

ORDINANCE # 48

COMPREHENSIVE ANIMAL CONTROL ORDINANCE

Article I. Purpose.

The purpose of this article is to promote harmonious relationships in the interaction between man and animal by:

- (a) protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;
- (b) delineating the animal owner's or harbor's responsibility for acts and behavior of his animal at all times;
- (c) providing security to residents from annoyance, intimidation, injury, and health hazards by animals;
- (d) encouraging responsible pet ownership; and
- (e) providing standards for any and all persons and agencies, public or private, engaged in confinement, buying, selling, harboring or dealing in animals in any manner whatsoever.

Article II. Dogs.

Section 1. Licensing of dogs. Each owner of a dog more than five months of age on January 1st of any year, or five months of age within the license year, shall annually, or on or before the date such dog becomes five months of age, pay a dog license tax and obtain a license therefore in the City of Fountain City, Wisconsin, as provided for in Sections 174.05, 174.053, 174.054, 174.055 and 174.06 of the Wisconsin Statutes. The license year shall commence on January 1 and end the following December 31 of each year.

Section 2. Display of license tag. A valid dog license tag shall be displayed on the dog collar at all times except when confined indoors, in a fenced yard, in competition or while hunting.

Section 3. Vaccination.

- (a) It shall be the duty of each dog owner to have such dog inoculated with an avianized antirabic vaccine or any similar vaccine by a veterinarian on the following schedule: initial vaccination at age four months; booster vaccination at age 1 year; subsequent vaccinations at

two year intervals thereafter.

(b) Dogs under four months are not required to be vaccinated.

(c) Any dog for which a veterinarian licensed by the state in which he is practicing issues a certificate to the effect that the proposed inoculation will be harmful, shall be exempt from the inoculation prescribed by this section.

(d) No dog license shall be issued for a dog unless the person seeking to obtain the license shall exhibit a certificate from a licensed veterinarian showing that the dog has a current rabies vaccination in accordance with the above schedule or is exempt pursuant to the preceding paragraph.

Article III. Injury to Property.

Section 1. Injury to property. It shall be unlawful for any person owning or possessing a dog or cat to permit such dog or cat to go upon any sidewalk, 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.

Section 2. Waste products accumulations. It shall be unlawful for any person to cause or permit a dog or cat to be on property, public or private, not owned or possessed by such person unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person. This section shall not apply to a person who is visually or physically handicapped.

Article IV. Manner of keeping.

Section 1. Pens, yards or runs. All pens, yards or runs or other structures wherein any animal is kept shall be of such construction so as to be easily cleaned and kept in good repair.

Section 2. Fences. Fences which are intended as enclosures for any animal shall be securely constructed, shall be adequate for the purpose, kept in good repair and shall not be allowed to become unsightly.

Section 3. Chains and ropes. No animal may be tied by a rope or chain less than six feet in length.

Section 4. Female animals in heat. All female animals in heat shall be confined in a building or secure enclosure or upon leash in such manner that the animal cannot come into

contact with a male animal except for planned breeding.

Section 5. Feeding, watering and sanitary conditions. The owner or keeper of any animal shall properly water and feed it at regular intervals and shall keep the premises occupied by it in a sanitary condition.

Article V. Dogs, Cats and Other Animals Running at Large.

Section 1. Prohibition. It shall be unlawful for any person owning or possessing any dog, cat or other animal to permit the same to run at large. For the purpose of this paragraph, "running at large" shall be defined to be the presence of a dog, cat or other animal at any place except upon the premises of the owner.

A dog, cat or other animal shall not be considered to be running at large if it is on a leash and under control of a person physically able to control it.

No dog, cat or other animal shall be permitted in any cemetery.

No dog, cat or other animal shall be allowed in any swimming areas open to the public in the City.

Section 2. Impounding dogs, cats and other animals.

(a) Capture of animal by private citizen. A person who has captured or restrained a stray dog, cat or other animal shall notify the city police department and the animal shall be placed in the city pound.

