

## Legislation Text

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**File #: 03761, Version: 3**

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### Fiscal Note

It is anticipated that the licensing and fine requirements will apply in a very limited number of cases, thus yielding perhaps \$1,000 to \$2,000 annually in additional General Fund revenues.

### Title

SECOND SUBSTITUTE ORDINANCE - Amending Section 25.22(2) of the Madison General Ordinances to establish definitions for competent individual; amending Sections 25.22(3)(a) and (b) of the Madison General Ordinances to require the option of continued impoundment during the entire dangerous animal investigation and until compliance with Subsection (7) or department determination of a safe return of the animal and updating references to the Administrative Hearings Committee; amending Section 25.22(6)(b) of the Madison General Ordinances to clarify the disposition of a dangerous animal; creating new Sections 25.22(7) and (8) of the Madison General Ordinances to require an owner of a dangerous animal to comply with outlined restrictions and to be licensed under Section 25.225; renumbering current Section 25.22(7) through (12) of the Madison General Ordinances to Sections (9) through (14) and updating references to the Administrative Hearings Committee; amending renumbered Section 25.22(11) of the Madison General Ordinances to change the certiorari appeal time to ten days; creating Section 25.225 of the Madison General Ordinances, which requires a dangerous animal license for animals declared dangerous; and amending Section 1.08(3)(a) of the Madison General Ordinances to modify bail deposit amounts.

### Body

DRAFTER'S ANALYSIS: This amends Section 25.22(3) of the Madison General Ordinances to permit any animal impounded to remain impounded during the entire dangerous animal determination process and until such time as the owner has complied with all required restrictions placed on the animal or the department determines the animal may be safely returned to the owner. The required restrictions are outlined in the newly created Section 25.22(7). This amendment reduces the time line for an appeal of a dangerous animal determination to the Circuit Court to ten days. It also creates a requirement that all animals declared to be dangerous under Section 25.22 must be licensed as a dangerous animal under the newly created Section 25.225 entitled "Dangerous Animal License." This also modifies and creates bail deposits for violations of these ordinances.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (2) entitled "Definitions" of Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances is amended by creating and repealing therein following:

"Committee shall mean the Administrative Hearings Committee of the Board of Health for Madison and Dane County.

Competent adult shall mean someone who is eighteen (18) years of age or older and has the mental capacity to comprehend the dangerousness of the animal and the physical strength to adequately restrain the animal.

~~Subcommittee shall mean a subcommittee of the Board of Health for Madison and Dane County consisting of three (3) members appointed by the Board of Health for Madison and Dane County Chairperson."~~

2. Subdivision (a) of Subsection (3) entitled "Impoundment--Biting or Attacking Animal" of Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances is amended to read as follows:

"(a) The Department shall have the power to summarily and immediately impound an animal whenever the Department has reasonable grounds pursuant to Subsection (4) to believe that the animal is a dangerous animal. pending the results of an investigation by the Department, 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 Department and found in Subsection (7) of this ordinance or until such time as the Department determines that the animal may be safely returned to the owner. Any law enforcement officer or duly authorized Department employee may enter and inspect private property to enforce the provisions of this section. The owner of the animal shall be liable to the City for the costs and expenses of impounding and keeping said animal, unless the Department fails to declare the animal dangerous or the

Department determination is ultimately overturned by the ~~Board of Health for Madison and Dane County Subcommittee~~ Committee or a reviewing court."

3. Subdivision (b) of Subsection (3) entitled "Impoundment-Biting or Attacking Animal" of Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances is amended to read as follows:

"(b) An animal, impounded pursuant to this section, may be returned to the owner upon payment of all outstanding City fees and charges including costs and expenses of impounding the animal when the investigation and determination is complete. If the animal is determined to be dangerous, the animal shall remain impounded until the owner provides proof to the Department that the owner has complied with all restrictions outlined by the Department and found in Subsection (7) of this ordinance or until such time as the Department determines that the animal may be safely returned to the owner."

4. Subdivision (b) of Subsection (6) entitled "Dangerous Animal - Disposition" of Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances is amended to read as follows:

"(b) Any animal declared by the Department to be a dangerous animal shall be humanely destroyed, removed from the city or placed under restrictions as set forth in this section and in Department policies. The Director of Public Health 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 Subsection (8) below has passed without notice of appeal being filed."

