Proposed Ordinance regarding the Keeping of Non-Domestic Animals
First Reading

March 31, 2022

The Honorable Mayor Fournier and Members of the City Commission:

Last fall the city commission passed a moratorium prohibiting non-domestic animals in Royal Oak, which expires on May 8, 2022. During this time staff shared information on practices from nearby communities with residents and gathered feedback regarding their preferences. At the last city commission meeting, an non-action item was included on the consent agenda regarding the results of the survey. Most respondents indicated that they were Royal Oak residents, and prohibition was their most preferred outcome. Additionally, residents supported a provision that would allow the city to recover costs associated with staff time, and equipment needed into the event that a prohibited animal escaped or needed to be removed.

In alignment with the survey results and taking into consideration the city commission’s previous discussion on the moratorium, staff is bringing forward a proposed ordinance (Attachment 1) that would prohibit non-domestic animals. Since this ordinance is less temporary than a moratorium, the city commission may wish to consider the following points.

• **Prohibited Animals.** The language presented in this draft ordinance reflects the conversation the commission had when approving the moratorium and staff has modified a few subsections to include all poisonous or venomous animals, and larger animals such as alligators, crocodiles, and primates.

• **Exceptions.** Based on community feedback there are exceptions for animals already in the community (described below), wildlife rehabilitators providing temporary care to animals, and for the Detroit Zoo.

• **Registration.** The community survey showed that a small number of people had animals that may become prohibited, and most respondents were either supportive or neutral toward allowing existing prohibited animals to remain.

In the proposed ordinance we have included a clause that allows animals legal under state and federal law but prohibited under the ordinance to be licensed within 120 days of the effective date. The owner would be prohibited from registering animals acquired after November 7, 2021, which is the date prior to moratorium. If the city commission does not support this type of provision, then staff would recommend a provision specifying a number of days after the effective date that residents will have to relocate the animals.

• **Removal, Euthanizing, and Cost Recovery.** This section of the proposed ordinance allows the city to further resolve situations as they arise by removing the animal. While euthanizing is not a preferred outcome, staff recognizes that there may be situations where it may be necessary. In this section is the cost recovery element that allows the city to recover any costs associated with situations where the animal has escaped or otherwise involves a response from the city.
Staff is presenting this ordinance for city commission consideration and the following resolution is recommended for approval:

**Be it resolved**, that ordinance 2022- ##, titled ordinance to prohibit keeping on non-domestic animals in residential areas in the city of Royal, is hereby approved on first reading.

Respectfully submitted,
Susan Barkman
Assistant to the City Manager

Approved

Paul J. Brake, ICMA-CM, CEcD
City Manager

1 Attachment
ORDINANCE NO. 2022 - XX

AN ORDINANCE TO PROHIBIT THE KEEPING OF NON-DOMESTIC ANIMALS IN RESIDENTIAL AREAS IN THE CITY OF ROYAL OAK.

THE CITY OF ROYAL OAK ORDAINS:

SECTION 1. FINDINGS, INTENT AND PURPOSE.

(a) The City Commission finds that the keeping, harboring or possession of non-domestic animals within the Royal Oak city limits represents a danger to the safety of persons within the City and to their domestic animals, regardless of the method used to confine, because of the danger that would be presented by such an animal’s escape from confinement or even while confined.

(b) It is within the rights and authority of the City of Royal Oak, as a Michigan Home Rule city and pursuant to its City Charter, to establish comprehensive reasonable regulations to regulate the keeping of non-domestic animals within the City.

SECTION 2. DEFINITIONS. The following definitions shall be used in this Chapter:

NON-DOMESTIC ANIMALS. Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

(a) Any member of the cat family (family felidae), including, but not limited to lions, tigers, cougars, bobcats, leopards and jaguars and smaller African cats, but excluding commonly accepted domesticated house cats.

(b) Any naturally wild member of the canine family (family canidae) including but not limited to wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any poisonous or venomous animal.

(e) Any non-native and inherently dangerous animal including but not limited to members of the reptile, amphibian, or primate families.

(f) Any animals prohibited under state or federal law shall also be prohibited within the city.

RESIDENTIAL AREA. Land used as a permanent residence or domicile, such as a house, apartment, nursing home, school, childcare facility or prison, land zoned for such uses, or land where no zoning is in place.

SECTION 3. PROHIBITED NON-DOMESTIC ANIMALS. It shall be unlawful for any person to keep, harbor or possess, breed, sell, buy, one or more non-domestic animals as defined in this Ordinance or attempt to do any of these actions in any residential area in the City of Royal Oak.

SECTION 4. EXCEPTIONS. The following situations shall be a considered an exception to Section 3.

(a) An animal that is permitted under state and federal law, or is otherwise not addressed by state and federal law, but is prohibited under this ordinance as described in section 3 and is in the possession of and owned by a Royal Oak resident at the time this ordinance is passed shall be an exception of this ordinance if the animal is licensed in accordance with section 7.

