

VILLAGE OF HORTONVILLE
O - 5 - 20
ORDINANCE AMENDING CHAPTER 23
ANIMALS

BE IT ORDAINED by the Village Board of Trustees, Village of Hortonville, Outagamie County, Wisconsin, as follows:

CHAPTER shall be 23 shall be fully removed and replaced with the new Chapter 23 attached to this ordinance

It is so ordained this 5th day of June, 2020.

BY THE BOARD

Ayes 7

Jeanne Bellile
Jeanne Bellile, President

Nays 0

Dated: 6-4-2020

Jane Booth
Jane Booth, Clerk

Published and/or Posted Date: 6-5-20

Chapter 23 ANIMALS

ARTICLE I. IN GENERAL

23-1. Definitions

The following words and phrases when used in this chapter shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires.

- (1) *Animal* means any live, vertebrate creature, domestic or wild.
- (2) *At large or running at large* means an animal that is off the property and/or premises of the owner and/or caretaker and not under restraint. The term encompasses all places within the village except the animal owner's premises, and includes all streets, alleys, sidewalks, other public areas where animals are permitted and private property.
- (3) *Animal control officer* means any person designated by the police department to enforce this Code and state law as they pertain to animal control.
- (4) *Animal shelter* means any facility operated by a humane society or municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.
- (5) *Bodily harm* means bodily injury including, but not limited to, a laceration requiring stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing.
- (6) *Caretaker* means any person who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog, cat or any other domesticated bird or animal.
- (7) *Confined* means restriction of an animal at all times by the owner to an escape-proof building, vehicle or other enclosure.
- (8) *Cruelty or cruelly* means causing unnecessary and excessive pain, suffering or unjustifiable injury or death to an animal. Additionally, it shall be unlawful to tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.
- (9) *Domestic animal* means any animal which normally can be considered tame and converted to home life.
- (10) *Kennel* means any premises wherein any person engaged in the business of boarding, breeding, buying, letting for hire, training for a fee or selling of dogs or cats.
- (11) *Leash* means a strap, chain, or cord that is no more than eight (8) feet in length and of appropriate strength to control the animal, used by a person of sufficient capability to restrain, control, and guide an animal.
- (12) *Licensing authority* means the political body authorized to issue animal licenses.
- (13) *Molests* means excessive barking, running up to or charging, threatening, jumping on or otherwise harassing people or other domestic animals or the passing public that are in the public right-of-way, or on public property, or on their own property, or property of anyone other than the owner and/or caretaker of the animal.
- (14) *Owner* means any individual that has the right of property in an animal or who keeps, harbors, cares for, acts as its custodian or who knowingly permits an animal to remain on or about his premises/property for five (5) or more consecutive days.
- (15) *Prohibited dangerous animal* means any of the following:
 - (a) Any animal that is determined to be a dangerous animal under this chapter.

- (b) Any animal that, while off the owner or caretaker's property, has killed a domesticated animal without provocation.
 - (c) Any animal that, without provocation, inflicts serious bodily harm on a person on public or private property.
 - (d) Any animal brought from outside the village's jurisdictional area that has been declared dangerous or vicious by any other jurisdiction.
 - (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.
- (16) *Nuisance animal* means any animal which:
- (a) Molests passersby or passing vehicles;
 - (b) Attacks persons or animals without provocation when the persons or animals are peacefully conducting themselves in a place where they are lawfully entitled to be;
 - (c) Is at large on school grounds, parks or cemeteries;
 - (d) Is repeatedly at large;
 - (e) Damages private or public property;
 - (f) Barks, whines or howls in an excessive, continuous or untimely fashion;
 - (g) Any animal not having the vaccination as required by this chapter;
 - (h) Is the subject of repeated violations of this chapter.
- (17) *Restraint* means that the animal is secured by a leash not more than eight feet in length and under the control of a responsible person and obedient to that person's command, or within the real property limits of its owner.
- (18) *Serious bodily harm* means bodily injury which creates a substantial risk of death, or which causes serious 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 injury.
- (19) *Veterinary hospital* means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries of animals.

