

**TOWN OF APPLE RIVER
POLK COUNTY, WISCONSIN**

ORDINANCE # 2018 - ____

DOG & ANIMAL CONTROL PROVISIONS

An ordinance to regulate dogs and other animals within the Town of Apple River, Polk County, Wisconsin (“Town”).

The Town Board of the Town of Apple River, Polk County, Wisconsin, does ordain as follows:

SECTION 1: STATE STATUTES ADOPTED

Wisconsin Statutes 95 (Animal Health), 173 (Animals: Humane Officers), 174 (Dogs), and 951 (Crimes Against Animals), are adopted by reference. If there is a conflict between the provisions of Wisconsin Statutes and this Ordinance, the provisions of this Ordinance shall apply except in those cases where State Statutes are preemptive.

SECTION 2 – DEFINITIONS

- A. “Kennel” means any establishment wherein or whereon dogs are kept for the purpose of breeding, sale or sporting purposes.
- B. “Animal Control Officer” means a person designated by the Town of Apple River Board to be responsible for enforcing and upholding this ordinance. This shall include the Town Chair or any law enforcement officer, and any person designated by the Town Board.
- C. “Pound” means a place designated by the Town of Apple River Board where dogs found as specified under Section 1 shall be housed awaiting disposition.
- D. “Owner” means any person who owns, harbors, or keeps a dog.
- E. “Town Health Officer” means a person designated by the Town of Apple River Board to notify the veterinarian in the case of a bitten person. This shall be the Town Chair if no person has been so designated.
- F. “Dangerous and Vicious Dog” means a dog that there is reason to suspect may suddenly assault a person or their property while peacefully on public property including but not limited to paths, sidewalks, roadways and parks, on private property, or while lawfully on the premises of the owner of such dog. Evidence of such a reasonable suspicion may include, but is not limited to, a known history of having bitten people on more than one occasion, a known history of endangering life by an unprovoked assault or bite so as to cause bodily harm, a known history of attacks on other dogs, cats or livestock which injured or killed the other animal. Dangerous and Vicious Dog also includes a dog trained, owned or harbored for the purpose of dog fighting.

A dog shall not be deemed dangerous or vicious solely because of an incident where:

- 1. It bites, attacks or menaces anyone assaulting its owner.
- 2. It bites, attacks or menaces a trespasser on the property of the owner of the dog.

3. It bites, attacks or menaces any person or other animal that has tormented or abused it.
4. It is acting in defense of an attack from a person or other animal upon its owner or other person.
5. It is protecting or defending its young or another animal on its own home territory.

SECTION 3 – DOGS RUNNING AT LARGE, UNTAGGED DOGS

- A. Dogs running at large. A dog is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person. On public thoroughfares dogs must be restrained by a leash.
- B. Untagged dog. A dog is considered to be untagged if a valid license tag is not attached to a collar which is kept on the dog whenever the dog is outdoors unless the dog is securely confined in a fenced area.
- C. Female dogs in season (estrus). Any female in season shall be kept confined in a building or secure kennel enclosure, veterinary hospital or boarding kennel during the duration of the season.
- D. A dog running at large or an untagged dog is subject to impoundment. The Animal Control Officer may attempt to capture and restrain a dog running at large and any untagged dog.
- E. Warnings. A letter of warning may be issued to dog owners having a dog running at large when observed for the first time.
- F. Owners, keepers and harborers of dogs found to be running at large may be issued a citation. An impoundment fee of \$25.00 per offense shall be issued for any dog that is impounded. The Owner of an impounded dog will be responsible for all boarding costs associated with impoundment. Such costs to be paid to the Town Clerk or Treasurer per Section 5.

SECTION 4 – DOG LICENSING, MULTIPLE DOGS, NUISANCE NOISES

1. A license is required for each dog. This ordinance adopts the Wisconsin statutory provisions listed under Section 1 of this ordinance pertaining to licensing and other matters. No license shall be issued without proof of vaccination against rabies for any dog over the age of 5 months that is kept within the Town. A photocopy of the rabies vaccination is required before a license is issued.
2. Failure to comply with Wisconsin Statutory (§ 174.07) and County and Town licensing ordinances by January 31st may result in a citation and forfeiture.
3. It shall be unlawful for any person to own, keep, have in possession, or harbor any dog which by frequent and habitual howling, yelping, barking, or otherwise, produces noise that unreasonably disturbs the peace, quiet, or repose of a person or persons of ordinary sensibility. "Unreasonably disturb" shall include, but is not limited to, any noise which can be heard by any person (including the animal control officer or a law enforcement officer) from a location not on the property where the dog is lawfully located. For example (but not limitation), barking which occurs repeatedly, for

durations exceeding five minutes within any thirty minute period is deemed a violation of this ordinance. A dog that is reasonably sounding an alarm in response to impending danger to people, livestock, or property is not a violation of this ordinance.

SECTION 5 – IMPOUNDMENT

As stated in Section 3, any such animal may be impounded at the impoundment facility designated by the Town Board or, if no such place has been designated, at a place chosen by the Animal Control Officer, until disposition is made according to Section 6.

