

*Emended* 158-55  
PROPOSED ORDINANCE ~~158-57~~

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3 AMEND THE WAUKESHA COUNTY CODE TO INCLUDE REGULATIONS  
4 FOR A HUMANE OFFICER PROGRAM AND COLLECTION  
5 OF A SURCHARGE ON DOG LICENSE FEES  
6

7 WHEREAS the Waukesha County Board of Supervisors acknowledges the enjoyment derived  
8 from pet ownership, and  
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10 WHEREAS the Board of Supervisors further appreciates the need to protect animals from  
11 themselves, from other animals and from humans, and  
12

13 WHEREAS the Board of Supervisors recognizes that humane societies in Waukesha County  
14 have for many years provided pick-up and impoundment services of stray animals and dogs  
15 running at-large, on a contractual basis with individual communities in the county, and is hereby  
16 allowed to continue these services after provisions of this Article become effective, and  
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18 WHEREAS Wisconsin State Statute, Chapter 173, Animals; Humane Officers, requires persons  
19 investigating suspected violations of statutes or ordinances relating to animal neglect or abuse to  
20 be appointed Humane Officers, and  
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22 WHEREAS a survey of Waukesha County municipalities show the majority support the  
23 appointment of county Humane Officers, and  
24

25 WHEREAS due to Waukesha County's growth there is an increasing demand from citizens and  
26 local law enforcement for services to address animal neglect and abuse issues with trained,  
27 equipped and certified staff 24 hours a day, 7 days a week, and  
28

29 WHEREAS the majority of municipalities surveyed support funding the Humane Officer  
30 positions through the dog licensing fee, and  
31

32 WHEREAS the Waukesha County Board of Supervisors has the authority pursuant to sec.  
33 174.05(3) WI statutes to increase the dog licensing fee charged by the municipalities in the  
34 county,  
35

36 WHEREAS existing staff of 1 FTE Humane Animal Specialist will be proposed to be abolished  
37 and 2 on-call temporary extra help Humane Animal Specialists positions will not be funded in  
38 the proposed 2004 budget, and  
39

40 WHEREAS there is a need to create 2 FTE Humane Officer positions and include budget  
41 appropriations for 1 on-call extra help Humane Officer position as part of the 2004 budget  
42 request process, and  
43

44 WHEREAS these position changes will be funded through a proposed increase in the dog  
45 licensing fee as part of the 2004 budget request process to provide services 24 hours a day, 7  
46 days a week.  
47

48 THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA DOES  
49 ORDAIN that:

Referred on: 08/12/03	File Number: 158-O-055	Referred to: EX - LU
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- 50 1. The dog license fee charged in Waukesha County shall be increased to include the  
51 addition of a two-dollar surcharge;  
52 2. That the municipalities collecting said fee shall tender the entire amount to the  
53 County for the specific purpose of funding the county-wide Humane Officer  
54 Program; and,  
55 3. Adjustment to the dog license fee will be made through the county budget  
56 process.  
57

58 BE IT FURTHER ORDAINED that the increased surcharge to the dog license fee be included in  
59 the departmental 2004 proposed budget.  
60

61 BE IT FURTHER ORDAINED that the Waukesha County Code of Ordinances be amended so  
62 as to create a new article in Chapter 14, to be entitled "Countywide Humane Officer Program,"  
63 and to read as follows:  
64

65 (a) *Purpose and Intent.* The purpose of this article is to adopt and implement a Humane Officer  
66 program in Waukesha County in accordance with uniform statewide standards under s. 95.21,  
67 Wis. Stats. and Chapters 173, 174, and 951 Wisconsin Statutes.  
68

69 (b) *Statutory Authority.* This article is adopted under the authority of ss. 59.51 and 173.03  
70 Wisconsin Statutes, Chapter 173, Animals; Humane Officers, Wisconsin Statutes, and Chapter  
71 ATCP 15, Humane Officer Training and Certification, Wisconsin Administrative Code, are  
72 hereby adopted and made part of this code.  
73

74 (c) *Definitions.* In this article:  
75

76 *Adequate shelter* means a structurally sound, properly ventilated, sanitary and  
77 weatherproof shelter suitable for the species, condition and age of the animal, which  
78 provides access to shade from direct sunlight and protection from exposure to inclement  
79 weather.  
80

81 *Direct control* means immediate and continuous physical control of an animal at all  
82 times; such as by means of a fence, leash, cord, or chain of sufficient strength to restrain  
83 said animal (excluding herding dogs, dogs in process of hunting, police dogs, dogs  
84 participating in a registered field trial, obedience training or trial, or on its owner's  
85 property).  
86

87 *Exotic species* means any animal whose natural habitat is outside the continental United  
88 States, excluding non-venomous reptiles and fish.  
89

90 *Feral animal* means any animal that is not socialized to humans and is not approachable,  
91 nor able to be handled, and/or is unpredictable in its behavior due to fear.  
92

93 *Humane trap* means a device used to capture animals which does not cause injury to the  
94 animal upon capture or confinement.  
95

96 *Humane manner* means a manner consistent with the physical and behavioral needs of a  
97 species; including but not limited to adequate heat, ventilation and sanitary shelter,  
98 wholesome food and water consistent with the normal requirements and feeding habits of

99 the particular animal according to its size, species and breed; including necessary  
100 veterinary care.

