

## CHAPTER 7

### LICENSING AND REGULATION

- 7.01** Licensing of Dogs; Regulation of Animals
- 7.02** Prohibited and Protected Animals, Fowl, Reptiles and Insects; Animal Protection.
- 7.03** Penalties.

#### 7.01 Licensing of Dogs; Regulation of Animals

- (1) License Required. It shall be unlawful for any person in the Town of Middleton to own, harbor or keep any dog for more than 5 months of age after July 1 of the license year without complying with the provisions of this Chapter relating to the listing, licensing and tagging of the same.
- (2) Definitions. In this section, unless the context or subject matter otherwise require:
  - (a) “Animal” means mammals, reptiles and birds.
  - (b) “At large” means to be off the premises of the owner and not under the control of some person either by leash or otherwise, but a dog within an automobile of its owner, or in an automobile of any other person with the consent of the owner of said dog, shall be deemed to be upon the owner’s premises.
  - (c) “Cat” shall mean any feline, regardless of age or sex.
  - (d) “Cruel” means causing unnecessary and excessive pain or suffering or unjustifiable injury or death.
  - (e) “Dog” shall mean any canine, regardless of age or sex.
  - (f) “Farm Animal” means any warm-blooded animal normally raised on farms in the United States and used for food or fiber.
  - (g) “Law Enforcement Officer” has that meaning as appears in Sec. 967.02(5), Wis. Stats., and includes a humane officer under Chapter 173, Wis. Stats., but does not include a conservation warden appointed under Sec. 23.10, Wis. Stats.

- (h) “Neutered” as used herein as describing a dog or cat shall mean a dog or cat having nonfunctional reproductive organs.
  - (i) “Owner” shall mean any person owning, harboring or keeping a dog and the occupant of any premises on which a dog remains or to which it customarily returns daily for a period of 10 days; such person is presumed to be harboring or keeping the dog within the meaning of this Section.
  - (j) “Pet” means an animal kept and treated as a pet.
- (3) Rabies Vaccination Required for License.
- (a) Rabies Vaccination. The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within 30 days after the dog reaches 4 months of age and revaccinated within 1 year after the initial vaccination. If the owner obtains the dog or brings the dog into the Town of Middleton after the dog has reached 4 months of age, the owner shall have the dog vaccinated against rabies within 30 days after the dog is brought into the Town unless the dog has been vaccinated as evidenced by a current certificate of rabies vaccination before the date of that immunization expires as stated on the certificate of vaccination or, if no date is specified, within 2 years after the previous vaccination. The certificate of vaccination shall meet the requirements of Sec. 95.21(2), Wis. Stats.
  - (b) Issuance of Certificate of Rabies Vaccination. A veterinarian who vaccinates a dog against rabies shall complete and issue to the owner a certificate of rabies vaccination bearing a serial number and stating the owner’s name and address, the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog, the date of the vaccination, the type of rabies vaccination administered and the manufacturer’s serial number, the date that the immunization expires as specified for that type of vaccine by the Center for Disease Control of the U.S. Department of Health and Human Services and the Town.
  - (c) Copies of Certificate. The veterinarian shall keep a copy of each certificate of rabies vaccination in a file maintained for this purpose until the date that the immunization expires or until the dog is revaccinated, whichever occurs first.
  - (d) Rabies Vaccination Tag. After issuing the certificate of rabies vaccination, the veterinarian shall deliver to the owner a rabies vaccination tag of durable material bearing the same serial number as the certificate, the year the vaccination was given and the name, address and telephone number of the veterinarian.
  - (e) Tag to be Attached. The owner shall attach the rabies vaccination tag or a

substitute tag to a collar and a collar with the tag attached shall be kept on the dog at all times, but this requirement does not apply to a dog during competition or training, to a dog while hunting, to a dog securely confined indoors or to a dog securely confined in a fenced area. The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag. The requirements of this paragraph do not apply to a dog that is not required to be vaccinated under Subsection (a).