23-2. Enforcement; interference with enforcement personnel; penalties for violation.

- (1) The provisions of this chapter shall be enforced by officers of the police department or other persons authorized by the police chief.
- (2) The police department may grant any exemptions or variances to the enforcement of this chapter for dogs specially trained to lead blind or deaf persons, to provide support for mobility-impaired persons or to assist with emergency search and rescue operations.
- (3) Police department personnel and other persons authorized by the police chief may catch and impound animals at large, including pursuit of animals upon the premises of the owner, the premises of the caretaker, or the private property of others.
- (4) It is unlawful to interfere with the police department or other persons authorized by the police chief in the performance of their duties under this chapter.
- (5) Any person violating this chapter will be subject to forfeiture of not less than \$50.00 and not more than \$200.00. Each day of violation shall constitute a separate offense.

23-3. Abatement orders.

- (1) *Issuance of order.* After investigation, if a law enforcement officer has reasonable grounds to believe that a violation of this Code or state law is occurring and that the violation is causing or has the potential to cause injury to an animal, the law enforcement officer may issue and serve an order or abatement pursuant to Wis. Stats. 173.11.

- (2) *Hearing.* Any person named in an order issued under this section may, within the ten-day period following service of the order, request a hearing on the order. Upon such request, the village board shall conduct the hearing pursuant to Wis. Stats. 173.11.
- (3) *Appeal.* Appeal from the decision of the village board shall be as provided in Wis. Stats. 173.11.

23-4. General order of confinement of all dogs and cats.

Whenever the safety of the public shall require it, the Village President, by notice published in the official paper of the Village, shall order that, at the Villages discretion, that is appropriate for the circumstances, no dogs or cats shall be permitted to go abroad in any of the streets, lanes, alleys or public places in the Village without being properly muzzled with a secure muzzle or being led by a chain or other secure fastening.

ARTICLE II. CARE AND CONTROL

23-5. Basic and adequate care to be provided to domestic animals.

No owner or caretaker of an animal shall fail to provide the animal with adequate food, adequate water and adequate heating, cooling, ventilation, sanitation, shelter, and medical care consistent with the normal requirements of an animal's size, species and breed.

23-6. Cruelty, abandonment and abuse prohibited; animal fights prohibited.

- (1) The village adopts by reference Wis. Stats. 951.02 regarding cruelty to animals as though fully set forth in this section.
- (2) No owner or caretaker of an animal shall abandon the animal.
- (3) No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal.
- (4) No person shall cause, instigate, or permit any dogfight, cockfight, or other combat between animals or between animals and humans and no person may own, possess, keep or train any animal with the intent that the animal be engaged in fighting with other animals or humans. This subsection shall not apply to animals used by law enforcement, military or licensed security agencies, or animals whose owner or caretaker is a member of a nationally recognized animal organization and the animal is specifically trained to compete in organized exhibitions, competitions or trials sanctioned by a recognized organization.

23-7. Giving animal as prize or inducement prohibited.

No person shall give away any live animal, fish, reptile or bird as a prize for or as an inducement to enter any contest, game or other competition or as an inducement to enter a place of amusement, or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.

23-8. Driver required to report vehicle striking animal.

Any person who, as the operator of a motor vehicle, strikes a domestic animal, shall stop at once and shall immediately report the injury or death to the animal's owner or caretaker. If the owner or

caretaker cannot be ascertained and located, the operator shall at once report the accident to the police department.

23-9. Poisoning prohibited.

- (1) No person shall expose any poisonous substance, whether mixed with food or not, such that the substance may be eaten by an animal; provided, however, that it is not unlawful for a person to expose on his own property poisons designed and used for rodent or pest control.
- (2) This section shall not prohibit the health department personnel or licensed pest control operators from providing rodent or pest control services.

23-10. Maximum number of animals; exceptions.