5. New Subsection (7) entitled "Dangerous Animal Restrictions" of Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances is created to read as follows:

- "(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 following subdivisions. The owner must provide documentation to the Department of compliance with these subdivisions. 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 Madison Animal Control at 608-266-4275".
  - (c) The owner must provide written proof from a licensed veterinarian that the animal is current with rabies vaccinations.
  - (d) The animal must be in compliance will all license requirements.
  - (e) 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 sidewalk to ensure adequate warning and visibility to anyone approaching said building and fence.
  - (f) The dangerous animal while off the property where kept, shall be muzzled and leashed at all times. 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.
  - (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 Department 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 Department 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 owner shall allow the Department 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 Department. Prior to taking physical custody of the dangerous animal, the new owner must comply with all requirements of this subsection and any other restriction the Department 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 Department on an annual basis and at any other reasonable time determined by the Department the opportunity to inspect the property where the dangerous animal is kept."

6. New Subsection (8) entitled "Dangerous Animal License" of Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances is created to read as follows:

"(8) Dangerous Animal License. Any animal declared dangerous under this section, shall be licensed under Madison General Ordinance Section 25.225. Application for said license must be made within thirty (30) days of said declaration."

7. Current Subsections (7) through (12) of Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances are renumbered to Sections (9) through (14), respectively.

8. Renumbered Subsection (10) entitled "Subcommittee Review of Determination" of Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances is amended to read as follows:

"(8)10) Subcommittee Committee Review of Determination. The owner or any person aggrieved by a Department determination declaring any animal to be a dangerous animal may appeal such determination to the ~~Board of Health for Madison and Dane County Subcommittee~~ Committee by filing a notice of appeal stating the grounds therefor with the Director of Public Health within seven (7) days of the date of mailing of the Department Determination under subsection (5) above. The ~~Board of Health for Madison and Dane County Subcommittee~~ Committee shall schedule a hearing on whether to affirm, conditionally affirm or reject the Department 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, departmental witnesses and other interested parties of such hearing and the opportunity to present evidence and testimony to the ~~Subcommittee~~ Committee. The ~~Subcommittee~~ Committee 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. "

9. Renumbered Subsection (11) entitled "Appeals to Circuit Court" of Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances is amended to read as follows:

"(9)11) Appeals to Circuit Court. Any person aggrieved by a determination of the Public Health Commission Subcommittee under subsection (8)10) above may appeal such action on a dangerous animal determination to Circuit Court by writ of certiorari within ~~twenty (20)~~ ten (10) days of notification of such final action by mailing of the decision under subsection(8)10)."

10. Section 25.225 entitled "Dangerous Animal License" of the Madison General Ordinances is created to read as

follows:

**"25.225 DANGEROUS ANIMAL LICENSE.** All animals that have been declared dangerous pursuant to Madison General Ordinance Section 25.22, may not be kept within the City of Madison unless the owner has applied for a dangerous animal license within thirty (30) days of said declaration. The license fee shall be one hundred ten dollars (\$110) and shall be an annual license issued from January 1st until December 31st of each year. The license shall be issued after the owner complies with Madison General Ordinance Section 25.22(7) and all other restrictions imposed by the Department.

Any violation of this section shall be subject to a forfeiture or not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). Each and every day that such violation continues shall be considered a separate offense. Any violation of this section may result in the Health Department immediately impounding the dangerous animal and a new dangerous animal investigation shall occur."

11. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended to read as follows:

<u>"Offense</u>	<u>Ord. No.</u>	<u>Deposit</u>
Failing to impound or comply with Health Department restrictions or confinement of a dangerous animal	25.22	\$200, 1st \$300, 2nd/ <u>subsequent</u> \$500, 3 <sup>rd</sup> / <u>subsequent</u>
<u>Failing to obtain dangerous animal license</u>	<u>25.225</u>	<u>\$200, 1st</u> <u>\$300, 2nd</u> <u>\$500, 3rd/subsequent"</u>

EDITOR'S NOTE:

New or amended bail deposits must be approved by the Municipal Judge prior to adoption. These deposits have been so approved.