Chapter 10 ANIMALS[1]

ARTICLE I. IN GENERAL

Sec. 10-1. Enforcement.

The provisions of this chapter shall be enforced by those persons or agencies designated by the city. It shall be a violation of this chapter to interfere with an animal control or police officer.

(Code 1969, § 18.03(10))

Sec. 10-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any live, vertebrate creature, domestic or wild.

Animal control officer means any person designated by the city or humane society, who is qualified to perform such duties in accordance with the laws of state and city ordinances.

Animal shelter means any facility operated by a humane society, the city or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Kennel means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.

Licensing authority means the city.

Owner means any person owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

Pet means any animal kept for pleasure rather than utility.

Public nuisance means any animal that:

(1) Attacks, molests or otherwise unreasonably disturbs passersby, passing vehicles or other animals without provocation.

(2) Trespasses on property owned by the City of Fort Atkinson or the Fort Atkinson School District.

(3) Is repeatedly at large.

(4) Damages private or public property.

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[1]Cross reference(s)—Environment, ch. 30; health and sanitation, ch. 38; protection of squirrels, § 58-3; animals on city park grounds, § 62-1; animals restricted in parks, § 62-2; animal license fees, § 110-3.

State law reference(s)—Strays and lost chattels, Wis. Stats. § 170.01 et seq.; animals distrained, Wis. Stats. § 172.01 et seq.

(5) Habitually howls, yelps, barks, crows or otherwise make noises that unreasonably annoy or disturb other residents within the City of Fort Atkinson.

Restraint means any animal secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal means any animal that constitutes a physical threat to human beings or other animals.

Wild animal means any live monkey (nonhuman primate), raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal that can normally be found in the wild state.

(Code 1969, § 18.03(1); Ord. No. 622, § A, 10-5-04)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 10-3. Penalties.

Any person violating any provision of this chapter shall be punished by a forfeiture of not less than $25.00 for the first violation, $50.00 for the second violation and $75.00 for the third violation. The maximum forfeiture under this chapter shall be $500.00 for each violation. If any violation continues, each day's violation shall be deemed a separate violation. If any person is found guilty by a court of law of violating section 10-9 herein, his/her permit/license to own, keep, harbor or have custody of animals shall be deemed automatically revoked and no new permit/license may be issued.

(Code 1969, § 18.03(11); Ord. No. 622, § B, 10-5-04)

Sec. 10-4. Restrictions on keeping dogs.

It shall be unlawful for any person within the city to own, harbor or keep any dog which:

(1) Habitually pursues any vehicle upon any public street, alley or highway in the city.

(2) Assaults or attacks any person.

(3) Habitually barks or howls to the annoyance of any person.

(4) 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.

State law reference(s)—Rabies control generally, Wis. Stats. § 95.21.

Sec. 10-5. Restrictions on numbers of domestic animals, fowl or pets.

No family shall keep any swine, horses, cattle, sheep, goats or mules, nor more than two rabbits, three dogs, three cats, six chickens, two mink, two ducks, two geese, two doves or two turkeys on any property within the corporate limits of the city; except, the total number of animals, fowl or pets that a family may keep under this section shall not exceed a combination of six.

(Code 1969, § 6.07; Ord. No. 622, § C, 10-5-04)

Sec. 10-6. Restraint.

(a) All animals shall be kept under restraint.

(b) No owner shall fail to exercise proper care and control of his/her animals to prevent them from becoming a public nuisance.

(c) Every female dog or cat in heat shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

(d) Every vicious animal, as determined by the licensing authority, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(Code 1969, § 18.03(3))

Sec. 10-7. Animal care.

(a) No owner shall fail to provide his/her animal with sufficient food and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(b) No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

(c) No owner of an animal shall abandon such animal.

(d) Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; if the owner cannot be ascertained and located, the operator shall at once report the accident to the appropriate law enforcement agency or to the local humane society.

(e) No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal; but it shall not be unlawful for a person to expose on his/her own property common rat poison mixed only with vegetable substances.

(Code 1969, § 18.03(5))

Sec. 10-8. Dog, cat bites.

The city adopts by reference and incorporates herein county Ordinance No. 24, adopted March 14, 1978.

(Code 1969, § 18.03(6))

Sec. 10-9. Keeping of wild animals.

