

ORDINANCE OF THE TOWN OF COTTAGE GROVE, WISCONSIN

Adopted pursuant to Sec. 25.01 of the Town of Cottage Grove Code

Title: Dangerous Animals Regulated (TCG Ord sec. 20.20)

Code Section(s) created, amended, or repealed	<u>20.20</u>
Presented to Board by	<u>Town Clerk & Town Attorney</u>
Committee Review by	<u>Ordinance Committee</u>
Date(s) Public Hearing(s) held	<u>August 18, 2008</u>
Date adopted	<u>August 18, 2008</u>
Vote	<u>5-0</u>
Date of posting of adoption of ordinance	<u>October 24, 2008</u>
Date of publication of adoption of ordinance	<u>October 25, 2008</u>

The Town Board of the Town of Cottage Grove does ordain as follows:

Section 20.20 shall be added to the Town of Cottage Grove Ordinances, as follows:

20.20 DANGEROUS ANIMALS REGULATED.

(1) STATEMENT OF PURPOSE; GRANT OF AUTHORITY AND JURISDICTION

(a) **PURPOSE OF ORDINANCE.** It is hereby declared that regulation of dangerous animals is a matter of public interest pertaining to the health, safety and welfare of residents of and visitors to the Town of Cottage Grove, and that existing laws are inadequate to deal with the threat to public health and safety posed by dangerous animals. It is further declared that the owning, keeping or harboring of dangerous animals is a public nuisance.

(b) **GRANT OF AUTHORITY AND JURISDICTION TO DANE COUNTY HUMANE OFFICERS AND PHMDC.** Pursuant to Wis. Stats. sec. 173.03(3), the Town hereby affirms that a Humane Officer appointed by Dane County is fully authorized to carry out his or her duties in the Town, and shall have all powers and duties set forth in TCG Ord. ch. 20, relevant Dane County Ordinances¹ and Wis. Stats. ch. 173. (See Wis. Stats. ch. 173, which is entitled "Animals; Humane Officers," for further information on Humane Officer's authority and responsibility.) The Town expressly acknowledges that, because the Humane Officers report directly to Dane County and PHMDC, PHMDC shall have the authority in the Town as is necessary for the Humane Officer to carry out his or her duties in the Town.

(c) **GRANT OF AUTHORITY TO CGPD, DCSO AND LAW ENFORCEMENT OFFICERS.** The Town acknowledges that, for various reasons outside of the Town's control, a Humane Officer will not always be available to respond to a call regarding regulation of dangerous animals within the Town. When a Humane Officer is not available within a reasonable time frame, or in the event of an emergency, the Town hereby affirms

1. In the event of a conflict between Town of Cottage Grove Ordinances and Dane County Ordinances, Town of Cottage Grove Ordinances shall be given priority. To the extent that an issue is not addressed in TCG Ord. sec. 20.20, Dane County Ordinances may be applied where such application is useful in determining a course of action.

that a Law Enforcement Officer shall have the authority to apply and enforce TCG Ord. ch. 20. Where references within TCG Ord. sec. 20.20 are made to CGPD, such authority shall also apply to the DCSO or another law enforcement agency having jurisdiction to act within the Town.

NOTE: To reach the CGPD by telephone:

For Emergencies: 911

24 Hour Non-Emergency: (608) 255-2345 If you wish to speak to the On-Duty Officer, please call the non-emergency number which is answered by the Dane Co 911 Center.

Business Office: (608) 839-4652 Voice Mail messages can be left for any department member 24 hours a day by calling the business office number.

(d) **WISCONSIN STATUTE INCORPORATED BY REFERENCE.** To the extent not inconsistent with this section, the provisions contained in Wis. Stats. ch 173 are hereby incorporated by reference as if set forth in full herein.