101  
102 *Owner* means any person or entity owning, keeping, harboring or having control of one  
103 or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for  
104 ten (10) or more consecutive days. Any implied owner will also be construed as being  
105 the owner of an animal. An animal owner is responsible for keeping their animals under  
106 direct control at all times and will be held accountable for any violation of this ordinance.

107  
108 *Sanitary* means clean and free of factors contributing to infectious diseases.

109  
110 *Secure enclosure* means confinement of an animal in a building or other enclosure  
111 that renders such animal inaccessible to any other animal or people and escape.

112  
113 *Vicious animal* means any animal that bites, scratches or attacks in a menacing  
114 fashion, or otherwise injures humans, domesticated or other animals without  
115 provocation, or which because of temperament, conditioning or training has a  
116 history of attacking, biting or injuring humans or any domesticated or other  
117 animals.

118  
119 *Warning notice* means a form used by a law enforcement officer or Humane  
120 Officer served on an owner or owner's agent advising them of an existing  
121 violation of this ordinance.

122  
123 (d) *Prohibiting Animals Running At Large.*

- 124  
125 1. It shall be unlawful for any person owning or having possession, charge,  
126 custody or control of any animal, including but not limited to domestic, livestock,  
127 farm, wildlife or fowl raised in captivity, to permit the animal to stray, run, go or  
128 roam at-large in or upon any public street, sidewalk, school grounds, in the area of  
129 school vehicles, beaches, parks or on the private property of others without the  
130 consent of the owner of such property.  
131 2. Any animal found in violation of this Section may be impounded.  
132 3. Any person seizing an unrestrained, or animal at large shall capture the animal in a safe  
133 and humane manner, and may employ certain humane traps for such purpose.

134  
135 (e) *Vicious Animals.*

- 136  
137 1. A Humane Officer or law enforcement officer may declare that an animal is a vicious  
138 animal if it is determined the animal meets the definition of a vicious animal as stated in  
139 this ordinance.  
140 2. Any animal declared to be a vicious animal shall be confined in a secure enclosure on  
141 the premises of the owner or keeper of such animal. No vicious animal shall be allowed  
142 off the premises of the owner or keeper unless such animal remains:  
143 A. Inside a secure animal carrier, or  
144 B. Under the physical control of such owner or keeper, and securely muzzled and  
145 restrained by a chain with a minimum tensile strength of three hundred (300)  
146 pounds; or

147 C. Subject to conditions established by the Humane Officer or law enforcement  
148 officer.

149  
150 3. It is a violation of this ordinance for the owner or keeper of a vicious animal to refuse  
151 or fail to confine or restrain such animal as required by this Section.

152  
153 4. No vicious animal impounded pursuant to this ordinance shall be released until:

154 A. The owner or keeper of such vicious animal presents proof to the Humane Officer  
155 or law enforcement officer that the animal will be confined as required by this  
156 section;

157 B. The owner or keeper executes an affidavit acknowledging that the animal has  
158 been declared vicious, agreeing to confine and restrain the animal, and recognizes  
159 that any vicious animal found off premises of its owner may be seized by any law  
160 enforcement officer or Humane Officer, and upon establishing to the satisfaction  
161 of the court of the vicious character of such dog by testimony under oath, reduced  
162 to writing, be killed by police authorities or humanely euthanized.

163  
164 5. The owner or keeper of a vicious animal shall report in writing the name and address  
165 of the new owner or keeper to the Humane Officer or law enforcement officer prior to  
166 transfer of ownership or custody of such animal, and it is a violation of this ordinance not  
167 to report the name and address of the new owner.

168  
169 6. The owner or keeper of a vicious animal shall report in writing or by telephone the  
170 death of such animal to the Humane Officer or law enforcement officer immediately, and  
171 it is a violation of this ordinance not to do so. The death of such animal shall be verified  
172 by a licensed veterinarian, Humane Officer, law enforcement officer or a representative  
173 of a Humane Society.

174  
175 7. The owner or keeper of a vicious animal, whether or not it has been declared vicious,  
176 who permits, allows or causes such animal to run, stray or be uncontrolled or at large in  
177 or upon public or private property, shall be in violation of this ordinance if such vicious  
178 animal bites, attacks or causes injury to any person or domestic animal.