SECTION 6 – NOTIFICATION AND DISPOSITION

- A. Notification. The Animal Control Officer shall notify the owner of any licensed dog either personally or by US mail if his name and address is known or can be ascertained, and if such owner be unknown or cannot be ascertain, the Animal Control Officer shall advertise, as required by § 170.02, Wis. Stats., giving a description of the dog, stating where it is impounded and the conditions of its release. If seven (7) days pass after such notice and the owner does not claim the dog, the Town (Animal Control Officer) shall attempt to find a suitable home for such dog, and if no suitable home can be found, may dispose of it in a humane manner pursuant to Wisconsin state law. The Animal Control Officer shall keep a record of every dog given away or otherwise disposed of describing the dog with reasonable certainty of identification and listing the name and address of the party to whom delivered or the manner otherwise disposing of the dog.
- B. Release – To Owner or Representative. An impounded animal may be released to its owner or a representative of the owner provided:
 - 1. All fees are paid to the Town Clerk/Treasurer to include:
 - a. All fines or forfeitures owed
 - b. All impoundment fees
 - c. All boarding fees
 - 2. Current license and rabies vaccination are validated. If not current on licensure or vaccination, a warning may be issued with a 10 day grace period for compliance. A citation may be issued for failure to comply.
- C. Clerk/Treasurer will issue a receipt for payment of all fees, which upon presentation of said receipt to the pound, dog may be released to owner.
- D. Release – To Person other than the Owner. If an owner fails to claim an impounded animal within the statutory time period, the Animal Control Officer or pound to which an animal is delivered may release the animal to a person other than the animal’s owner. No animal shall be delivered to any person other than the owner unless the owner is unknown or does not claim the animal within seven (7) days after the animal is delivered to the Animal Control Officer or pound.
- E. The Town may dispose of any dog as provided for in Wis. Stat. § 173.23.

SECTION 7 – DOG OR CAT BITES

The Wisconsin rabies control law, Wis. Stat. § 95.21 is adopted by reference.

SECTION 8 – DANGEROUS ANIMALS

- A. Keeping of Dangerous Animals Prohibited. It is unlawful to keep, harbor, own or in any way possess within the Town limits any of the following:
1. Any wild or exotic animal including but not limited to nonhuman primates, raccoons, skunks, foxes and wild and exotic cats;
 2. Any animal having poisonous bites;
 3. Any dangerous or vicious dog;

SECTION 9 – INJURY TO PROPERTY BY ANIMALS

The owner, keeper or harbinger of any animal has a duty to prevent the animal from leaving the person's property except while under the person's control, to keep the animal under control any time the animal is off the person's property, and to prevent the animal from entering any other person's property without the permission of the owner, and to prevent the animal from damaging any plants or property of any person or defecating on any property other than the owner's property. Any person who breaches that duty shall be liable for any damages a dog they have charge of does to persons or property.

An owner, keeper or harbinger or any person in charge of a dog shall take steps to adequately clean up after their dog.

SECTION 10 - INTERPRETATION

The provisions of this Ordinance shall be liberally construed in favor of the protection of the health, safety and welfare of the public, and of the Town, and shall not be construed to be a limitation or repeal of any other power now possessed or granted to the Town.

SECTION 11 - SEVERABILITY

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions. This Ordinance is not intended to repeal or overrule any other existing Ordinance or Town regulation, except that where a conflict between this Ordinance and another Ordinance occurs, the provisions of this Ordinance shall apply.

SECTION 12 – ENFORCEMENT AND PENALTIES

- A. Citations. Any Town Board member, the Town Animal Control Officer, and any law enforcement officer may issue citations for any violation of this Ordinance pursuant to the Town Citation Ordinance.
- B. First Offense. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500.00, together with court costs and costs of prosecution.
- C. Second Offense. Any person found guilty of violating any provision of this Ordinance who has previously been convicted of a violation of the same Ordinance offense within one year of the

date of such conviction shall, upon such second conviction, forfeit not less than \$250.00 nor more than \$1,000.00 for each such second or subsequent offense, together with court costs and costs of prosecution.

- D. Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense.
- E. In addition to any forfeiture imposed, an animal owner who allows an animal to run at large or to otherwise be in violation of this chapter shall be required to pay all costs the Town incurs in enforcing this chapter, including but not limited to costs for animal pickup, kenneling, boarding, impound fees, or other costs related to dealing with the animal which is in violation of this chapter. If costs are not paid pursuant to judgment of conviction or citation, the Town shall bill the animal owner for all costs incurred by the Town. If the animal owner does not pay said costs within 30 days, pursuant to its authority under Wis. Stat. § 66.0627, the Town shall impose said costs as a special charge against any real estate where the animal resides, or is being harbored or kept. Said special charge shall become a lien upon the property for collection along with real property taxes. Landlords shall be notified of renter violations. All relevant correspondence sent to the renter will also be sent to the landlord.
- F. Other Enforcement. Nothing in this Ordinance shall preclude the Town from maintaining any appropriate action, including an action for injunctive relief, to prevent or remove a violation of any provision of this Ordinance.

This Ordinance was enacted by the Town Board this _____ day of _____ 2018.

By a vote of _____ yes _____ no

Rick Scoglio – Town Chairman

Attest:

Arlen Peterson – Town Clerk