(b) Capture of animal by city police. The city police may also apprehend any dog, cat or animal running at large and confine the same in the city pound.

(c) Notification to owner and redemption by owner. If the owner of such animal so impounded is known by the impounding officer, notification shall be given in person or by regular mail. If the owner of such animal is not known to the impounding officer, notice of the impounding of such animal will appear in the Cochrane-Fountain City Recorder. The owner of such animal may redeem the impounded animal at any time within five (5) days from the date of receiving notice of such impounding. The sum of five (\$5) dollars per day shall be paid by the owner of such animal to the City Treasurer for each day the animal remains in the city pound and; in addition, there shall be exhibited to the City Clerk a current license for such animal. The owner must also pay the penalty and costs set forth in Article XIII herein and all publication costs, if any, prior to redeeming said animal.

(d) Failure to redeem animal. If the owner of the animal so impounded does not

redeem such animal in the prescribed manner within the required period, then such impounding officer shall dispose of the dog in a proper and humane manner.

(e) Fees, costs and penalties to owners of unredeemed animals. If the animal so impounded is not redeemed by the owner and the owner is known and verified by the police department, said owner will be billed for five (\$5) dollars per day for each day the animal remains in the city pound, all publication and notification costs and the penalties and costs as set forth in Article XIII herein.

(f) Records to be kept on impounded animals. Every officer who impounds an animal shall keep a record of every animal impounded, redeemed, sold or otherwise disposed of, describing the animal with reasonable certainty of identification and listing the name and address of the party to whom sold or delivered or the manner of otherwise disposing of the animal. In addition, any person to whom such animal is sold or delivered must sign a statement to that effect giving name, address and the delivery or receipt of such animal.

(g) What constitutes a separate offense. Each and every impounding of any animal found running at large off the premises of the owner in the City of Fountain City, Wisconsin, shall constitute a separate offense and a separate penalty shall be paid for each such offense in the amount hereinbefore set forth.

Article VI. Keeping Barking Dogs and Crying Cats.

Section 1. Harboring. 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.

Section 2. Petitions complaining of vicious or barking dogs or crying cats.

(a) Whenever any person shall complain to the police department that a dog which habitually barks, howls or yelps or a cat which habitually cries or howls is being kept by any person in the city, the police department shall notify the owner of said dog or cat that a complaint has been received and that the person should take whatever steps necessary to alleviate the howling, yelping or crying.

(b) If the warning given to the person alleged to be keeping a dog or cat as set forth in (a) above is ineffective, then a verified complaint of at least two citizens not from the same family may be presented to the police department, alleging that a vicious dog or a dog which habitually barks, howls or yelps, or a cat which habitually cries or howls is being kept by any

person within the city. The police department shall inform the owner of such dog or cat that said petition has been received and shall cite the owner of the dog or cat for the violation alleged in said petition.

Article VII. Keeping of Numerous Dogs in the City.

Section 1. Nuisance. The keeping of an unlimited number of dogs in the city for a considerable period of time detracts from and, in many instances, is detrimental to the healthful and comfortable life for which such areas were created. The keeping of an unlimited number of dogs is, therefore, declared to be a public nuisance.

(a) "Dog" shall mean any canine, regardless of age or sex.

Section 2. Number of dogs limited.

(a) It shall be unlawful for any household to keep more than three dogs within the city, with the exception that a litter of pups, or apportion of a litter may be kept for a period of time not exceeding five months from birth.

(b) The provision of this section shall not apply to any establishment wherein dogs are kept for breeding, sale, sporting purposes or boarding.

Section 3. Kennels. In the areas where kennels are permitted, no kennel shall be located closer than one hundred feet to the boundary of the nearest adjacent residential lot.

Article VIII. Cruelty to Animals Prohibited.

