

..Number

070346

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PROPOSED SUBSTITUTE (A)

..Reference

..Sponsor

THE CHAIR

..Title

A substitute ordinance relating to animal regulations.

..Sections

78-1-11 am

78-1-13 rn

78-1-13 cr

78-1-14 rn

78-1-15 rn

78-1-16 rn

78-1-17 rn

78-1-18 rn

78-1-19 rn

78-1-20 rn

78-1-21 rn

78-1-21 am

78-1-22 rn

78-1-22 am

78-1-23 rn

78-1-23 am

78-1-24 rn

78-5-2-b am

78-5-4 am

78-7-2-a am

78-9-2 rn

78-9-2-b cr

78-19-4 rn

78-19-4 cr

78-21-1 rc

78-21-2 am

78-23-2 am

78-25-2-d am

78-27-1 rc

78-27-4 cr

78-31-3-c am

78-31-3-d cr

78-31-5 am

78-37 am

..Analysis

This ordinance makes various changes to code provisions relating to animal regulations. The changes include the following:

1. The definitions of certain terms related to animal regulations are modified, and new terms and definitions are added.
2. Animals offered for sale shall only be domesticated animals and shall not include those prohibited by code.
3. No person may place any food, water or material that can be used as food or water by any animal on any street, alley, sidewalk, lawn, field or on any public property or private property. Food and water may be placed on one's own property when the intended purpose is to feed animals owned by the resident of the property provided the food is safeguarded from stray domestic or wild animals.
4. An animal owner or caretaker who contests the determination of a dangerous animal panel designated by the commissioner of neighborhood services that his or her animal is a prohibited dangerous animal may appeal the panel's decision to circuit court rather than to the administrative review appeals board, as is the case currently.
5. The owner of any animal which has or may have bitten any person shall, upon demand by the department of neighborhood services, produce and surrender the animal to be held in quarantine for a minimum of 10 days.

..Body

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 78-1-11 of the code is amended to read:

78-1. Definitions.

11. DOMESTICATED ANIMAL means any bird or animal of any species which usually lives in or about the habitation of humans as a pet or animal companion > > as determined by the department< < . The term does not include a dangerous animal or a prohibited dangerous animal.

Part 2. Section 78-1-13 to 24 of the code is renumbered 78-1-14 to 25.

Part 3. Section 78-1-13 of the code is created to read:

13. EXOTIC ANIMAL means any of the following:

- a. Any warm-blooded animal which in accordance with the recommendations of the compendium of animal rabies control from the National Association of State Public Health Veterinarians, Inc., is not able to be effectively vaccinated against rabies, except guinea pigs, hamsters and other similar animals as determined by the department.

- b. Any animal dead or alive, mammal, bird, reptile, amphibian or invertebrate which because of its size, venom or generally known aggressive or wild propensities is considered dangerous.
- c. Any type of species of animal, except a farm animal, which is not normally or customarily kept in a private home or on private property as a pet in any municipality.
- d. Any non-human primate.
- e. Any animal or invertebrate described in scientific study or in advertising by sellers as being generally dangerous or as being dangerously venomous to humans or domestic animals.
- f. Any animal or invertebrate which is illegal to own or for which a special state or federal license or permit is required to own in Wisconsin.
- g. Any constricting-type snake longer than 6 feet in length or which because of its size, cannot be safely moved by fewer than 2 persons.
- h. Any and all crocodilians and carnivorous reptiles, except snakes, which have or will achieve a length of 12 or more inches.

Part 4. Section 78-1-21 to 23 of the code is amended to read:

21. PET SHOP means a business establishment > > not operated by state, county or local government< < , other than a kennel, where domesticated mammals, birds, fish or reptiles are kept for sale.

22. PIT BULL means any dog which is one-half or more American staffordshire terrier, staffordshire terrier, American pit bull terrier, miniature bull terrier or staffordshire bull terrier > > in breed or appearance as determined by the department< < .

