animal to a property owner from whom the person rents property.
- c. A person who violates a provision of §§7-3(3), 7-3(4), 7-3(9) or 7-3(10) is guilty of a misdemeanor.
- d. A person who is convicted of a second or subsequent violation referenced in §§7-3(7)a., 7-3(7)b. or 7-3(7)c. of this Code is guilty of a gross misdemeanor.
- e. An Owner who violates Minn.Stat. § 347.542, subdivision 1, or §7-3(6) of this Code relating to Restrictions on future ownership is guilty of a gross misdemeanor.
- f. Any household member who knowingly violates Minn.Stat. § 347.542, subdivision 2, or §7-3(6) of this Code relating to Restrictions on future ownership, is guilty of a gross misdemeanor.

(8) Destruction of an Animal in Certain Circumstances.

- a. Notwithstanding Minn.Stat §§ 347.51 to 347.55, an animal may be destroyed in a proper and humane manner by the Animal Control Officer, or its designee, if the animal:
 - i. inflicted substantial or great bodily harm on a human on public or private property without provocation;
 - ii. inflicted multiple bites on a human on public or private property without provocation;
 - iii. bit multiple human victims on public or private property in the same attack without provocation; or
 - iv. bit a human on public or private property without provocation in an attack where more than one animal participated in the attack.

b. **Hearing.** The animal may not be destroyed until the Owner has had the opportunity for a hearing before an impartial decision maker.

(9) *Public protection from animals.* An Owner of a animal shall at all times prevent the animal from attacking, biting or otherwise causing injury or attempting to cause injury to any person engaged in a lawful act or from causing injury or attempting to cause injury to another domestic animal.

(10) *Conditioning equipment prohibited.*

a. No person shall use or possess any device, equipment, treatment or products for the strengthening or conditioning of an animal with the intent to enhance the animal's ability to inflict bodily injury upon human beings or domestic animals on public or private property.

b. This prohibition includes the use for any purpose of a chain that exceeds ten (10) pounds per foot or where any link exceeds 2.5 inches in length.

c. This prohibition shall not apply to equipment used to train an animal for recreational hunting assistance. Recreational hunting training assistance equipment shall include but not be limited to soft hold training and decoy retrieval apparatuses.

(11) *Retroactive Application.* §7-3 of this Code shall apply to all animals previously designated or registered as dangerous or potentially dangerous under Minnesota State Law or with Hennepin County, Minnesota. Any animal previously designated or registered as dangerous or potentially dangerous must comply with the requirements of this section.

Section 2. Section 7-2(1) "*Licenses, registration and vaccination*" of the New Hope City Code is hereby amended to read as follows:

(1) *License, registration and vaccination.*

a. **Licenses required.** All dogs, cats and ferrets kept, harbored or maintained by their owners in the city shall be licensed and registered if over six months of age. Any animal or dog determined by the city's animal control officer to be a "dangerous animal or dog" or a "potentially dangerous animal or dog" as those terms are defined by Minn. Stat. § 347.50, shall register said animal or dog with the animal control officer in accordance with §7-3 of this Code and Minn. Stat. § 347.51. The requirements to keep a dangerous animal or dog or a potentially

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dangerous animal or dog as set out in §7-3 of this Code or Minn. Stat. §§347.50 through 347.55 shall apply in addition to and not in exclusion of the other requirements to keep and maintain animals within the city. In the event of any inconsistency between Minn. Stat. §§ 347.50 through 347.55 and the provisions of this Code as it relates to the regulation of dangerous animals or dogs or potentially dangerous animals or dogs, the most stringent regulation shall apply.

Section 3. Section 14-7 “*Pet licenses and animal boarding and impound fees*” of the New Hope City Code is hereby amended by adding subsection (7) “*Dangerous and potentially dangerous animal fees*” to read as follows:

- (7) *Dangerous and potentially dangerous animal fees.*
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|---|----------|
| a. Appeal of potentially dangerous animal declaration ... | \$50.00 |
| b. Registration of potentially dangerous animal ... | no fee |
| c. Appeal of dangerous animal declaration ...
(plus cost of hearing per §7-3(4)b.) | \$100.00 |
| d. Registration of dangerous animal (annually)... | \$250.00 |
| e. Dangerous animal warning sign (provided by City) ... | \$7.50 |
| f. Dangerous animal collar tag (provided by City) ... | \$3.50 |

Section 4. Effective Date. This Ordinance shall be effective upon its passage and publication.

Dated the 25th day of April, 2011.

Kathi Hemken, Mayor

Attest: _____
Valerie Leone, City Clerk

(Published in the New Hope-Golden Valley Sun-Post the 5th day of May, 2011.)