Section 1. Cruelty to animals prohibited. It shall be unlawful for any person to willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse or cruelly beat, strike or abuse any animal, or by an act, omission or neglect cause or inflict any unnecessary or unjustifiable pain, suffering, injury or death to any animal whether such animal belongs to such person or to another, except that reasonable force may be employed to drive away vicious or trespassing animals. Any unwanted animals should be humanely disposed of.

Section 2. Food and shelter. It shall be unlawful for any person in charge of any animal to fail, refuse or neglect to provide such animal with food, potable water, shade or shelter, or to cruelly or unnecessarily expose any such animal in hot, stormy, cold or inclement weather, or to carry any such animal in or upon any vehicle in a cruel or inhumane manner.

(a) As used in this paragraph:

(1) "Shade" shall mean protection from the direct rays of the sun during the months of June through September.

(2) "Shelter" as it applied to dogs, shall mean a moisture-proof structure of suitable size to accommodate the dog and allow retention of body heat, made of durable material with a solid floor raised at least two inches from the ground and with the entrance covered by a flexible, wind-proof material. Such structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness.

Article IX. Pigeon Control.

Section 1. Pigeons. Owners of pigeons allowing their pigeons to roost or linger on the property or buildings of others poses a health hazard in addition to offending aesthetic sense by pigeon contamination. Such lingering or roosting is declared to be a public nuisance.

Section 2. Complaints. Whenever a verified complaint of at least two citizens is presented to the police department, alleging that a person is allowing pigeons to linger upon the property of the complainants, the police department shall inform the owner of such pigeons that said petition has been received and shall cite the owner of the pigeons for the violation alleged in said petition.

Article X. Wild or Vicious Animals.

Section 1. Keeping a wild and vicious animals.

(a) It shall be unlawful for any person to keep or permit to be kept on his premises any wild or vicious animal for display or for exhibition purposes, whether gratuitously or for a fee. This section shall not be construed to apply to zoological parks, performing animal exhibits or circuses.

(b) It shall be unlawful for any person to keep or permit to be kept any wild animal as a pet, unless a permit is granted by the department of natural resources of the state.

(c) It shall be unlawful for any person to harbor or keep a vicious animal within the city. Any animal which is found off the premises of its owners may be seized by any police officer or humane officer and upon establishment, to the satisfaction of any court of competent jurisdiction, of the vicious character of said animal, it may be killed by a police officer or humane officer; provided, however, that this section shall not apply to animals under the control of a law enforcement or military agency, nor to animal which are kept for the protection of property, provided that such animals are restrained by a leash or chain, cage, fence, or other adequate means, from contact with the general public or with persons who enter the premises

with the actual or implied permission of the owner or occupant.

(d) The licensing authority may issue a temporary permit for the keeping, care and protection of any infant animal native to this area which has been deemed to be homeless.

Section 2. Definitions.

(a) "Wild animal" shall mean any live monkey or ape, raccoon, skunk, fox, snake, or other reptile, leopard, panther, tiger, lion, lynx or any other animal or any bird of prey which can normally be found in the wild state.

(b) "Vicious animal" shall mean any animal which has previously attacked or bitten any person or which has behaved in such a manner that the person who harbors said animal knows or should reasonably know that the animal is possessed of tendencies to attack or bite persons.

Article XI. Rabies and Animal Bites.

Section 1. Reporting. Anyone having knowledge or reason to believe that any animal in the city has bitten a person shall report within twenty-four hours, so far as is known, the name and address of the owner and circumstances of the animal. Such report concerning bites shall be made to the police department.

Section 2. Control.

(a) Whenever any domesticated animal has bitten a person, it shall be confined in such place as the police department may direct and for such period of observation as may be necessary, unless such animal is too vicious and dangerous to be impounded safely, in which case it may be killed and its head shipped to the state laboratory for rabies examination.

(b) Whenever a wild animal has bitten a person, it shall be killed, avoiding damage to the head (brain) area, and shipped to the state laboratory under refrigeration, but not frozen, for rabies examination.