No person shall keep or permit to be kept on his/her premises any wild or vicious animal or poisonous snake or reptile for display or for exhibition purposes unless the same is securely enclosed in a manner to prevent its escape and to keep it from doing injury to any person and the proper department of natural resources permit has been obtained.

(Code 1969, § 18.03(7))

Sec. 10-10. Animal waste.

The owner of every animal shall be responsible for the removal of any excreta deposited by his/her animal outside the premises of its owner.

(Code 1969, § 18.03(8))

Cross reference(s)—Solid waste, ch. 86.

Sec. 10-11. Restrictions on animal odors.

All premises within the City of Fort Atkinson shall be kept from all animal odors that unreasonably disturb other residents of the city. The owner(s) and occupant(s) of any such premises may be held to be jointly and severally liable in the enforcement of this section.

(Ord. No. 622, § D, 10-5-04)

Sec. 10-12. Hunting.

(a) *Intent and purpose.* The city council finds that it is necessary to restrict hunting within the jurisdictional limits of Fort Atkinson, as set forth below, to further the public health and safety of its residents.

(b) *Definitions.* In this section:

(1) *"Building"* means a permanent structure used for human occupancy, and includes a manufactured home as defined in Wis. Stats. § 101.91(2).

(2) *"Bow"* when used with reference to hunting, means a bow, drawn and held by and through the effort of the person releasing it, but does not include a crossbow.

(3) *"Crossbow"* means any device using a bow that, once drawn, is held solely by means other than the effort of the person firing it.

(4) *"Hunt"* or *"hunting"* includes shooting, shooting at, pursuing, taking, trapping, capturing, killing, or attempting to capture or kill any wild animal.

(c) *Hunting—City property.*

(1) No person may hunt on lands owned by the City of Fort Atkinson at any time.

(2) Nothing in this section shall be construed to prohibit a person from the use of a bow or a crossbow for non-hunting purposes as long as same is done with due regard for the safety of others and their property.

(d) *Hunting—Non-city property.*

(1) No person shall hunt with a bow or crossbow within 100 yards from a building located on another person's land within the jurisdictional limits of the City of Fort Atkinson. This provision does not apply if the person who owns the land on which the building is located allows the hunter to hunt within the 100 yards.

(2) Any person who uses or hunts with a bow or crossbow shall discharge the arrow or bolt from the respective weapon toward the ground at the end of that person's hunting activity.

(e) *Penalties.* Any person duly convicted of violating any provisions of this section shall be sentenced pursuant to section 1-10 of the city's Code of Ordinances.

(Ord. No. 749, 3-15-16)

Sec. 10-13. Beekeeping.

(a) The purpose of this section is to create rules for the placement and care of an apiary and to ensure a harmonious relationship between the apiary and adjoining properties.

(b) *Definitions:*

(1) *Apiary:* A place where bees are kept; a collection of beehives.

(2) *Beekeeper:* A person who owns or has charge of one or more colonies of bees.

(3) *Beekeeping equipment:* Anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

(4) *Colony:* An aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the hive inhabited by bees.

(5) *Hive:* A structure intended for the housing of one bee colony. A single hive, including the attached honey supers, shall not exceed 20 cubic feet in size.

(6) *Honey bee:* All life stages of the common domestic honey bee, *Apis Mellifera* species.

(7) *Recreational area:* Patios, porches, decks, gazebos, swimming pools, and permanently affixed play equipment.

(8) *Flyway barrier:* A closed fence, evergreen hedge, building or other solid structure a minimum of six feet in height and a minimum of ten feet in length on either side of the nearest beehive.

(9) *Nuisance:* That which unreasonably annoys or disturbs one in possession of his/her property, rendering its ordinary use or occupation uncomfortable.

(c) Honey beekeeping shall be allowed only in residentially zoned districts within the City of Fort Atkinson by license. A beekeeping license application may be granted by the city clerk's office if the following criteria are met:

(1) Honey bees shall be of the common domestic *Apis Mellifera* species.

(2) No more than two hives shall be allowed on residentially zoned parcels, and not more than two colonies shall be allowed per half acre of land within the City of Fort Atkinson. No honey bees shall be kept on premises which contain multi-tenant buildings or two or more dwelling units.

