



AN ORDINANCE: By Public Services & Safety
Committee-REVISED BY COMMITTEE
Re: Various Animal Regulations: Amending Ord.
§3-1 definitions, Ord. §3-3(c) relating to the
keeping of fowl and Creating Ord. §3-14
Prohibited And Protected Animals, Fowl,
Reptiles and Insects; Pet Shops; Ord. §3-15,
number of animals per household; and Ord. §3-
16, dangerous animals.

ORDINANCE NO. 2012-4

Introduced: May 2, 2012

Committee/Commission Action:

RECOMMENDED FOR PASSAGE

AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

Section 1. Section 3-1, Definitions, is amended by adding the following definitions in alphabetical order:

Bite and/or Scratch means the puncture, tear, scraping or clawing of any portion of a human being or animal's anatomy, which results in the breakage of the skin by another animal.

Boarding Kennel means an establishment wherein any person is engaged in the business of boarding of pet animals for a period of twelve (12) consecutive hours or longer, but not permanently. Boarding Kennel shall not include veterinary clinics or hospitals, pet stores, humane society, animal shelter or commercial kennels.

Commercial Kennel means an establishment wherein any person is engaged in the business of breeding, buying, letting for hire, training for a fee, and/or selling of pet animals, with the exception of veterinary clinics or hospitals, humane society, animal shelter or pet stores.

Dangerous Animal means any animal without provocation that bites, inflicts injury, attacks, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of serious bodily harm or death to one or more persons or domestic animals, on public or private property; or any animal owned, harbored, or trained primarily or in part for the purpose of fighting.

Dog means a domesticated member of canis familiaris.

Doggy Daycare shall mean an establishment wherein any person is engaged in the business of boarding of pet animals for a period no longer than twelve (12)

consecutive hours. Doggy Daycare shall not include veterinary clinics or hospitals, pet stores, humane society, animal shelter or boarding kennels.

Domestic Animal means an animal that normally can be considered tame and lives in or about the habitation of humans as a pet or animal companion.

Fostering Facility means a premises that has been approved by the Neenah Animal Shelter or the Fox Valley Humane Society to foster animals

Pet Animals for the purpose of this chapter means any animal licensable under Code §3-4.

Premises means any parcel of land including improvements considered as a single unit for purposes of use or occupancy. As applied to multi-family dwellings, the term shall refer to each dwelling unit.

Prohibited Dangerous Animal means any animal that without provocation has killed a pet animal or human being; or any animal that without provocation inflicts serious bodily harm on a pet animal or human being; or any animal which has on two or more reported occasions bitten or attacked a pet animal or human being, without provocation, on either public or private property.

Provoked means any attack by an animal or physical injury caused by an animal shall be considered provoked if at the time the attack occurs or the injury is inflicted: (1) the person who was attacked or injured was teasing, tormenting, abusing, or assaulting the animal; (2) the animal was protecting a person, itself, its young, or another domestic animal from an attack by a human being or another animal; or (3) the person who was attacked or injured was committing a crime on the property or was attempting to commit a crime or violating or attempting to violate a statute or ordinance which protects person or property of the animals responsible party or (4) the animal was being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.

Responsible Party shall mean and include every person having a right of property in an animal and/or having such animal in his or her care or possession.

Rescue Facility means a facility that has been listed by the American Kennel Club to care for abandoned or abused animals.

Serious Bodily Harm means bodily injury which creates a risk 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 injury.

Section 2. Section 3-3 of the Code of Ordinances of the City of Neenah is amended by adding the highlight language as follows:

- (a) No person shall keep or harbor any chickens, doves or other fowl or build, erect or maintain and use any chicken coop or yard, dove cote or other building or yard to keep or house any chickens, doves or other fowl anywhere within the City without registering the name and address of the owner and the approximate number of chickens, doves or other fowl to be kept by such owner at the office of the ~~Health Officer~~ Building Inspector. The total number of chickens, doves or other fowl shall not exceed four (4) per premises.
- (b) All chicken coops and yards, dove cotes and other buildings or yards wherein any domestic animals are contained shall be kept in a clean, sanitary condition and free from all objectionable odors and shall be subject to the inspection and approval of the ~~Health~~

~~Officer~~Building Inspector. Approval shall be given upon a showing that such facilities are clean, in sanitary condition and free from all objectionable odors.