Article XII. Miscellaneous Provisions.

Section 1. Certain prohibitions. Except as otherwise provided in this chapter no person shall keep within the city any cattle, cows, horses, sheep, swine, goats, chickens, ducks, turkeys, geese, or other livestock.

Section 2. Exceptions. This ordinance shall not apply in areas of the city that are zoned agricultural in nature nor shall this ordinance apply to livestock brought into the city for the purpose of slaughtered or of being shipped out of the city.

Section 3. Powers of health commissioner. The commissioner of health shall have the power to issue an order prohibiting the keeping of any animal, fowl or bird which is deemed to pose a health hazard to the general public.

Section 4. Special permits. The keeping of animals, birds or fowls otherwise prohibited by this ordinance may be permitted by applying for a special permit from the city council. Such permits may be issued to permit circus performances or other public exhibition or entertainment events. Such permits may also be issued by the City Council in any instance where the City Council feels that the issuing of said permits is reasonable and will not detract from the ordinance as a whole. In particular, such permits may be issued to assist bona fide farmers in the conduct of their farming operations where such farms lie within the city limits and where the terms of this ordinance would prevent them from carrying out a legitimate farming operation.

Article XIII. Penalties.

Section 1. Penalty for first offense. The penalty for a first offense violation of any provisions contained in this ordinance shall be Fifth and No/100 (\$50.00) Dollars.

Section 2. Penalty for second offense. The penalty for a second or subsequent offense violation of any provision contained in this ordinance shall be One Hundred and No/100 (\$100.00) Dollars.

Section 3. Additional costs and penalties. In addition to the basic penalties listed in Sections 1 and 2 above, the violator shall pay a penalty assessment imposed by Wis. Stats. Sec. 165.87, a jail assessment imposed by Wis. Stats. Sec 302.46 (1) and all court costs and assessments.

Section 4. What constitutes a separate offense. Each and every violation of a particular section of this ordinance constitutes a separate offense and a separate penalty shall be paid for each offense. A second or subsequent violation of any particular section of this ordinance constitutes a separate offense and a separate penalty shall be paid for each offense.

Section 5. Where penalties and costs paid. All penalties and costs imposed as a result of a violation of any provision of this ordinance and all deposits shall be paid to the Buffalo County Clerk of Court, Courthouse, 407 South Second, Alma, WI 54610.

Section 6. Receipts for cash deposits. All persons who make cash deposits to cover payment for penalties and costs imposed for violations of this ordinance shall be given a receipt therefore.

Section 7. Timeframe to determine whether an offense is other than a first offense. The

date of a citation for an offense shall start a one-year timeframe running to be measured from the date of said citation and extending for one (1) year thereafter. If an additional offense or offenses shall occur within said one (1) year timeframe, it shall be considered as other than a first offense. If no additional offense or offenses shall occur within said one (1) year timeframe, then any subsequent offense after the one (1) year timeframe shall again be considered to be a first offense. Each offense, regardless of whether it is a first, second, third, fourth, etc. offense shall start a one (1) year timeframe to follow said offense to determine the classification of any subsequent offense during said one (1) year timeframe.

Section 8. Suspension of dog license for fourth citation within a one (1) year timeframe. If a licensed dog owner receives a third citation under this ordinance within a one (1) year timeframe as determined above, then, in addition to the citation penalty, said dog owner shall receive a warning letter from either the city clerk or the city police stating that any subsequent citation within said one (1) year timeframe will result in a one (1) year suspension of all the dog owner's license privileges from the date of the issuance of said subsequent citation. If a licensed dog owner receives a fourth citation under this ordinance within a one (1) year timeframe as determined above, then in addition to the citation penalty, said dog owner shall have all of his dog owner's licenses suspended for a one (1) year period from the date of issuance of said fourth citation.