(2) **DEFINITIONS**

PLEASE REVIEW THE DEFINITIONS CAREFULLY. APPLYING THESE DEFINITIONS TO THE TERMS USED IN THE ORDINANCE IS ESSENTIAL TO CORRECT INTERPRETATION AND APPLICATION OF THE ORDINANCE.

For the purposes of this section, the following definitions shall apply:

- (a) **"CGPD"** shall mean the Cottage Grove Police Department.
- (b) **"DCSO"** shall mean the Dane County Sheriff's Office.
- (c) **"Domestic animal"** or **"animal"** includes livestock, dogs, cats, birds and reptiles.
 - (d) **"Humane Officer"** shall mean a person appointed as a humane officer by Dane County pursuant to s. 173.03, Stats.
 - (e) **"Impoundment"** shall mean the confinement of an animal in a County-approved, supervised facility such as a veterinarian's kennel, commercially operated kennel or the Dane County Humane Society.
 - (f) **"Law Enforcement Officer"** shall mean a person sworn as a law enforcement officer for the CGPD, DCSO or another police department having jurisdiction and authority to act in the Town of Cottage Grove.
 - (g) **"Officer"** shall mean either a Humane Officer or a Law Enforcement Officer.
 - (h) **"Owner"** shall mean the Owner, custodian or person having charge, care or custody of an animal. For purposes of this ordinance, "Owner" shall also include persons harboring an animal. The occupant of any premises on which an animal remains, or to which it customarily returns daily, for a period of seven (7) days, shall be presumed to be harboring the animal.

- (i) "**Permit**" shall include the otherwise unregulated right to keep an animal currently not covered by a requirement for a Town license or permit.
- (j) "**PHMDC**" shall mean the Public Health Madison & Dane County, or its successor.
- (k) "**TCG Ord**" shall mean the Town of Cottage Grove Ordinances.
- (l) "**Town**" shall mean the Town of Cottage Grove, located in Dane County, Wisconsin.

(3) IMPOUNDMENT—BITING OR ATTACKING ANIMAL

- (a) A Humane Officer or Law Enforcement Officer shall have the power to summarily and immediately impound an animal whenever the Officer has reasonable grounds pursuant to the "DETERMINATION" section of this ordinance to believe that the animal is a dangerous animal. The animal may remain impounded during the entire determination process. If the animal is determined to be dangerous, it shall remain impounded until the Owner has complied with all restrictions outlined by the CGPD or PHMDC and found in the "DANGEROUS ANIMALS RESTRICTIONS" section of this ordinance or until such time as the CGPD or PHMDC determines that the animal may be safely returned to the Owner. Any Law Enforcement Officer or Humane Officer may enter and inspect private property to enforce the provisions of this section. The Owner of the animal shall be liable to the Town and the County for the costs and expenses of impounding and keeping said animal, which costs expressly include associated legal costs incurred by the Town and other third party costs reasonably incurred by the Town, unless the CGPD or PHMDC determination is ultimately overturned by administrative review or a reviewing court. For determinations made by the CGPD or PHMDC, administrative review shall be by the Town Board.
- (b) An animal impounded pursuant to this section, may be returned to the Owner upon payment of all outstanding Town and County fees and charges including costs and expenses of impounding the animal when the investigation and determination is completed. If the animal is determined to be dangerous, the animal shall remain impounded until the Owner provides proof to the CGPD or PHMDC that the Owner has complied with all restrictions outlined by the CGPD or PHMDC and found in the "DANGEROUS ANIMALS RESTRICTIONS" section of this ordinance or until such time as the CGPD or PHMDC determines that the animal may be safely returned to the Owner.
- (c) In lieu of impoundment, if there was no tearing of flesh or multiple wounds by the animal and the animal is currently immunized against rabies, or if the animal species is at low risk for transmitting this or other diseases, the CGPD or PHMDC may permit the animal to be confined at the Owner's residence provided that the Owner complies with conditions set forth by the CGPD or PHMDC.
- (d) The Owner or custodian of an animal confined under Subdivision (c) above shall immediately notify the CGPD or PHMDC if said animal is loose, unconfined, has attacked or bitten or injured another animal or has attacked, bitten or injured a human being or has died. The animal shall not be sold or given away during the impoundment period.