- (c) Chicken coops and yards, dove cotes and other buildings or yards permitted under this section shall be limited to the keeping of up to a total of four chickens, doves, poultry or fowl per property, and shall be subject to the following conditions:
- (1) The principal use of the property where a chicken coop and yards, dove cotes and other buildings or yards may be permitted is limited to single-family dwellings.
 - (2) No person shall keep any rooster.
 - (3) No person shall slaughter any chickens, doves, poultry or fowl.
 - (4) The chickens, doves, poultry or fowl shall be provided with a covered enclosure and must be kept in the covered enclosure or a fenced enclosure at all times.
 - (5) No enclosure shall be located closer than 25 feet to any residential structure on an adjacent lot and shall not exceed twenty-five (25) square feet unless permitted as an accessory building.

Section 3. Section 3-14 of the Code of Ordinances of the City of Neenah is created to read as follows:

Sec. 3-14 Prohibited and Protected Animals, Fowl, Reptiles and Insects; Pet Shops; Potbellied Pigs.

(a) **Protected Animals.**

- (1) **Possession and Sale of Protected Animals.** It shall be unlawful for any person, firm or corporation to possess with intent to sell or offer for sale, or buy or attempt to buy, within the City any of the following animals, alive or dead, or any part or product thereof: all wild cats of the family felidae, polar bear (*thalarctos maritimus*), red wolf (*canis niger*), vicuna (*vicugna vicugna*), or alligator, caiman or crocodile of the order of crocodilia, gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonina mydas*), Mexican ridley turtle (*lepidochelys kemp*).
 - (2) **Compliance with Federal Regulations.** It shall be unlawful for any person, firm or corporation to buy, sell or offer for sale a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the Code of Federal Regulations pursuant to the Endangered Species Act of 1969 (Public Law 135, 91st Congress).
 - (3) **Regulating the Importation of Certain Birds.** No person, firm or corporation shall import or cause to be imported into this City any part of the plumage, skin or dead body of any species of hawk, owl or eagle. This paragraph shall not be construed to forbid or restrict the importation or use of the plumage, skin, body or any part thereof legally collected for use by the American Indians for ceremonial purposes or in the preservation of their tribal customs and heritage.
- (b) **Exceptions.** The provisions of Subsection (a) above shall not be deemed to prevent the lawful importation, possession, purchase or sale of any species by any public agency, institute of higher learning, persons holding federal permits, or by a person holding a Scientific Collectors Permit issued by the Secretary of the Department of Natural Resources of the state, or to any person or organization licensed to present a circus.
- (c) **Wild and Non-domesticated Animals; Prohibition on Keeping.** Except for state-licensed game farms located in properly zoned areas, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any

poisonous reptile or any other dangerous or carnivorous wild animal, insect or reptile, any vicious or dangerous domesticated animal or any other animal or reptile of wild, vicious or dangerous propensities. Specifically, it shall be unlawful for any person to keep, maintain or have in his possession or under his control within the City any of the following animals, reptiles or insects:

- (1) All poisonous animals and reptiles including rear-fang snakes.
 - (2) Apes: Chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus).
 - (3) Baboons (Papoi, Mandrillus).
 - (4) Bears (Ursidae).
 - (5) Cheetahs (Acinonyx jubatus).
 - (6) Crocodilians (Crocodilia), thirty (30) inches in length or more.
 - (7) Constrictor snakes, six (6) feet in length or more.
 - (8) Coyotes (Canis latrans).
 - (9) Game cocks and other fighting birds.
 - (10) Hyenas (Hyaenidae).
 - (11) Jaguars (Panthera onca).
 - (12) Leopards (Panthera pardus).
 - (13) Lions (Panthera leo).
 - (14) Lynxes (Lynx).
 - (15) Ostriches (Struthio).
 - (16) Pumas (Felis concolor); also known as cougars, mountain lions and panthers.
 - (17) Sharks (class Chondrichthyes).
 - (18) Snow leopards (Panthera uncia).
 - (19) Tigers (Panthera tigris).
 - (20) Poisonous insects and arachnids.
 - (21) Farm or non-domesticated animal defined as animals usually held for agricultural or commercial production, including, but not limited to horses, mules, ponies, donkeys, cows, pigs, goats, sheep, chickens, poultry, fowl or any animal raised for fur-bearing purposes unless otherwise permitted elsewhere in this Code.
 - (22) Wolves or any dog which is part wolf (Canis lupis).
- (d) **Exceptions; Pet Shops.** The prohibitions of Subsection (c) above shall not apply where the creatures are in the care, custody or control of: a state-licensed game farm; a veterinarian for treatment; agricultural fairs; shows or projects of the 4-H Clubs; a display for judging purposes; an itinerant or transient carnival, circus or other show; dog or cat shows or trials; public or private educational institutions; zoological gardens; pet shops; if:
- (1) Their location conforms to the provisions of the zoning code of the City.
 - (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
 - (3) Animals are maintained in quarters so constructed as to prevent their escape.
- (e) **Exception; Vietnamese Potbellied Pigs.** Notwithstanding the prohibitions contained in this Section, Vietnamese Potbellied Pigs may be kept within the City of Neenah provided that no more than one Vietnamese Potbellied Pigs per premises and that the owners of such animals comply with the other regulations of this Chapter except for the licensing requirement contained in Section 3-4.