- (1) No person or group of persons residing in a single premises shall keep more than four animals, except that a litter of puppies or kittens may be kept for a period of time not to exceed five months from birth.
- (2) This section does not apply to premises holding a valid kennel license, or to the keeping of farm animals, or to the keeping of domestic pets on agriculturally zoned land five acres or more. In addition, this section does not apply to the keeping of small caged birds (exclusive of pigeons), small caged animals, reptiles, or aquatic or amphibian animals solely as pets.

23-11. Maintenance of pens and enclosures.

All pens, yards, structures or areas where animals are kept shall be maintained in a nuisance free manner. Excrement shall be removed regularly and disposed of properly so not to attract insects or rodents, become unsightly, or cause objectionable odors.

23-12. Removal of animal waste.

- (1) The owner or caretaker of an animal shall promptly remove and dispose of, in a sanitary manner, any excrement left or deposited by the animal upon public or private property.
- (2) The owner or caretaker of a dog or cat shall have in his or her immediate possession an appropriate means of removing animal excrement whenever the animal is not on property owned or possessed by the owner or caretaker. This subsection shall not be applicable to trained and certified service animals assisting disabled persons.

23-13. Restraint required.

The owner or caretaker of an animal shall keep an animal within the limits of his or her property or premises. When off of the property or premises, the animal shall be restrained so that it does not run at large or become a public nuisance.

23-14. Nuisance animals prohibited.

All owners or caretakers shall exercise proper care and control of animals under their ownership, possession, or custody to prevent them from becoming a public nuisance.

23-15. Female dogs and cats in heat to be confined.

Every female dog or cat in heat shall be confined in a building or secure enclosure, or otherwise restrained, in the manner that the female dog or cat cannot come into contact with another unneutered male of the same species, except for planned breeding.

23-16. Impoundment.

- (1) Unrestrained and nuisance animals may be taken by authorized employees of the police department and impounded in a temporary or permanent animal shelter and there confined in a humane manner.
- (2) When an animal is causing a public nuisance and its owner cannot be contacted at the time of the complaint, it may be impounded by authorized employees of the Police Department. After impoundment, reasonable attempts shall be made to contact the owner.
- (3) An owner reclaiming an impounded animal shall pay the accrued impoundment fee and veterinary or other taxable costs accrued through and during the impoundment of the animal.
- (4) Any animal not reclaimed by its owner within seven days becomes the property of the humane society or animal shelter to which it was impounded.

23-17. Report of animal bites and scratches.

All incidents occurring in the Village in which any animal bites or scratches a person or another animal, or is suspected of such, shall immediately be reported to the Police Department by any person having knowledge of the incident. If the bite or scratch is caused by an animal for which there is no rabies vaccine or known quarantine, the animal, at the discretion of the Police Department, may be euthanized and analyzed for rabies with all expenses incurred being the responsibility of the owner.

23-18. Rabies vaccination for dogs, cats, and ferrets; exemption.

- (1) The owner of a dog, cat or ferret shall have the animal vaccinated by a veterinarian at not later than five months of age; or, if an owner obtains or brings an animal into the Village that has reached five months of age, unless that animal has been vaccinated as evidenced by a current certificate of rabies vaccination from this state or another state, the owner of that animal shall have the animal revaccinated before the date that the immunization expires as stated on the certificate or, if no date is specified, within one year after the previous vaccination.
- (2) The owner of a dog, cat or ferret may petition the Village board for an exemption to this section. Exemptions shall only be considered if a licensed veterinarian provides a detailed written explanation stating the vaccination is inadvisable. A new written explanation from a veterinarian shall be required for each year that an exemption is sought.

23-19. Confinement of dog, cat, or ferret involved in bite or scratch incident.

- (1) If any dog, cat or ferret for which the owner holds a current rabies certificate is involved in a bite or scratch incident, the owner shall quarantine and confine the animal under the supervision of a licensed veterinarian for at least ten days from the date of the incident. The animal shall not be allowed to come in contact with other animals or people during the period of confinement. Supervision of a veterinarian includes, at a minimum, examination of the animal on the first day, on the tenth day, and on one intervening day.

- (2) Any dog, cat or ferret involved in a bite or scratch incident that has not been vaccinated or has not been revaccinated within the prescribed times must be confined at a veterinary hospital or a place designated by the police department.
- (3) The owner of any dog, cat or ferret involved in a bite or scratch incident is responsible for any expenses incurred.