23. PROHIBITED DANGEROUS ANIMAL means:

- a. Any animal that is determined to be a prohibited dangerous animal under s. 78-25.
- b. Any animal that, while ~~[[off the owner's or caretaker's]]~~ > > on public or private< < property, has killed a domestic pet ~~[[or]]~~ > > an animal > > or a person< < without provocation.
- c. Any animal that, without provocation, inflicts substantial bodily harm on a > > domestic pet, animal or a< < person on public or private property.
- d. Any animal brought from another city, village, town or county that is described under 78-5-2-b.
- e. Any dog that is subject to being destroyed under s. 174.02(3), Wis. Stats.
- f. Any dog trained, owned or harbored for the purpose of dog fighting.

Part 5. Section 78-5-2-b and 4 of the code is amended to read:

78-5. Keeping of Animals Within City.

2. CERTAIN ANIMALS PROHIBITED.

- b. No person may bring into or keep in the city an animal that a Wisconsin city, village, town or county has declared dangerous or vicious, has banished from the city, village, town or county or has ordered to be destroyed. The commissioner

may declare such an animal to be a prohibited dangerous animal in Milwaukee upon receipt of an ~~[[official]]~~ > > oral or a < < written declaration from the other city, village, town or county setting forth the grounds for the declaration, the name of the animal, if known, and the description of the animal.

4. ANIMAL REMOVAL. The department or the ~~[[humane society]]~~ > > Milwaukee area domestic animal control commission < < may confiscate and remove animals from a premises for violation of subs. 1, 2 or 3 or ss. 78-23, 25 and 31. The department may convey such animals to the ~~[[humane society]]~~ > > Milwaukee area domestic animal control commission < < to be housed and handles appropriately. If necessary, such animals may be disposed of in a humane manner by the department, ~~[[humane society]]~~ > > Milwaukee area domestic animal control commission < < or their designee.

Part 6. Section 78-7-2-a of the code is amended to read:

78-7. Kennels, Horse Stables and Animal Fancier Permits.

2. ANIMAL FANCIER PERMITS. a. The commissioner ~~[[shall]]~~ > > may < < issue an animal fancier permit upon the payment of all applicable fees required in s. 60-3, provided that the owner has no outstanding violations under this chapter.

Part 7. Section 78-9-2 of the code is renumbered 78-9-2-a.

Part 8. Section 78-9-2-b of the code is created to read:

78-9. Pet Shops.

2. OPERATION.

b. Animals offered for sale shall only be domesticated animals as defined in s. 78-1-11, or those otherwise authorized by the department, but not any animals prohibited in s. 78-5-2 or defined in s. 78-1-13.

Part 9. Section 78-19-4 of the code is renumbered 78-19-5.

Part 10. Section 78-19-4 of the code is created to read:

78-19. Animals at Large; Animal Litter Nuisance.

4. PLACING FOOD FOR ANIMALS. No person shall place any food, water or material that can be used as food or water by any animal on any street, alley, sidewalk, lawn, field or on any public property or private property. Food and water may be placed on one's own property when the intended purpose is to feed animals owned by the resident of the property provided the food is safeguarded from stray domestic or wild animals. This subsection shall not prohibit any proper bird feeding as provided in s. 78-35.

Part 11. Section 78-21-1 of the code is repealed and recreated to read:

78-21. Impounding of Animals.

1. IMPOUNDING. The commissioner, any police officer or humane officer finding an animal or its owner in violation of any provision of this chapter may seize the animal and impound it in a place designated by the commissioner.

Part 12. Section 78-21-2 of the code is amended to read:

2. REPOSSESSION. The possession of any animal so seized or impounded may be obtained by the owner upon payment of the fee required in s. 60-5 plus the current daily fee for keeping such animal for each calendar day or fraction thereof during which the animal has been impounded. > > The owner shall be in compliance with all provisions of this chapter as prescribed by the commissioner.< < The possession of an unlicensed dog or cat may be obtained by the owner after he or she obtains the required license and pays the specified impoundment and daily fee for keeping the dog or cat.

Part 13. Section 78-23-2 of the code is amended to read:

78-23. Harboring Dangerous Animals.

2. LEASH AND MUZZLE. No person owning, harboring or having the care of a dangerous animal may permit such animal to go outside its kennel or pen unless the animal is securely leashed with a leash no longer than 4 feet in length. No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person who is 16 years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal is in physical control of the leash. The animal may not be leashed to inanimate objects such as trees, posts and buildings. A dangerous animal on a leash outside the animal's kennel shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals. A dangerous animal shall not be required to be muzzled upon prior written approval of the ~~[[health]]~~ department or when shown in a sanctioned American Kennel Club show. The written approval shall be carried by the owner or caretaker.