Section 4. Section 3-15 of the Code of Ordinances of the City of Neenah is created to read as follows:

Sec. 3-15 Limitation on Number of Animals.

- (a) **Purpose.** The owning, harboring and keeping on any premise of a large number of pet animals within the City, detracts from the quality of life within the entire city due to various noise, odor, health and safety problems resulting from the keeping of a large number of pet animals, which constitute a public nuisance.
- (b) **Limitation.** No premises shall keep more than three (3) pet animals of any one kind over five months of age, not to exceed a total of six (6) pet animals of all kinds per premises.
- (c) **Exception.** Any person owning, harboring or keeping in their possession within the city, on June 25, 2012, more pet animals over the age of five months of age, than permitted under this section, shall be permitted to continue to own, harbor, or keep in their possession such pet animals provided that:
 - 1. Required license fees for each pet animal have been paid, the licenses have been and are continually maintained in full force and effect, and proof thereof is furnished to city personnel empowered to enforce this chapter upon request.
 - 2. Required and effective rabies immunization for each pet animal has been procured, and effective level of rabies immunization has been continually maintained, and proof thereof is furnished to city personnel empowered to enforce this chapter upon request.
 - 3. This exemption shall not authorize the replacement of any pet animal that exceeds the limitations under this section until the premises complies with the specified limitation of this section. The burden of proving entitlement to this exemption is upon the party seeking the exemption. In the event that the pet animal owner failed to license the pet animals that exceed the limitations of this section shall cause the owner to forfeit the right to the exception of this subsection.
- (d) **Restriction on animals other than pet animals.** Except as otherwise provided for in this chapter, no premises shall keep more than a total of ten (10) domestic animals which includes but is not limited to the following: rabbits (no more than three (3) rabbits of the ten (10) domestic animals), gerbils, hamsters, mice, rats, guinea pigs, reptiles, amphibians, or other similar pets. This limitation shall not apply to fish kept in an aquarium, or to birds kept indoors.
- (e) **Applicability of Limitation.** This section shall not apply to properly licensed pet shops, commercial or boarding kennels, humane society, animal shelter, doggy daycare, rescue facility or veterinary clinics or hospitals.

Section 5. Section 3-16 of the Code of Ordinances of the City of Neenah is created to read as follows:

Sec. 3-16: Dangerous Animals.

- (a) *Statement of Purpose.* It is hereby declared that this regulation of dangerous animals is a matter of public interest pertaining to the health, safety, and welfare of residents of and visitors to the City of Neenah, and that existing laws are inadequate to deal with the threat to public health and safety posed by dangerous animals.

(b) *Prohibition on Keeping a Dangerous Animal.* No person shall own, possess, harbor, keep, or maintain a dangerous animal except under the following terms and conditions:

- (1) The Chief of Police, or the Chief's designee shall issue a written order declaring the animal to be a dangerous animal.
- (2) Additional License Requirement. In addition to the license requirement found at Section 3-4 of this code, a dangerous animal license issued by the Finance Department shall be obtained before any person owns, possesses, harbors, or maintains a dangerous animal. Prohibited dangerous animals shall not be allowed in the city.
- (3) Fee and Term. The license term shall be from January 1 through December 31. The license fee, which is not pro-ratable, shall be established by Common Council, and shall cover the costs of the program.

(c) *Conditions for License Issuance.* A dangerous animal license may only be granted and issued subject to proof of the following;

- (1) Current vaccination for rabies.
- (2) Current City license.
- (3) Neutering or spaying of the dangerous animal.
- (4) The pet animal's age, weight, coloring, breed and any special identifying characteristics.
- (5) Two (2) 4"x6" color photographs of the pet animal.
- (6) Within thirty (30) days after a dog has been designated dangerous, the owner/responsible party must provide written proof from a licensed veterinarian that a microchip has been placed in the dog so that the dog can be easily identified. The microchip must be numbered, and the number must be provided to the Chief of Police or the Chief's designee.
- (7) The owner/responsible party of a dangerous animal shall present to the Chief of Police or the Chief's designee a certificate of insurance that the owner or responsible party has procured liability insurance in an amount not less than \$1,000,000.00 for any personal injuries inflicted by the dangerous animal. Whenever such policy is cancelled or not renewed, the insurer and animal's owner/responsible party shall notify the Chief of Police or the Chief's designee of such cancellation or non-renewal in writing by certified mail. Notification in writing shall be within five (5) days of the cancellation or non-renewal.