(4) DETERMINATION

A Humane Officer or Law Enforcement Officer shall investigate situations in which there are reasonable grounds to believe an animal is dangerous. Reasonable grounds to believe an animal is dangerous are that the animal:

- (a) Has attacked, bitten or injured another domesticated animal or human being engaged in a lawful activity; or
- (b) Has without provocation and off the property of its Owner, chased, confronted or approached a person in a menacing fashion such as would put an average person in fear of attack; or
- (c) Has been trained for fighting or attack and is being handled, kept or maintained in a manner that causes or should cause an Owner to know that it potentially poses a threat to public health and safety; or
- (d) Has acted in any manner that causes or should cause an Owner to know that the animal is a threat to public health and safety.

(5) DANGEROUS OR AT-RISK ANIMAL, DECLARED

The CGPD or PHMDC, after considering appropriate evidence, may declare any animal to be a dangerous animal. The CGPD or PHMDC shall make a reasonable attempt to personally notify the Owner of the pendency of the CGPD or PHMDC's investigation and shall notify the Owner in writing of its determination. Mailing a copy of the determination to the Owner's last known address and posting in accordance with approved CGPD or PHMDC policy shall satisfy this notice requirement. The notice requirement may also be met by providing the written determination in person or via a commercial delivery service such as Federal Express.

The CGPD or PHMDC may also declare any animal to be an at-risk animal. At-risk animals shall be reevaluated periodically and may have the at-risk designation removed in appropriate circumstances. For example, the at-risk designation could be removed following satisfactory completion of obedience training and certification by the American Kennel Club (AKC) as a "canine good citizen."

(6) DANGEROUS ANIMAL, DISPOSITION

- (a) It shall be unlawful for any person to own, possess, harbor or keep any animal declared by the CGPD or PHMDC to be dangerous, except as allowed in (b) below.
- (b) Any animal declared by the CGPD or PHMDC to be a dangerous animal shall be humanely destroyed, removed from the Town or placed under restrictions as set forth in this section and in CGPD or PHMDC policies. Either the Chief of the CGPD or the Director of PHMDC shall issue an order authorizing the destruction, removal or restriction of the animal within two (2) days after the time for appeal as provided in the "BOARD REVIEW OF DETERMINATION" section of this ordinance below has passed without notice of appeal being filed.
- (c) Any animal declared by the CGPD or PHMDC to be dangerous, if not already impounded by the CGPD or PHMDC, shall be immediately surrendered to the CGPD or PHMDC upon the order of the Chief of the CGPD or Director of Public Health, and an Officer is authorized to take up and impound any such

animal.

(7) DANGEROUS ANIMAL RESTRICTIONS

Any Owner of an animal that has been declared dangerous pursuant to this section and placed under restrictions must comply with the restrictions set forth below as well as any additional restrictions imposed by the Officer, CGPD and/or PHMDC. The Owner must provide documentation to the CGPD or PHMDC of compliance with these restrictions. Said documentation must be provided within thirty (30) days of the animal being declared dangerous.