Part 14. Section 78-25-2-d of the code is amended to read:

78-25. Prohibited Dangerous Animals.

2. DETERMINATION OF A PROHIBITED DANGEROUS ANIMAL.

d. After the hearing, the owner or caretaker shall be notified in writing of the panel's determination. If a determination is made that the animal is a prohibited dangerous animal, the owner or caretaker shall comply with sub. 1 in accordance with a time schedule established by the commissioner or chief of police, but in no case more than 30 days after the date of the determination. If the owner or caretaker further contests the determination, he or she may, within 5 days of receiving the panel's decision, appeal the decision to the ~~[[administrative review appeals board]]~~ > > circuit court< < .

Part 15. Section 78-27-1 is repealed and recreated to read:

78-27. Control of Rabid Animals.

1.

a. The owner of any dog, cat or other animal which has or may have bitten any person shall, upon demand of the department, produce and surrender the dog, cat or other animal to the department to be held in quarantine for a minimum of 10 days. The animal owner shall be responsible for all impoundment costs pursuant to s. 78-21-2.

b. An animal which has a current rabies vaccination may, at the discretion of the department, be held in quarantine at the premises of the owner for a period of 10 days. Failure to obey all conditions and directions of the department pertaining to the quarantine period related to confinement may result in immediate impoundment of the animal. Animals that are allowed to be home-quarantined by the department shall be securely confined on the property and kept from contact with other animals. Failure to produce a home-quarantined animal to the department for a rabies determination immediately after the quarantine period shall be considered a violation of this section and shall be subject to the penalty provided in s. 78-55-5.

Part 16. Section 78-27-4 of the code is created to read:

4. No person may misrepresent the vaccination status of an animal to the commissioner, a veterinarian, police, medical, Milwaukee area domestic animal control commission or health official.

Part 17. Section 78-31-3-c of the code is amended to read:

78-31. Cruelty to Animals.

3. SHELTER.

c. Dogs and cats kept outdoors for more than one hour at a time shall be provided with moistureproof and windproof shelter of a size which allows the animal to turn around freely and to easily sit, stand and lie in a normal position and to keep the animal clean, dry and comfortable. Whenever the outdoor temperature is below 40° F, clean dry bedding material in quantity and type approved by a duly appointed humane society officer > > or the commissioner< < shall be provided in such shelters for insulation and to retain the body heat of the animal. Automobiles shall not be used as animal shelters.

Part 18. Section 78-31-3-d of the code is created to read:

d. No person shall confine and allow his or her animal to be outside during adverse weather conditions constituting a health hazard to the animal. Such an act shall be considered cruelty to the animal, and the animal may be impounded by the department. Owners seeking repossession of animals impounded under this section shall pay the fees described in s. 78-21-2 in addition to any fees related to veterinary care or impoundment.

Part 19. Section 78-31-5 of the code is amended to read:

78-31. Cruelty to Animals.

5. ANIMAL FIGHTING. a. ~~[[Instigation]]~~ > > Fight< < . No owner or caretaker of any animal shall cause or allow any animal to lunge at, or fight any other animal or person.

b. Veterinary care. No owner or caretaker of any animal which has attacked or fought with another animal or person shall fail to get prompt veterinary care for the animal if the animal is bleeding or injured, and shall provide a copy of a current dog license upon request. > > The commissioner, a police officer or a humane officer

may order veterinary care for an illness or malady which, in his or her opinion, causes pain or suffering to the animal.< <

Part 20. Section 78-37 of the code is amended to read:

78-37. Pigeon Harborages. Whenever the owner or tenant of any property in the vicinity of a premises upon which there are pigeon harborages makes a complaint to the department of a feral pigeon nuisance and if a pigeon nuisance is found to exist, the commissioner ~~[[shall]]~~ > > may< < order the owner or manager of the premises to make the premises reasonably pigeon-proof and when necessary cover openings with hardware cloth or other suitable material for preventing pigeons from entering in or upon the premises.

..LRB

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

..Requestor

..Drafter

LRB07258-1

TWM:mbh

7/26/2007