(d) *Conditions for License Maintenance.* A license granted and issued hereunder is conditioned upon the following:

- (1) Compliance with Subsections (c), and (d) above.
- (2) The dangerous animal while off the premises where kept, must be muzzled and restrained by a substantial chain or leash not exceeding six (6) feet in length and under the direct control and supervision of a competent adult person at least eighteen (18) years of age. The muzzle must be a basket-type muzzle and be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but must be able to prevent in from biting any person or animal.
- (3) The license issued to the owner or responsible party shall be worn by the dangerous animal at all times as proof of registration, except when being groomed.

- (4) The dangerous animal while indoors shall be securely confined. 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 responsible party 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.
- (5) 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 responsible party and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition. No dangerous animal may be kept in an outdoor yard, including a yard controlled by an electric pet barrier.
- (6) The pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be child-proof from the outside and animal-proof from the inside. A strong metal double fence with adequate space between fences (at least two (2) feet) shall be provided so that a child cannot reach into the animal enclosure. The pen or kennel shall have secure sides and a secure top attached to all sides. The pen or kennel used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The pen or kennel shall either have a secure bottom or floor attached to the sides of the pen or kennel or the sides of the pen or kennel shall be imbedded in the ground no less than two (2) feet. All pens or kennels erected to house dangerous animals shall comply with all city zoning and building regulations. All pens or kennels shall be adequately lighted, ventilated and kept in a clean and sanitary condition.

(e) *Noncanine Dangerous Animals.* If the dangerous animal is not a dog, said animal must be confined at all times within the premises of the owner or responsible party of said animal.

(f) *Notice of Dangerous Animal.* The owner or responsible party shall have posted at each possible entrance to his/her premises and on the pen or kennel where the dangerous animal is kept, a conspicuous and clearly legible sign made of metal or plastic, fluorescent in color. Such sign must be at least eight and one-half (8 1/2") inches by eleven (11") inches in rectangular dimensions and shall contain only the words "Dangerous Animal" in bold faced lettering not less than 120 point type (one and a half (1.5") inches in height).

(g) *Seizing a Dangerous Animal.* An animal declared dangerous that is in violation of this section, and is not subject to a current appeal, may be seized by the City pursuant to Section 173.13(1) of the Wisconsin Statutes.

(h) *Declaring a Dangerous Animal as a Prohibited Dangerous Animal.* Any animal declared dangerous by this ordinance that subsequently has a second or more reported unprovoked incidents in which the animal has bitten, inflicted injury, attacked, or otherwise unreasonably endangered with aggressive or threatening behavior the safety of a human being or pet animal on either public or private property shall be declared a prohibited dangerous animal by the Chief of Police.

(i) *Order to Kill a Dog.* Any dog that has caused serious injury to a person, persons or a domestic animal on two (2) separate occasions off the owner's or responsible party's premises, without provocation, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under Section 174.02(3) of the Wisconsin Statutes.

(j) *Euthanization of Dangerous Animals.* If the owner or responsible party of a pet animal that has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping the dangerous animal in accordance with this section, he/she may have the pet animal humanely euthanized by a licensed veterinarian, an animal shelter or the humane society.

(k) *Notification:*

- (1) The owner or responsible party of an animal declared dangerous shall notify the Police Department immediately if the animal is at large.
- (2) The owner or responsible party of an animal declared dangerous shall notify the Police Department within twenty-four (24) hours if the dangerous animal is unconfined, has bitten or inflicts injury another human or pet animal.
- (3) No owner or responsible party may sell or transfer possession of a dangerous animal to another individual within the City of Neenah without first notifying the individual to whom the dangerous animal is being sold or transferred, of the fact that said animal has been determined to be a dangerous animal and that all of the requirements imposed upon the former owner or responsible party of said animal by this Ordinance will be imposed on the new owner or responsible party.
- (4) No owner or responsible party may sell or transfer possession of a dangerous animal to another individual without first notifying the Chief of Police or the Chief's designee thereof in writing to be received at least five (5) business days in advance of the sale or transfer of possession.
- (5) If a dangerous animal is euthanized, the owner or responsible party thereof shall provide the Chief of Police or the Chief's designee within five (5) business days of the date of death of the animal a certificate or other written proof of euthanasia from a licensed veterinarian.
- (6) If a dangerous animal is killed, destroyed, or dies from any other cause or means, the owner or responsible party shall within five (5) business days of the date of death of the animal provide in writing to the Chief of Police or the Chief's designee.