23-20. Law enforcement dogs; exemption.

- (1) *Obstruction, resistance, and interference prohibited.* No person shall knowingly resist, obstruct, or interfere with any law enforcement dog while the dog is on duty in pursuit of its police duties.
- (2) *Exemptions from other requirements and restrictions.* Law enforcement dogs on duty shall be exempt from the provisions of this chapter and when otherwise exempt under state law, including an exemption from quarantine periods after a bite.

ARTICLE III. DOG LICENSES

23-21. Dog licensing; issuance restriction and conditions.

- (1) It shall be a condition of the issuance of any license under this article that the police department shall be permitted to inspect all dogs and the premises where the dogs are kept at any time. If permission for such inspection is refused, the license of the refusing owner shall be revoked.
- (2) If the applicant has withheld or falsified any information on the application, the licensing authority shall refuse to issue a license.
- (3) No person who has been convicted of cruelty to animals shall be issued a dog license or be granted a license to operate a kennel.

23-22. Licensing required.

- (1) Any person owning, keeping, harboring or having custody of any dog over five months of age within the Village must obtain a license as provided in this division.
- (2) Application for a license must be made within 30 days after obtaining a dog over four months of age, except that this requirement will not apply to a non-resident keeping a dog within the municipality for not longer than 30 days.
- (3) Any owner applying for a license shall pay the village clerk-treasurer prior to April 1 of each year the appropriate license fee. If an owner does not pay this fee prior to April 1, an additional late fee as established by the State or County shall be collected.

23-23. Licensing issuance; fee.

A dog license shall be issued after completing an application, showing evidence of rabies vaccination and payment of the applicable fee. Evidence of neutering, spaying, or other method of rendering the animal sterile, from a licensed veterinarian, will be required to receive the discounted fee for animals rendered sterile. License fees shall be determined by the village fee schedule.

ARTICLE IV. DANGEROUS ANIMALS

DIVISION 1. GENERALLY

23-24. Defined; exemptions.

As used in this division, a dangerous animal is:

- (1) An animal that, when unprovoked, inflicts bodily harm on a person, domestic pet or animal on public or private property.
- (2) An animal which repeatedly chases or approaches persons in a menacing fashion or apparent attitude of attack, without provocation, upon the streets, sidewalks, or any public grounds or on private property of another without the permission of the owner or person in lawful control of the property.
- (3) An animal with a known propensity, tendency or disposition to attack, to cause injury to, or otherwise threaten the safety of humans or other domestic pets or animals.

provided; however, that:

- (1) No animal may be declared dangerous if death, injury, or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a trespass on the land or criminal trespass on the dwelling upon premises occupied by the owner of the animal; was teasing, tormenting, abusing, or assaulting the animal; or was committing or attempting to commit a crime or violating or attempting to violate a provision of this Code or of state law which protects persons or property.
- (2) No animal may be declared dangerous if death, injury, or damage was sustained by a domestic animal which, at the time the injury was sustained, was teasing, tormenting, abusing, or assaulting the animal.
- (3) No animal may be declared dangerous for acts committed by the animal while being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.

23-25. Procedure for declaring animal dangerous.

- (1) Upon conducting an investigation, the law enforcement officer may issue an order declaring an animal to be a dangerous animal. Whenever an owner or caretaker wishes to contest an order, he or she shall, within 72 hours after receipt of the order, deliver to the village board a written objection to the order stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the agenda for the village board to be reviewed at the next regular meeting. The village board shall act as a quasi-judicial body allowing the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared dangerous.
- (2) After the hearing, the owner or caretaker shall be notified in writing of the village board's determination. If the village board upholds the determination that the animal is dangerous, the owner or caretaker shall comply with the requirements of Article IV, Division 2 of this chapter. If the owner or caretaker further contests the determination, he or she may, within five days of receiving the village board's decision, seek review of the decision by the circuit court.
- (3) Upon an animal being declared dangerous, the owner or caretaker shall immediately comply with leashing, muzzling and confinement requirements of Article IV, Division 2 of this chapter, with all other requirements in that section being satisfied within thirty days of the dangerous declaration or reaffirmation thereof, or within such time as established by the village board.