- (f) Duplicate Tag. The veterinarian may furnish a new rabies vaccination tag with a new serial number to an owner in place of the original tag upon presentation of the certificate of rabies vaccination. The veterinarian shall then indicate the new tag number on the certificate and keep a record in the file.
- (g) Cost. The owner shall pay the cost of the rabies vaccination and the cost associated with the issuance of a certificate of rabies vaccination and the delivery of a rabies vaccination tag.

(4) Issuance of Dog Licenses.

- (a) It shall be unlawful for any person in the Town of Middleton to own, harbor or keep any dog more than 5 months of age without complying with the provisions of Sec. 174.05 through Sec. 174.10, Wisconsin Statutes, relating to the listing, licensing and tagging of the same.
- (b) The owner of any dog more than 5 months of age on January 1 of any year, or 5 months of age within the license year, shall annually, on or before the date the dog becomes 5 months of age, pay a license tax and obtain a license.
- (c) The fee for the license shall be that established by the County. The license year shall commence January 1 and end December 31.
- (d) The Town Treasurer shall also collect an administrative fee associated with the issuance of the dog license. The administrative fee shall be established by the Town Board. The Board shall review, at least annually, the administrative fee charged for the issuance of a dog license.
- (e) Upon payment of the required license tax and administrative fee and upon presentation of evidence that the dog is currently immunized against rabies, as required by subsection (3) of this section, the Town Treasurer shall complete and issue to the owner a license for such dog containing all information required by state law. The Town Treasurer shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

- (f) The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except as provided in subsection (3)(e) of this section.
  - (g) The fact that a dog is without a tag attached to the dog by means of a collar shall be presumptive evidence that the dog is unlicensed. Any Town law enforcement or humane officer may seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.
  - (h) Notwithstanding the foregoing, a license fee will not be charged for any dog specifically trained to lead blind or deaf persons or to provide support for mobility-impaired persons and annually upon application every person owning such a dog shall receive a free dog license from the Town.
- (5) Issuance of Kennel/Multiple Dog Licenses.
- (a) No person may keep or operate a kennel, whether for breeding, selling or boarding purposes, in violation of state law or licensing requirements or the Dane County Zoning Code. No kennel license will be issued without proof of compliance, when required by the Town.
  - (b) Any person who keeps or operates a kennel may, instead of the license tax for each dog required by this Chapter, apply for a kennel/multiple dog license for the keeping or operating of the kennel. Such person shall pay for the license year a license tax of \$35.00 for a kennel of 12 or fewer dogs and an additional \$3.00 for each dog in excess of 12.
  - (c) The Town Treasurer shall also collect an administrative fee associated with the issuance of the dog license. The administrative fee shall be established by resolution by the Town Board. The Board shall review, at least annually, the administrative fee charged for the issuance of a dog license.
  - (d) A kennel/multiple dog license may only be issued if approved by the Town Board following a public hearing on the request. In every case involving a hearing on the issuance of a kennel/multiple dog license, the Town Clerk shall mail notice to the owners of record of all land within the area included in the application and within 600 feet of any part of the building or premises affected not less than 10 days prior to the hearing.
  - (e) Upon payment of the required kennel license tax and administrative fee and, if required by the Town Board, upon presentation of evidence that all dogs over 5 months of age are currently immunized against rabies, the Town Treasurer shall issue the kennel license and a number of tags equal to the number of dogs authorized to be kept in the kennel.
  - (f) The owner or keeper of a kennel shall keep at all times a kennel license tag

attached to the collar of each dog over 5 months old kept by the owner or keeper under a kennel license but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area. These tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel. The rabies vaccination tag or substitute tag shall remain attached to the dog for which it is issued at all times but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area.

- (g) No dog bearing a kennel tag shall be permitted to stray or to be taken anywhere outside the limits of the kennel unless the dog is in leash or temporarily for the purposes of hunting, breeding, trial, training or competition.
- (h) The term “kennel” means any establishment wherein or wherein 4 or more dogs are kept. For purposes of licensing, the terms “kennel” and “multiple dog” are synonyms.

(6) Limitation on Number of Dogs.