(3) Hives forming the apiary structure must be located near each other to form a single apiary. A temporary or third hive, for hive splitting, may be allowed for a maximum of one month.

(4) All honey bees shall be kept in hives with removable frames which shall be kept in sound and useable condition.

(5) A flyway barrier shall be located and maintained between the hive and property lines.

(6) All hives and related structures that form the apiary shall not be located in front or side yards and must be a minimum of five feet from a property line. The entrance(s) of all beehives must face away from adjoining properties.

(7) Hives shall be located a minimum of 15 feet from any adjoining lot's recreational area.

(8) *Water sources.* Because the most common nuisance complaint of urban honey bees is bees congregating at nearby water sources such as bird baths, pet water bowls, and pools, beekeepers must maintain two water sources on their property, and each water source shall be continually filled with

water when the bees are active outside the hive (water source may cease in the winter months). At least one of the two water sources shall be placed within 20 feet of the beehives. Suggested water sources would include a bird bath that is regularly filled with water and/or a chicken waterer, each filled with stones to allow bees to perch near the water.

(9) All apiary structures must be constructed and maintained so as to be in compliance with all zoning regulations in the City of Fort Atkinson. An application for beekeeping license shall require the notification of all residents of the property, and owners and residents of adjoining parcels of the proposed apiary. Notification will be done by the clerk's office upon receipt of an application for license. No beekeeping license shall be issued for a minimum of two weeks after notification of adjoining affected properties. A beekeeping license and fee shall be required for each property to be used in the beekeeping operation. A license provides permission for honey beekeeping at the address listed in the license application to be conducted by the license applicant only and shall not be transferred to another location or person. Upon vacating the property, the beekeeper must remove all apiary structures and bees from the property. A beekeeping license fee shall be paid to the city clerk.

(10) Applicants shall utilize beekeeping associations, classes and training or any combination thereof to obtain competency in beekeeping.

(11) Beekeepers shall ensure that no empty beehives, bee comb, or other materials that might encourage robbing are left upon the property. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure. No open feeding of honey bees is allowed.

(d) *License.* A license shall be required to keep honey bees in the City of Fort Atkinson. In addition to those conditions set forth above, an application for a license must contain the following items:

(1) The name, phone number and address of the applicant.

(2) The location of the subject property.

(3) A proposal containing the following information:

a. A description of beehives and required flyway barriers, providing dimensions and the precise location of beehives and flyway barriers in relation to property lines and adjacent properties.

b. The application fee charge for the license shall be determined by resolution of the city council. There shall be no charge for the annual renewal of the license.

(4) If the applicant proposes to keep honey bees in the yard of a rented dwelling, the applicant must present a signed statement from the owner of said dwelling consenting to the applicant's proposal for keeping honey bees on the premises.

(e) *Prohibited conduct.* Beekeepers shall comply with the following:

(1) Any bee colony not residing in a hive structure intended for beekeeping or any swarm of bees not under active human control shall be reported to the police department, city clerk's office or the city building inspector. No beekeeper shall keep bees or hives that cause a nuisance, unhealthy conditions, create a public threat or interfere with the normal use and enjoyment of any public property or property of others.

(2) Apiaries and/or hives shall be actively maintained and hives not under active human management and maintenance may be ordered by the police department, city clerk's office, or the city building inspector to be dismantled or removed.

(f) *Penalties, violations and enforcement.*

(1) Except as provided in this chapter, any person violating any provision of this section shall be subject to fines and penalties in accordance with section 1-10 of the city Code of Ordinances.

(2) Violations of any provision of this section may result in the review and possible revocation of the license by the city clerk's office or the city police department.

(3) If this section is repealed, no party shall have the right to keep honey bees based on a nonconforming use status obtained under this section.

(Ord. No. 750, 4-19-16)

Sec. 10-14. Large-scale commercial animal breeding prohibited.

(a) The purpose of this section is to prohibit large-scale, commercial breeding facilities where the health and welfare of the animals is disregarded in order to maximize profits.

(b) *Definitions:*

(1) *Animals:* shall be defined as live, cats, dogs, or rabbits.

(2) *Animal care facility:* an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations.

(3) *Animal rescue organization:* any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include an entity that is a breeder or broker or one that obtains animals from a breeder or broker for profit or compensation.