(l) *Prohibited Dangerous Animal*

- (1) The Chief of Police or the Chief's designee may determine an animal to be a prohibited dangerous animal whenever the Chief of Police or the Chief's designee finds that an animal meets the definition as provided for under this section.
- (2) The Chief of Police or the Chief's designee shall issue a written order declaring the animal to be a prohibited dangerous animal and require that the owner or responsible party remove it from the City within five (5) business days or have the animal humanely euthanized.
- (3) No owner or responsible party may sell or transfer possession of a prohibited dangerous animal to another individual within the City of Neenah.
- (4) An animal declared to be a prohibited dangerous animal that is not removed from the City within five (5) business days of it being declared a prohibited dangerous animal, and not subject to a current appeal, may be seized by the City pursuant to Section 173.13(1) of the Wisconsin Statutes.
- (5) The owner or responsible party shall provide the Chief of Police or the Chief's designee within five (5) business days of the animal being declared a prohibited dangerous animal, the name, address, and phone number of the individual that

will be in possession of the prohibited dangerous animal or a certification from a licensed veterinarian that the prohibited dangerous animal was humanely euthanized.

(m) *Appeal Process for Dangerous & Prohibited Dangerous Animal*

- (1) The owner or responsible party aggrieved by the decision of the Chief of Police or the Chief's designee to declare an animal dangerous under subsections (c) or (m) may appeal such decision to the Common Council by filing a written notice of appeal with the City Clerk within five (5) business days of the mailing of the written order from the Chief of Police or the Chief's designee. Appeals shall be heard by the Public Services and Safety Committee, which shall make a recommendation to the Common Council.
- (2) The animal shall be securely confined in a humane manner either on the premises of the owner/responsible party or with a licensed veterinarian, but not destroyed, until the time of the appeal has expired, or until any timely appeal has been heard and a written decision rendered. All costs incurred shall be the responsibility of the owner or responsible party of the animal.
- (3) If the owner or responsible party further contests the decision of the Council, he or she may within five (5) business days of the mailing of the written decision, seek review of the decision by the Circuit Court.

(n) *Removal of Animal from Dangerous Animal Status.* Upon the petition of the owner/responsible party of a dog that has been previously determined to be dangerous the City may remove the dog from its list of dangerous animals if:

- (1) The owner/responsible party demonstrates to the Chief of Police or the Chief's designee that there have been no additional reported instances anywhere of the behavior as defined in Section 3-16(a), within a thirty-six (36) month period from the date of the order determining the animal to be dangerous; and
- (2) The owner/responsible party provides documentation, from an accredited dog training specialist, of attending and passing either an animal socialization program offered through the Association of Pet Dog Trainers (APDT) or the American Kennel Club canine good citizen program.

Section 6. Section 3-17 of the Code of Ordinances of the City of Neenah is created to read as follows:

Sec. 3-17: Trapping of Animals.

(a) *Prohibited.* In the interest of public health and safety, it shall be unlawful for any person, in or on land within the city to set, place or tend any trap for the purpose of trapping, killing, catching, wounding, worrying or molesting any animal, except by use of live box-type traps only. Live box-type traps shall be defined as those traps, which capture and hold an animal in an alive and unharmed condition.

(b) *Specific traps prohibited.* This section shall prohibit the use of all traps other than live traps as described above, including, but not limited to, traps commonly known as leg traps, pan-type traps and other traps designed to kill, wound or close upon a portion of the body of an animal.

(c) *Regulation of Permitted Traps.* All traps permitted by this section that are set, placed or tended within the City shall comply with Chapter 29, Wisconsin Statutes, as related to trapping.

(d) *Exceptions.* This section shall not apply to trapping within the confines of buildings or homes.

(e) *Official duties not restricted.* Nothing in this section shall prohibit or hinder the City or its employees or agents from performing their official duties.

Section 7. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 8. Repeal and Effective Date. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Moved by: Ald. Zaretzke/Hillstrom
Adopted: June 20, 2012
Approved: June 20, 2012
Published: June 25, 2012

Approved:



George Scherck, Mayor

Attest:



Patricia A. Sturn, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:
City Attorney James G. Godlewski
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Neenah, WI 54956
State Bar No. 1005210