- (a) Purpose. The keeping of a large number of dogs within the Town of Middleton for a considerable period of time detracts from and, in many instances, is detrimental to, healthful and comfortable life in such areas. The keeping of a large number of dogs is, therefore, declared a public nuisance.
- (b) Definitions.
  - (i) Residential Lot. A residential lot means a parcel of land zoned as residential or occupied or to be occupied by a dwelling, platted or unplatted, and under common ownership. For the purpose of this Section, any vacant parcel or parcels adjoining a dwelling and under the same ownership shall constitute 1 lot.
  - (ii) Family. 1 or more persons.
- (c) Number Limited. No family shall own, harbor or keep in its possession more than 3 dogs on any lot without the prior approval of the Town Board, except that a litter of pups or a portion of a litter may be kept for not more than 12 weeks from birth. If more than 1 family resides on a residential lot, then only a total of 3 dogs shall be allowed on the residential lot unless the prior approval is obtained from the Town Board. Persons may own, harbor or keep more than 3 dogs only if they have first received a kennel license. It shall not be a defense to this section that a dog is on residential premises for the purpose of visiting or for training purposes.

- (7) Late Fees. The Town Treasurer shall assess and collect a late fee of \$5.00 from every owner of a dog 5 months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within 30 days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.
- (8) Restrictions on Keeping of Dogs, Cats and Other Animals. It shall be unlawful for any person within the Town of Middleton to own, harbor or keep any dog or cat which:
- (a) Habitually pursues any vehicle upon any public street, alley or highway in the Town.
  - (b) Assaults or attacks any person or destroys property.
  - (c) Is at large within the limits of the Town.
  - (d) Habitually barks or howls to the annoyance of any person or persons. (See subsection 7.01(15).)
  - (e) Kills, wounds or worries any domestic animal.
  - (f) Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies.
  - (g) In the case of a dog, is unlicensed.
- (9) Vicious Dogs and Animals.
- (a) No vicious dog shall be allowed off the premises of its owner unless muzzled or on a leash in charge of the owner or a member of the owner's immediate family over 16 years of age.
  - (b) For purposes of enforcing this Section, a dog shall be deemed as being of a vicious disposition if it, within any 12 month period:
    - (i) Has, without provocation, bitten or attacked any person engaged in a lawful activity or has attempted to bite or to attack any person. A dog may be deemed to be attempting to attack if it is restrained by a leash, fence or other means, and it is clear from the dog's excited actions that only the presence of the leash, fence or other means of restraint is preventing the dog from making an immediate attack: or,
    - (ii) Has, while off the property of its owner and without provocation, killed or seriously injured another animal: or,

- (iii) Has, without provocation, chased, confronted or approached a person on a street, sidewalk or other public property in a menacing fashion such as would put an average person in fear of attack: or,
  - (iv) Has exhibited a propensity, tendency or disposition to attack, cause injury or threaten the safety of persons or other animals without provocation: or,
  - (v) Has acted in a manner that causes or should cause its owner to know that it is potentially vicious: or,
  - (vi) Has been trained for dog fighting or is owned or kept for the purpose of dog fighting.
- (c) Any vicious dog that is found off the premises of its owner other than as hereinabove provided may be seized and, upon delivery to the proper authorities, may be killed by law enforcement or humane authorities pursuant to Wisconsin law.
- (d) No person shall harbor or permit to remain on his premises any animal that is habitually inclined toward attacking persons or animals, destroying property, barking excessively or making excessive noises or running after automobiles.
- (10) Animals Running at Large.
- (a) No person having in his or her possession or ownership any animal or fowl shall allow the same to run at large within the Town. The owner of any animal, whether licensed or unlicensed, shall keep his or her animal tied or enclosed in a property enclosure or as not to allow said animal to interfere with the passing public or neighbors. Any animal running at large unlicensed and required by state law or Town Ordinance to be licensed shall be seized and impounded by a humane or law enforcement officer.
  - (b) A dog or cat shall not be considered to be running at large if it is on a leash not to exceed 10 feet in length and under control of a person physically able to control it.
- (11) Owner's Liability for Damage Caused by Dogs; Penalties. The provisions of Sec. 174.02, Wis. Stats., relating to the owner's liability for damages caused by dogs together with the penalties therein set forth are hereby adopted and incorporated herein by reference.
- (12) Female Animals in Season. Any female animal in season shall be kept confined in a building or secure kennel enclosure during the duration of such season.

