



## Legislation Text

File #: 55032, Version: 1

### Fiscal Note

The proposed ordinance amendment removes the requirement of having a Dangerous Animal License, however, the City has never issued such a license and so there is no fiscal impact. Costs associated with administering the ordinance, including costs for care of impounded animals is already included in Public Health's budget.

### Title

Amending Section 25.22 of the Madison General Ordinances to create a definition of subcommittee, creates several methods of how an owner may receive notice of the Department's determination, removes the requirement that a picture of the owner be taken, revises restrictions of an owner and a new owner of a dangerous animal, and removes the requirement of having a Dangerous Animal License.

### Body

DRAFTER'S ANALYSIS: This ordinance creates a definition of a subcommittee to hear appeals of the Department's dangerous animal determination. This ordinance removes the requirement that the owner must pay all outstanding fees prior to the animal being returned to the owner's custody, which will allow the Department to establish policies that allow for decisions to be made equitably. This ordinance creates several ways that notice to an owner of the Department's dangerous animal determination can occur. The ordinance removes the requirement that a picture of the owner be taken. The ordinance creates a restriction that an owner and a new owner of a dangerous animal must comply with all restrictions deemed necessary by the Department to ensure the public's safety. The ordinance removes the requirement of having a Dangerous Animal License, the City has never issued such a license. The ordinance requires the owner to provide notification to the Department if the owner plans to move and requires the owner to allow the Department to inspect the new residence and adjust restrictions as necessary based on the new residence.

\*\*\*\*\*

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

Section 25.22 entitled "Dangerous Animals Regulated" of the Madison General Ordinances is amended to read as follows:

#### **"25.22 DANGEROUS ANIMALS REGULATED.**

- (1) Statement of Purpose. It is hereby declared that this regulation of dangerous animals is a matter of public interest pertaining to the health, safety and welfare of residents of and visitors to the City of Madison, 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.
- (2) Definitions. For the purposes of this section, the following definitions shall apply:
  - Department shall mean the Public Health Madison and Dane County.
  - Impoundment shall mean the confinement of an animal in a Department-approved, supervised facility such as a veterinarian's kennel, commercially operated kennel or the Dane County Humane Society.
  - Owner shall mean the owner, custodian or person having charge, care or custody of an animal.
  - Subcommittee shall mean a Subcommittee of the Board of Health for Madison and

Dane County.

~~Permit shall include the otherwise unregulated right to keep an animal currently not covered by a requirement for a City license or permit.~~

(3) Impoundment-Biting or Attacking Animal.

(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. 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 may 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 Committee or a reviewing court.

(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 completed. 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.~~

(cb) In lieu of impoundment, if the animal is currently immunized against rabies, or if the animal species is at low risk for transmitting this or other diseases, the Department may permit the animal to be confined at the owner's residence provided that the owner complies with conditions set forth by the Department.

(dc) The owner or custodian of an animal confined under Subdivision (c) above shall immediately notify the Department or the City Police Department if said animal is loose, unconfined, has attacked or bitten or injured another animal or has attacked, bitten or injured an human being individual or has died. The animal shall not be sold or given away during the impoundment period without approval of the Department.

(4) Determination. The Department 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 animal or ~~human being~~ an individual 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 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 Animal, Declared. The Department, after considering appropriate evidence, may declare any animal to be a dangerous animal. The Director of the Department shall issue an order authorizing the destruction of the animal or the placement of restrictions on the owner to maintain custody of the animal. The Department shall make a reasonable attempt to personally notify the owner of the pendency of the Department's investigation and shall notify the owner in writing of its determination and order. ~~Mailing a copy of the determination to the owner's last known address and posting in accordance with approved Department policy shall satisfy this~~

~~notice requirement.~~ Notice to the owner can be achieved by doing one of the following:

- (a) Mailing a copy of the notice to the owner's last known address;
  - (b) Emailing a copy of the notice to an email address provided by the owner;
  - (c) Personally handing a copy to the owner;
  - (d) Posting a notice as outlined within the Department's policy at the owner's last known address; or
  - (e) Another method requested by the owner and agreed upon by the Department.
- (6) Dangerous Animal-Disposition.
- (a) It shall be unlawful for any person to own, possess, harbor or keep any animal declared by the Department to be dangerous, except as allowed in (b) below.
  - (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 Madison and Dane County 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.
  - (c) Any animal declared by the Department to be dangerous, if not already impounded by the Department, when necessary as determined by the Department, shall be immediately surrendered to the Department upon the order of the Director of Public Health Madison and Dane County, and it is the duty of the Department 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 following subdivisions. The owner must provide documentation to the Department of compliance with these subdivisions, where applicable. 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 Public Health Madison & Dane County Animal Services at 608-266-4275 255-2345."
  - (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 total 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~~ three (43) 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, and
  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.~~
- (i) 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.~~
- (j) The new owner must comply with all requirements of this subsection.
- (k) 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.
- (l) Any other restriction determined necessary by the Department to ensure the public's safety.
- (m) Prior to moving to a new residence, the owner shall notify the Department of the move. The owner must allow the Department to inspect the new residence. The Department may change or add restrictions based on the new residence.
- (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.
- (98) Subsequent Determination and Penalty.
- (a) The Department may make a new determination if an owner fails to comply with the terms, conditions or restrictions imposed in ~~(6)(b)~~ above.
  - (b) The failure of any person to comply with any term, condition or restriction imposed by the Department is a violation of this ordinance.
- (109) Committee Review of Determination. The owner or any bite or attack victim aggrieved by a Department determination declaring any animal to be a dangerous animal may appeal such determination to the ~~Committee~~ Subcommittee by filing a notice of appeal stating the grounds therefor with the Director of Public Health Madison and Dane County within seven (7) days of the date of mailing notice of the Department Determination under subsection (5) above. The

Committee Subcommittee 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 Committee Subcommittee. The Committee Subcommittee 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 or as requested by the owner and agreed to by the Subcommittee and all parties requesting the same.

(1410) Appeals to Circuit Court. Any person aggrieved by a determination of the ~~Board of Health for Madison and Dane County~~ Subcommittee 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).

(1421) Prosecution. It is the intent of this section that any investigation or determination under this section shall not prohibit the City from prosecuting the same owner for other animal control violations relating to the same animal or other animal. The failure or neglect of any person to comply with any lawful order of the Department issued pursuant to this section is a violation of this ordinance.

(1432) (a) Any person violating any of the provisions of this section shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). 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 the Department issued pursuant to this section is a violation of this ordinance.~~

(1413) 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."