Section 9. Disposition of dogs upon issuance of fourth citation within a one (1) year timeframe. If a licensed dog owner receives a fourth citation under this ordinance within a one (1) year timeframe as determined above, then all dogs that are licensed to the owner must be removed from the city limits within forty-eight (48) hours of said owner being personally served by the Fountain City police with the notice of the suspension of his dog licenses. If said dogs are not removed within said forty-eight (48) hour period, then the Fountain City police shall have the authority to enter the dog owner's premises, take custody of the dogs and remove them from said premises to the Fountain City dog pound. If the dog owner does not make arrangements to remove the dogs out of the Fountain City city limits and do so within seventy-two (72) hours of the dogs' impoundment, then the Fountain City police shall have the authority to arrange to have the dogs destroyed.

Section 10. Reapplication for dog license. A dog owner who has had his dog license privileges suspended may reapply for a dog license after one (1) year has gone by since his dog licenses were suspended.

Article XIV. Enforcement by Citation.

Section 1. Authorization and adoption of enforcement by citation. The City Council hereby adopts and authorizes the use of a citation to be issued for all violations of this

ordinance.

Section 2. Form of citation. The form of citation shall provide for the following:

(a) The name and address of the alleged violator.

(b) The factual allegations describing the alleged violation.

(c) The time and place of offense.

(d) The section of the ordinance violated.

(e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.

(f) The time at which the alleged violator may appear in court. The court of record shall be the Buffalo County Court, Civil Branch, Courthouse, Alma, Wisconsin.

(g) A statement which in essence informs the alleged violator:

(1) That the alleged violator may make a cash deposit of a specified amount to be mailed to the Buffalo County Clerk of Court, Courthouse, 407 South Second, Alma, WI 54610, within five (5) days of the date of the citation.

(2) That if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned.

(3) That if the alleged violator makes a cash deposit and does not appear in court, either he or she will be deemed to have tendered a plea of no contest and submitted to a forfeiture, a penalty assessment imposed by s. 165.87 and a jail assessment imposed by s. 302.46 (1) not to accept the amount of the deposit or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.

(4) That if the alleged violator does not make a cash deposit and does not make a cash deposit and does not appear in court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture, the penalty assessment imposed by s. 165.87 and the jail assessment imposed by s. 302.46(1).

(h) A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under subd. (g) above and shall send the signed statement with the cash deposit.

(i) Such other information as may be deemed necessary.

Section 3. Who may issue citations. Law enforcement officers of the City of Fountain City, Wisconsin, are authorized to issue citations for all violations of this ordinance.

Article XV. Revocation of Prior Ordinances.

All ordinances or parts of ordinances in conflict with this ordinance heretofore enacted by the Common Council of Fountain City, Wisconsin, are hereby repealed. Specific reference is hereby made to Ordinance No. 24 which is specifically repealed.

This Ordinance shall be in force and effect upon its passage, posting and/or publication as required by law.

Dated this 1st day of September, 1992.

Carl Brommerich, Mayor

Barb Schmidtknecht
Clerk

.....

This Ordinance was unanimously passed and adopted at a regular meeting of the Common Council of the City of Fountain City, Wisconsin, on September 1, 1992.

Published on September 9, 1992.

AMENDMENT TO SECTION 2 OF ARTICLE XII

Deletion of entire Section 2 – Exceptions.

Amendment dated 6th day of October, 1992

Carl Brommerich

Barb Schmidtknecht

This Amendment to Ordinance No. 48 was unanimously passed and adopted at a regular meeting of the Common Council of the City of Fountain City, Wisconsin, on October 6, 1992

Published on October 15, 1992.

AMENDMENT ARTICLE XII

ADDITIONS

Amendment dated 3rd day of August, 1999

Carl Brommerich

Janet LaDuke, Clerk-Treasurer

This Amendment to Ordinance No. 48 was unanimously passed and adopted at a regular meeting of the Common Council of the City of Fountain City, Wisconsin, on August 3, 1999.

Published on August 12, 1999.