- (a) The Owner of the animal must provide written proof from a licensed veterinarian that the animal has been spayed or neutered.
- (b) The Owner must provide written proof from a licensed veterinarian that a microchip has been placed in the animal so that the animal can be easily identified. The microchip must contain the following information:
 1. The name of the animal,
 2. The name of the Owner, and
 3. The following language "Dangerous Animal, contact **Cottage Grove Police Department at 608-255-2345**".
- (c) The Owner must provide written proof from a licensed veterinarian that the animal is current with rabies vaccinations.
- (d) The Owner must provide written proof that the Owner has notified Owner's insurance provider of the dangerous animal, and written proof of coverage confirming that the Owner continues to have sufficient property damage and comprehensive liability coverage for claims related to the dangerous animal. While the Town Clerk will maintain copies of the documents that Owner submits, the Town is not undertaking the responsibility to verify the sufficiency of said insurance coverage for the benefit of third parties and shall not be held liable therefor.
- (e) The animal must be in compliance will all license requirements.
- (f) The Owner must post signs no smaller than eight (8) inches by eleven (11) inches, made of metal or plastic, bearing the wording "Warning Dangerous Animal" or "Beware of Dog", no smaller than three (3) inches high. These signs shall be posted at each entrance to the building in which the dangerous animal is kept and at each entrance through a fence and at such location as to be viewable from the public right-of-way to ensure adequate warning and visibility to anyone approaching said building and fence.
- (g) **When outside but still on the property of the Owner or caretaker, the dangerous animal must be supervised by a competent adult and physically restrained at all times to prevent the animal from leaving the property.** If the CGPD or PHMDC determines that the animal may be kept in a secure kennel or pen, hereinafter referred to as "structure", and not under the direct supervision of an adult, the CGPD or PHMDC may require that the structure be constructed under some or all of the following

guidelines:

1. The structure shall be constructed of strong metal fencing to prevent the animal from exiting on its own volition.
 2. The structure shall be secure on all sides and have a secure top attached.
 3. The structure shall have a secure bottom or floor attached to the sides of the structure or the sides of the structure shall be embedded in the ground no less than two (2) feet.
 4. The structure shall be kept locked at all times with a key or combination lock.
 5. The structure shall provide adequate light, ventilation and shelter from the environment for the animal.
 6. The structure shall be maintained in a clean and sanitary condition.
 7. The structure must be in compliance with all other building and zoning ordinances.
- (h) **The dangerous animal shall be muzzled and leashed at all times when outside and not within an "approved "structure," whether on or off the Owner's property.** The muzzle must be made in a manner that will not cause injury to the animal but that will prevent it from biting any person or animal. The leash shall be attached to a secure collar that is of sufficient strength to restrain the animal. The leash shall be no longer than four (4) feet in length and must be secured by and under the direct control and supervision of a competent adult.
- (i) The Owner shall allow the CGPD or PHMDC to take four (4) photographs depicting the animal and Owner as outlined below:
1. One (1) photograph showing a close view of the animal's entire face, so that the animal is recognizable,
 2. One (1) photograph showing the animal's entire left side of its body, including its legs and tail,
 3. One (1) photograph showing the animal's entire right side of its body, including its legs and tail, and
 4. One (1) photograph showing the Owner, so that the Owner is easily identifiable. Prior to a dangerous animal being sold or given away, the current Owner must provide the name, address and telephone number of the proposed new Owner to the CGPD or PHMDC. Prior to taking physical custody of the dangerous animal, the new Owner must comply with all requirements of this ordinance and any other restriction the CGPD or PHMDC determines to be appropriate to ensure the public's safety.

To ensure compliance with this ordinance, the Owner or caretaker of a dangerous animal shall allow the CGPD or PHMDC on an annual basis and at any other reasonable time determined by the CGPD or PHMDC the opportunity to inspect the property where the dangerous animal is kept.

(8) DANGEROUS ANIMAL LICENSE REQUIRED

[NOTE: TCG Ord. sec. 20.20 is not intended to and does not in any way modify the general licensing requirements for dogs set forth in Wis. Stats. ch. 174, which are incorporated by reference in the Town's ordinances, and remain in full force and effect. Licensing for dangerous animals is in addition to any other licenses or permits that are required by law.]

Any animal declared dangerous under this section, shall be required to have a dangerous animal license as set forth herein. Application for said license must be made within ten (10) days of said declaration.