- (13) Dogs and Cats Restricted in Cemeteries. No dog or cat shall be permitted in any public cemetery. Every dog specially trained to assist disabled persons shall be exempt from this Section.
- (14) Injury to Property by Animals. It shall be unlawful for any person owning or possessing an animal, dog or cat to permit such animal, dog or cat to go upon any parkway or private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or to defecate thereon.
- (15) Barking Dogs or Crying Cats. It shall be unlawful for any person knowingly to keep or harbor any dog which habitually barks, howls or yelps, or any cat which habitually cries or howls to the great discomfort of the peace and quiet of the neighborhood or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such dogs and cats are hereby declared to be a public nuisance. A dog or cat is considered to be in violation of this subsection when 2 formal, written complaints are filed with the Town within a 4 week period.

## **7.02 Prohibited and Protected Animals, Fowl, Reptiles and Insects; Animal Protection.**

- (1) Protected Animals.
  - (a) 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 Town 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*), gray or timber wolf (*canis lupus*), sea otter (*enhydra lutris*), Pacific ridley turtle (*lepidochelys olivacea*), Atlantic green turtle (*chelonia mydas*), Mexican ridley turtle (*lepidochelys kempii*).
  - (b) 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).
  - (c) No person, firm or corporation shall import or cause to be imported into this Town any part of the plumage, skin or dead body of any species of hawk, owl or eagle. The 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.

- (2) Exceptions. The provisions of Subsection (1) 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.
- (3) Wild Animals; Prohibition on Keeping. Unless prior approval is received from the Town Board, it shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the Town 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 without Town Board approval for any person to keep, maintain or have in his or her possession or under his or her control within the Town any of the animals, reptiles or insects identified on the list of prohibited wild animals, insects or reptiles approved from time to time by the Town Board by resolution and maintained in the Town Office and which is incorporated herein by reference as if fully set forth herein.
- (4) Exceptions; Pet Shops. The prohibitions of Subsection (3) above shall not apply where the creatures are in the care, custody or control of: 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; accredited public or private educational institutions; licensed pet shops; zoological gardens; if:
  - (a) Their location conforms to the provisions of the zoning ordinance of the Town.
  - (b) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
  - (c) Animals are maintained in quarters so constructed as to prevent their escape.
  - (d) No person lives or resides within 100 feet of the quarters in which the animals are kept.
- (5) Providing Proper Food and Drink to Confined Animals.
  - (a) No person owning or responsible for confining or impounding any animal may refuse or neglect to supply the animal with a sufficient supply of food and water as prescribed in this Section.
  - (b) The food shall be sufficient to maintain all animals in good health.
  - (c) If potable water is not accessible to the animals at all times, it shall be

provided daily and in sufficient quantity for the health of the animals.

(6) Providing Proper Shelter.

- (a) No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter as prescribed in this Section. In the case of farm animals, nothing in this Section shall be construed as imposing shelter requirements or standards more stringent than normally accepted husbandry practices in the particular county where the animal or shelter is located.
- (b) Indoor Standards. Minimum indoor standards of shelter shall include:
  - (i) Ambient temperatures. The ambient temperature shall be compatible with the health of the animal.
  - (ii) Ventilation. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animals at all times.
- (c) Outdoor Standards. Minimum outdoor standards of shelter shall include:
  - (i) Shelter from sunlight. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means shall be provided to protect the animal from direct sunlight. As used in this paragraph, “caged” does not include farm fencing used to confine farm animals.
  - (ii) Shelter from inclement weather.
    1. Animals generally. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided as necessary for the health of the animal.
    2. Dogs. If a dog is tied or confined unattended outdoors under weather conditions which adversely affect the health of the dog, a shelter of suitable size to accommodate the dog shall be provided.
- (d) Space Standards. Minimum space requirements for both indoor and outdoor enclosures shall include:
  - (i) Structural strength. The housing facilities shall be structurally sound and maintained in good repair to protect the animals from injury and to contain the animals.