(4) *Breeder:* a person that maintains a dog or cat for the purposes of breeding and selling their offspring.

(5) *Broker:* a person that transfers a dog or cat from a breeder for resale by another person.

(6) *Cat:* a member of the species of domestic cat, *Felis catus*.

(7) *Dog:* a member of the species of domestic dog, *Canis familiaris*.

(8) *Pet store:* a retail establishment where companion animals are sold, exchanged, bartered or offered for sale to the general public. Such definition shall not include an animal care facility or animal rescue organization, as defined.

(c) *Restrictions on the sale of animals.* No pet store shall sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of cats, dogs, or rabbits. Nothing in this section shall prohibit pet stores from collaborating with animal care facilities or animal rescue organizations or offer space for such entities to showcase adoptable dogs, cats, or rabbits provided the pet store shall not have any ownership interest in the animals offered for adoption and shall not receive a fee for providing space for the adoption of any of these animals. Dogs may not be kept overnight.

(d) *Penalty.* A pet store that violates this section shall be subject to a civil penalty as outlined in section 1-10 of this Code; and each dog, cat, or rabbit offered for sale in violation of this section shall constitute a separate violation.

(e) *Severability.* If any section, subsection, paragraph, sentence, clause or phrase of this section shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this section which shall continue in full force and effect, and to this end the provisions of this section are hereby declared to be severable.

(Ord. No. 797, § 1, 5-4-21)

Secs. 10-15—10-40. Reserved.

ARTICLE II. LICENSING AND IMPOUNDMENT

Sec. 10-41. Licensing of dogs and cats.

(a) Any person owning, keeping, harboring or having custody of any dog or cat over five months of age within the city must obtain a license as provided in this article.

(b) The licensing period shall begin with January 1 and shall run for one year. The annual fee schedule provided by the state, the county, and the city shall be adopted.

(c) Written application for licenses shall be made to the licensing authority, which shall include the name and address of the applicant, description of the dog or cat, and the appropriate fee and rabies certificate issued by a licensed veterinarian or antirabies clinic. Proof of spaying or neutering may be requested by the licensing authority.

(d) Application for a license must be made within 30 days after obtaining a dog or cat over five months of age, except that this requirement will not apply to a nonresident keeping a dog or cat within the city for no longer than 30 days.

(e) License fees shall not be required for seeing eye dogs.

(f) Upon acceptance of the license application and fee, the licensing authority shall issue a durable tag stamped with an identifying number and the year of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the dog's or cat's collar or harness.

(g) Dogs and cats must wear identification tags or collars at all times.

(h) The licensing authority shall maintain a record of the identifying numbers of tags issued and shall make this record available to the public.

(i) Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a civil forfeiture.

(j) The parent or guardian of any minor claiming ownership of any dog or cat license shall be deemed to be the owner of such animal and shall be charged for all penalties and fees imposed by this section.

(k) No person may use any license for any dog or cat other than the animal for which it was issued.

(Code 1969, § 18.03(2))

Sec. 10-42. Impoundment and violation notice.

(a) Unrestrained and nuisance animals shall be taken by the animal control officers or police and impounded in an animal shelter and there confined in a humane manner.

(b) Impounded dogs and cats shall be kept for not less than seven days.

(c) If by a license tag or other means the owner of an impounded animal can be identified, the animal control officer or police shall immediately upon impoundment notify the owner by telephone or mail.

(d) An owner reclaiming an impounded dog or cat shall pay an animal release fee of $25.00 to the police department.

(e) Any animal not reclaimed by its owner within seven days shall become the property of the local government authority or humane society, and shall be placed for adoption in a suitable home or humanely euthanized.

(f) In addition to or in lieu of impounding an animal found not under restraint, the animal control officer or police officer may issue to the known owner of such animal a notice of ordinance violation. Such notice shall impose upon the owner a penalty, which may, at the discretion of the animal owner, be paid to any agency designated by the licensing authority.

(g) The owner of an impounded animal may also be proceeded against for violation of other provisions of this article.

(Code 1969, § 18.03(4))

Sec. 10-43. Sterilization.

No unclaimed dog or cat shall be released for adoption without being sterilized, or without a written agreement from the adopter guaranteeing that such animal will be sterilized.

(Code 1969, § 18.03(9))