

ORDINANCE OF THE TOWN OF COTTAGE GROVE, WISCONSIN

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

Title: Number of Animals Regulated (TCG Ord sec. 20.30)

Code Section(s) created, amended, or repealed	<u>20.30</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 (Referred Back To Committee), September 15, 2008 (Referred back to Attorney)</u>
Date adopted	<u>October 7, 2008</u>
Vote	<u>5-0</u>
Date of posting of adoption of ordinance	<u></u>
Date of publication of adoption of ordinance	<u></u>

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

Section 20.30 shall be added to the Town of Cottage Grove Ordinances, as follows:

20.30 NUMBER OF ANIMALS REGULATED.

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

(a) **PURPOSE OF ORDINANCE.** It is hereby declared that regulation of the number of 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 harm to public health and safety posed by having too many animals in a residential area. It is further declared that the owning, keeping or harboring of too many animals in a residential area detracts from the healthful, comfortable and safe lifestyle for which such areas are created and, particularly with respect to pack animals such as dogs, 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

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. 20.30, Dane County Ordinances may be applied where such application is useful in determining a course of action.

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 the number of 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 that a Law Enforcement Officer shall have the authority to apply and enforce TCG Ord. ch. 20. Where references within TCG Ord. sec. 20.30 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) **"PHMDC"** shall mean the Public Health Madison & Dane County, or its successor.
- (j) **"Residential area"** shall, for the purposes of this section, include only those parcels of land zoned principally for residential use and designated under Dane County Zoning Code as any R- Residence District (R-1, R-1A, R-2, R-3A, or R-4) and/or the RH-1 Rural Homes District.
- (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) LIMITING NUMBER OF DOGS IN RESIDENTIAL AREA

No person or household shall own, harbor or keep more than five (5) dogs in any residential area, with the exception that a litter of pups, or a portion of a litter, may be kept for a period of time not exceeding 18 weeks from birth.

(4) EXCEPTIONS; REVOCATION OF EXCEPTIONS

Notwithstanding the limitation on the number of dogs set forth in this ordinance, those persons living in a residential area who have more than five (5) licensed dogs on the date of adoption of this ordinance may be eligible for an exception to this limitation. This exception may be granted in the reasonable discretion of the Town Clerk; provided that the owner and household comply with all of the following requirements:

- (a) Written request must be submitted to Town Clerk requesting an exception to the limitation, and including the following information: (i) identify all existing dogs in the household by breed, size and age; (ii) confirm who owns each of the dogs; (iii) describe training each dog has received; (iv) describe principal reason for owning each dog (e.g.,

hunting, breeding, protection, companion dog); (v) describe dog's living conditions (e.g., kennel, in-home, fenced yard); (vi) describe each dog's health and veterinary care provided; (vii) provide summary of any complaints received or made regarding each dog; and (viii) request an exception for the life of current dogs or an exception for the life of current and replacement dogs.

- (b) Written request must be complete and received by the Town Clerk no later than sixty (60) days following adoption of this ordinance.
- (c) The household address where the dogs will be located shall be provided to the Town Clerk and shall be the address used by the Town for all notices related to this ordinance. Notice shall be given when sent to the household address by first class U.S. mail or commercial delivery service, or when personally delivered.
- (d) None of the dogs in the household may be classified as a "dangerous animal" pursuant to Town ordinances.
- (e) The owner and household must grant an Officer the right to complete on-site inspections to verify the number of dogs, the accuracy of the information provided in the written request, and the adequacy of the dog's living conditions. This authority must be provided in writing upon request.

The Town Clerk's denial of an exception may be appealed to the Town Board, provided that written notice of appeal is given to the Town Clerk in writing within thirty (30) days of the Town Clerk's denial of an exception. Failure to timely appeal shall bar all other remedies that may have been available to the owner and/or household.

Following receipt of a complaint, the Town Board may review any exceptions granted under this ordinance and, where appropriate, revoke the exception. The Town Board may request assistance from a Humane Officer or Law Enforcement Officer to conduct an investigation of the complaint or concerns raised by the Town Board. The Town Board's review may include, but shall not necessarily be limited to, the accuracy of the information provided in the written request under subsection (a) above and/or an on-site inspection under subsection (e) above. The Town Board may revoke an exception where the Town Board finds that the required information provided is inaccurate, there is a "dangerous animal" in the household, the dog(s)' living conditions are inadequate, the owner or household has violated this or another Town ordinance regulating animals, and/or based on other findings based on the totality of the circumstances presented. The Town Board's determination on revocation of an exception shall be final.

(5) DETERMINATION

A Humane Officer or Law Enforcement Officer shall investigate situations in which there are reasonable grounds to believe that an Owner is harboring or keeping dogs in excess of the limits

set forth in this ordinance, and shall make a determination as to the number of dogs.

(6) VIOLATION

- (a) Any violation of this ordinance shall be subject to a Class C 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 or determination of the Town Clerk, an Officer, the CGPD or the PHMDC issued pursuant to this ordinance shall constitute a violation of this ordinance.

(7) 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 7th day of October 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
_____ day of _____, 2008.

ANDERSON & KENT, S.C.

Constance L. Anderson
Cottage Grove Town Attorney