- (ii) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of debility, stress or abnormal behavior patterns.
  - (e) Sanitation Standards. Minimum standards of sanitation for both indoor and outdoor enclosures shall include periodic cleaning to remove excreta and other waste materials, dirt and trash so as to minimize health hazards.
- (6) Neglected or Abandoned Animals.
  - (a) No person may abandon any animal.
  - (b) Any law enforcement officer may remove, shelter and care for an animal found to be cruelly exposed to the weather, starved or denied adequate water, neglected, abandoned or otherwise treated in a cruel manner and may deliver such animal to another person to be sheltered, cared for and given medical attention, if necessary. In all cases the owner, if known, shall be immediately notified and such officer, or other person, having possession of the animal shall have a lien thereon for its care, keeping and medical attention and the expense of notice.
  - (c) If the owner or custodian is unknown and cannot, with reasonable effort, be ascertained or does not, within 5 days after notice, redeem the animal by paying the expenses incurred, it may be treated as a stray and dealt with as such.
  - (d) Whenever in the opinion of any such officer an animal is hopelessly injured or diseased so as to be beyond the probability of recovery, it shall be lawful for such officer to kill such animal and the owner thereof shall not recover damages for the killing of such animal unless he or she shall prove that such killing was unwarranted.
  - (e) Wis. Stat. §§ 948.16 and 948.17 are hereby adopted by reference and made a part of this Chapter.
- (7) Injured Animals. No person who owns, harbors or keeps any animal shall fail to provide proper medical attention to such animal when and if such animal becomes sick or injured. In the event the owner of such animal cannot be located, the Town or any animal control agency with which the Town has an agreement or contract shall have the authority to take custody of such animal for the purpose of providing medical treatment, and the owner thereof shall reimburse the person or organization for the costs of such treatment.
- (8) Cruelty to Animals and Birds Prohibited.

- (a) Acts of Cruelty prohibited. No person except a police officer or health or humane officer in the pursuit of his or her duties shall, within the Town, shoot or kill or commit an act of cruelty to any animal or bird or disturb any bird's nests or bird's eggs.
- (b) Leading Animal from Motor Vehicles. No person shall lead any animal upon a Town road from a motor vehicle or from a trailer or semi-trailer drawn by a motor vehicle.
- (c) Use of Poisonous and Controlled Substances. No person may expose any pet animal owned by another to any known poisonous substance or controlled substance listed in Wis. Stat. § 161.14, whether mixed with meat or other food or not, where it is reasonable to anticipate the substance may be eaten by such animal or for the purpose of harming the animal. This Subsection shall not apply to poison used on one's own premises and designed for the purpose of rodent and pest extermination, nor the use of a controlled substance used in accepted veterinarian practice or in research by persons or organizations regularly engaged in such research.
- (d) Use of Certain Devices Prohibited. No person may directly or indirectly, or by aiding, abetting or permitting the doing thereof either put, place, fasten, use or fix upon or to any animal used or readied for use for a work purpose or for use in an exhibition, competition, rodeo, circus or other performance any of the following devices: A bristle bur, tack bur or like device; or a poling device used to train a horse to jump which is charged with electricity or to which have been affixed nails, tacks or other sharp points.
- (e) Shooting at Caged or Staked Animals. No person may instigate, promote, aid or abet as a principal, agent, employee, participant or spectator, or participate in the earnings from or intentionally maintain or allow any place to be used for the shooting, killing or wounding with a firearm or any deadly weapon any animal that is tied, staked out, caged or otherwise intentionally confined in a man-made enclosure, regardless of size.

**7.03 Penalties.** Any person violating Sections 7.01 or 7.02 shall be subject to a forfeiture of not less than \$50.00 and not more than \$200.00. This Section shall also permit the Town Attorney to apply to the court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any aspect of those sections.