DIVISION 2. STANDARDS AND RESTRICTIONS FOR KEEPING DANGEROUS ANIMALS

23-26. Harboring dangerous animals prohibited; exceptions; citations for violation.

- (1) No person may harbor or keep a dangerous animal within the village unless all provisions of this article are complied with. Any animal that is determined to be a prohibited dangerous animal under this division shall not be kept or harbored in the village.
- (2) The issuance of a citation for a violation of this section need not be predicated on a determination that an animal is a dangerous animal.

23-27. Registration.

The owner of any animal declared dangerous, shall register it with the police department upon disposition, and annually thereafter on or before April 1 of each year, by providing a current color photograph of the animal and payment of a \$75.00 registration fee to the village clerk-treasurer.

23-28. Leashing, muzzling, and competent supervision.

- (1) No owner or caretaker, harboring or having the care of a dangerous animal may permit the animal to go outside its dwelling, kennel or pen unless the animal is securely restrained with a leash no longer than four feet in length.
- (2) No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its dwelling, 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.
- (3) A dangerous animal may be securely leashed or chained to an immovable object, with the owner or caretaker being in the physical presence of the animal at all times when it is so leashed or chained.
- (4) A dangerous animal outside of the animal's dwelling, kennel or pen shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals.

23-29. Confinement when not leashed or muzzled.

- (1) *Generally.* Except when leashed and muzzled, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.
- (2) *Outdoor confinement.* When constructed in a yard, the pen or kennel shall, at a minimum, be constructed to conform to the following standards:
 - (a) The pen or kennel shall be childproof from the outside and animal-proof from the inside.
 - (b) A strong metal double fence with adequate space between fences (at least two feet) shall be provided so that a child cannot reach into the animal enclosure.
 - (c) The pen, kennel or structure shall have secure sides and a secure top attached to all sides.
 - (d) A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The structure shall either

have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two feet.

(e) All structures erected to house dangerous animals shall comply with all village zoning and building regulations.

(f) All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) *Indoor confinement.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

23-30. Warning signs.

The owner or caretaker of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two inches high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

23-31. Spaying and neutering.

Within 30 days after an animal has been designated dangerous, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

23-32. Liability insurance.

The owner or caretaker of a dangerous animal shall present to the police department a certificate of insurance evidencing that the owner or caretaker has procured liability insurance in an amount not less than \$1,000,000.00 for any personal injuries inflicted by the dangerous animal. Whenever the policy is cancelled or not renewed, the insurer and animal's owner or caretaker shall notify the police department of the cancellation or nonrenewal in writing by certified mail.

23-33. Waiver of requirements by village board.

Upon request, by the owner or caretaker, the village board may waive any requirement specified in this division that is deemed to be inappropriate for a particular dangerous animal. In addition, the village board may waive any of the provisions of this division for a law enforcement or military animal upon presentation by the animal's owner or handler of satisfactory arrangement for safe keeping of the animal.

23-34. Owner to provide notice of escape from confinement or attack of person or animal.

The owner or caretaker shall notify the police department within 24 hours if a dangerous animal is at large, is unconfined, has attacked another animal or has attacked a human being or has died.

23-35. Sale or transfer of possession restricted.

- (1) No person may sell or transfer possession of a dangerous animal to another person without first notifying the person to whom the dangerous animal is being sold or transferred of the fact that the animal is a dangerous animal and of any requirements imposed upon the selling or transferring party by this division.
- (2) No person may sell or transfer possession of a dangerous animal to another person, agency, organization or the like without first notifying the police department in writing, at least three days in advance of the sale or transfer of possession with the name, address and telephone number of the new owner of the dangerous animal.
- (3) If the dangerous animal is sold or given away to a person residing outside the village, the owner or caretaker shall present evidence to the police department showing that he has notified the police department, or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner of the dangerous animal.