(b) The resident is a licensed wildlife rehabilitator temporarily caring for an animal under that license.

(c) The Detroit Zoo or other licensed zoological parks, aquariums, and veterinary care facilities are not subject to this ordinance.
SECTION 5. ENFORCEMENT

(a) This article shall be enforced by the police and fire departments of the City and the Animal Control Officer of the City and any of his/her deputies or other agencies providing assistance at the request of the police and fire department or Animal Control. They are hereby authorized and empowered to serve a summons for violation of this chapter, as provided by Section 6 of this chapter and to issue and serve appearance tickets in lieu of a summons for violation. They are further authorized to enforce the removal and euthanizing procedures as detailed below.

(b) It shall be unlawful for any person to interfere with, prevent or hinder any public safety or animal control officer in the enforcement of this chapter or the performance of any act required or authorized by this chapter.

SECTION 6. REMOVAL, EUTHANIZATION AND COST RECOVERY.

(a) Upon a sworn complaint that an animal is prohibited by this article, and is currently being illegally owned, possessed, bought, sold, bred or maintained, a district court judge or magistrate shall issue a summons to the owner ordering him to appear to show cause why the animal should not be removed from the city.

(b) Upon the filing of a sworn complaint as provided herein, the court may order the owner or possessor of the non-domestic animal to immediately turn the animal over to the Animal Control Officer, an incorporated humane society, a licensed veterinarian, or a boarding kennel, or another facility equipped to properly house and care for the non-domestic animal, 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. If the owner is unable to designate an appropriate facility, then the Animal Control Officer shall have the authority to select the facility that shall house and care for the animal.

(c) After a hearing, the Court shall issue its findings and opinions as to whether the animal is prohibited and subject to removal under this article. If the court finds that the animal is prohibited by this article, the animal shall be removed from the city. If the court finds that the animal is prohibited that has caused serious bodily injury to or death of a person or lawfully owned animal the court may order euthanizing. If the court does not order euthanizing, the court shall order the prohibited non-domestic animal be removed from the city. If the court finds that the animal is prohibited and has not caused serious bodily injury to or death of a person or lawfully owned animal, but the animal is likely to in the future the court may order euthanizing. If the court does not order euthanizing, the court shall order the prohibited animal be removed from the city.

(d) Non-domestic animals that have bitten, attacked or otherwise come in physical contact with a person or lawfully owned animal are subject to immediate seizure and pick-up by a proper animal control authority or public safety officer, to be held at a facility equipped to house and care for the animal designated by the animal control authority or public safety officer, at the owner and possessor's expense, pending the prompt filing and processing of the complaint described in this section.

The complaining witness shall promptly comply with the complaint requirements of subsections (a) and (b) of this section

(e) The city of Royal Oak shall have the right to recover costs related to search, capture, impoundment, removal, care, relocation, for or euthanizing of any non-domestic animals regardless of whether or not it is a prohibited non-domestic animal or falls under Section 4 Exceptions.

SECTION 7. REGISTRATION. Animals qualifying under Section 4(a) shall be required to licensed with the City Clerk's Office.

(a) Registration is required within 120 days of the effective date of this ordinance and shall be renewed annually until the animal is transferred to another owner outside of the city, the owner no longer lives in the city or upon death of the animal. Owners shall notify the City Clerk's Office if the animal no longer resides within the city or is deceased.
(b) The owner must provide proof of ownership as of November 7, 2021.

(c) Registration shall only be valid for animals allowed under state and federal law but prohibited by this ordinance. The owner of the animal shall not be allowed to register animals acquired after November 7, 2021.

(e) Registration is only valid for the original owner and is not transferable to another resident within the city. Owner may change primary residences within the city and update the city clerk’s office with new information.

(f) The registration is only valid so long as the owner continuously maintains a primary residence within the city of Royal Oak.

(g) Failure to register the animal within 120 days will result in the animal being prohibited and subject to removal.

(h) The owner of a non-domestic animal shall at all times maintain a policy of insurance in a minimum amount of $1,000,000 to cover claims for any personal injuries inflicted by the animal, which policy shall be issued by an insurer authorized to transact business in the State of Michigan.

(i) The non-domestic animal shall be provided with a suitable enclosure that is designed to separate it from the public areas of the community. The owner is also responsible for providing adequate care to the animal.

(j) The city shall set a registration fee annually.

SECTION 8. PENALTIES. A person who violates this article is guilty of a misdemeanor punishable by a fine of not more than $500.00 and/or 90 days in jail and the prohibited non-domestic animal is subject to removal and may be euthanized. It is not a defense to a criminal charge of violating this ordinance that the non-domestic animal was or had been tamed.

SECTION 9. SEVERABILITY. If any Section, subsection, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this ordinance, and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 10. 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 when they are commenced.

CITY OF ROYAL OAK

_________________________________________  _______________________________________
Michael Fournier, Mayor                      Melanie Halas, City Clerk

Date:                                      Date:

Approved as to form:  ______________________________________

Aaron Leal, City Attorney