All animals that have been declared dangerous pursuant to TCG Ord. sec. 20.20, may not be kept within the Town of Cottage Grove unless the Owner has applied for a dangerous animal license within ten (10) days of said declaration. The license fee shall be no less than one hundred fifty dollars (\$150) and shall be an annual license issued from January 1st until December 31st of each year, or portion thereof, and shall be set by resolution of the Town Board. The license fee may be hereafter changed by resolution of the Town Board. The license shall be issued after the Owner complies with this ordinance and all other restrictions imposed by an Officer, CGPD or PHMDC. In addition to the forfeitures specified elsewhere in this ordinance, any violation of this section may result in the CGPD or PHMDC immediately impounding the dangerous animal and conducting a new dangerous animal investigation.

(9) SUBSEQUENT DETERMINATION AND PENALTY

- (a) The CGPD or PHMDC may make a new determination if an Owner fails to comply with the terms or restrictions imposed in the "DANGEROUS ANIMAL, DISPOSITION" and/or "DANGEROUS ANIMAL RESTRICTIONS" sections of this ordinance.
- (b) The failure of any person to comply with any term, condition or restriction imposed by the CGPD or PHMDC is a violation of this ordinance.

(10) BOARD REVIEW OF DETERMINATION

The Owner or any person aggrieved by a CGPD or PHMDC determination declaring any animal to be a dangerous animal may appeal such determination to the Cottage Grove Town Board ("Board") by filing a notice of appeal stating the grounds therefor with the following persons: (1) Chief of the CGPD (for determinations issued by CGPD or any Law Enforcement Officer) or Director of PHMDC (for determinations issued by Humane Officer); and, Town Clerk of the Town of Cottage Grove (for all determinations). Such notices of appeal shall be filed within seven (7) days of the date of mailing of the CGPD or PHMDC Determination under subsection (5) above. Board review pursuant to this procedure is required prior to seeking court review. Failure to so obtain Board review shall be deemed a full and complete waiver of the right to any additional review of the determination.

If an appeal is timely and properly filed, the Board shall schedule a hearing on whether to affirm, conditionally affirm or reject the determination within thirty-two (32) days, but not sooner than five (5) days, and shall make reasonable efforts to notify the Owner, bite or attack .victims and their representatives, if any, witnesses and other interested parties of such hearing and the opportunity to present evidence and testimony to the Board. The Board shall, within a reasonable period of time after the hearing, issue its decision in writing and serve a copy of the same by first class mail upon the Owner and all parties requesting the same. The notice requirement may also be met by providing the written determination in person or via a commercial delivery service such as Federal Express.

(11) APPEALS TO CIRCUIT COURT

Any person aggrieved by a determination of the Cottage Grove Town Board under subsection (10) above may appeal such action on a dangerous animal determination to Circuit Court by writ of certiorari within ten (10) days of notification of such final action by mailing of the decision under subsection (10).

(12) PROSECUTION

An investigation or determination under this section shall not prohibit the Town from prosecuting the same Owner for other animal control violations relating to the same animal or other animal.

(13) VIOLATION

- (a) Any violation of this section shall be subject to a Class D forfeiture as specified in TCG Ord. 25.04(1)
- (b). Each and every day such violation continues shall be considered a separate offense.
- (b) The failure or neglect of any person to comply with any lawful order of an Officer, the CGPD or the PHMDC issued pursuant to this ordinance shall constitute a violation of this ordinance.

(14) SEVERABILITY

In the event that any section of this ordinance shall be declared or adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the other sections of this ordinance, which shall be in full force and effect as if the said section(s) were not originally a part thereof.

Adopted this 18th day of August, 2008, by a vote of 5 for, 0 against, and 0 abstain.

TOWN OF COTTAGE GROVE

Kris Hampton, Town Chair

ATTEST:

Kim Banigan, Town Clerk

Approved as to form as of this
18th day of August, 2008.

ANDERSON & KENT, S.C.

Constance L. Anderson
Cottage Grove Town Attorney