179  
180 8. It is a violation of this ordinance for any person convicted under this subsection to  
181 own, keep, possess, control or be in charge of any animal of the breed, and any other  
182 animals as determined by the Waukesha County Circuit Court, which caused the bite,  
183 attack or injury for which a conviction was rendered for a period of three (3) years from  
184 the date of conviction, or such other period of time as determined by the Waukesha  
185 County Circuit Court. No license certificate, license tag or other permit shall be issued for  
186 such type of animal to such person within three (3) years of such conviction, or such  
187 other period of time as determined by the Waukesha County Circuit Court.

188  
189 9. No animal shall be classified as vicious if the threat of injury was sustained by a  
190 person who, at the time, was committing or attempting to commit a crime upon the owner  
191 of the animal, or who was committing a willful trespass upon premises occupied by the  
192 owner of the animal, or who was teasing, tormenting, abusing or assaulting the animal or  
193 its owner.

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195 (f) *Animals in Motor Vehicles.*

Referred on: 08/12/03

File Number: 158-O-055

Referred to: EX – LU

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1. The owner or operator of a motor vehicle shall not place or confine an animal, nor allow an animal to be placed or confined in an unattended motor vehicle without sufficient ventilation or under conditions which may endanger the health or well-being of the animal due to heat, lack of water or any other circumstances which may cause suffering, disability or death.
2. It shall be unlawful to transport any animal in any vehicle, if such vehicle is of open design, unless the animal is safely and humanely restrained.
3. A Humane Officer or law enforcement officer may remove and impound an animal from a vehicle if its safety appears to be in immediate danger from heat or cold or lack of adequate ventilation. The officer is authorized to take all steps reasonably necessary for the removal of such animal, including but not limited to breaking into the vehicle. Neither the officer nor his or her agency shall bear civil liability for damage. The animal may be impounded and taken to a veterinarian if necessary. A written notice will be left in a prominent place upon the vehicle as to the reason for the removal of the animal. The owner of the animal and the owner of the motor vehicle are responsible for any costs incurred.

(g) *Tethering of Animals.* No person shall tether any animal to a fixed object unless such chains, ropes or leashes are so placed or attached that they cannot become entangled with another animal or object, and shall be of sufficient length in proportion to the size of the animal to allow the animal proper movement and convenient access to food, water, and shelter. Such tethering shall be located so as not to allow such animal to trespass on public property or private property belonging to others, nor in such a manner as to cause harm or danger to persons or other animals.

(h) *Opposing a Humane Officer*

1. It shall be unlawful for any person to oppose, resist, obstruct, hinder or in any manner prevent a Humane Officer from performing lawful duties.
2. It shall be unlawful to tear down, burn, deface, destroy or otherwise damage any animal shelter or vehicle, or to release or remove any animal from the custody of a Humane Officer, or trap used by the Humane Officer.

(i) *Officers and Administrators Not Responsible for Accident or Disease to Any Animal.* Anyone enforcing the provisions of this article shall not be held responsible for any accident or disease that may happen to any animal.

(j) *Citation Constitutes Warning to Household.* Issuance of a citation or warning to an adult member of the household in which an animal resides shall be deemed notice of the citation or warning to all members of the household.

(k) *Citation Authority.*

1. Pursuant to Sec. 66.119, Wis. Stats., the County of Waukesha adopts and authorizes the use of a citation to be issued for violation of ordinances, including ordinances for which a statutory counterpart exists.

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2. Form. The citation shall contain the following:
- A. The name and address of the alleged violator.
  - B. Factual allegations describing the alleged violation.
  - C. The time and place of the offense.
  - D. The section of the statute or ordinance violated.
  - E. A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so.
  - F. The time at which the alleged violator may appear in court.
  - G. A statement which, in essence, informs the alleged violator:
    - i. That a cash deposit based on the schedule established by this section may be made which shall be delivered or mailed to the Clerk of the Waukesha County Circuit Court prior to the time of the scheduled court appearance.
    - ii. That if a deposit is made, no appearance in court is necessary unless he is subsequently summoned.
    - iii. That if a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest or, if the court does not accept the plea of no contest, a summons will be issued commanding him to appear in court to answer the complaint.
    - iv. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest or consider the nonappearance to be a plea of no contest and enter judgment or an action may be commenced to collect the forfeiture, the penalty assessment imposed by s. 757.05, Wis. Stats. or the jail assessment imposed by s. 302.46(1), Wis. Stats.
  - H. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered.
  - I. A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under section G., above has been read. Such statement shall be sent or brought with the cash deposit.
  - J. Such other information as the County deems necessary.

(l) *Penalties.*

- 1. Any person who violates s. 95.21(2), Wis. Stats. shall forfeit not less than \$50 or more than \$100 and costs of prosecution for each violation.

293 2. Any person who violates s. 174.05(1), Wis. Stats. shall forfeit not less than \$100 nor  
294 more than \$500 and costs of prosecution for each violation.

295  
296 3. An owner who refuses to comply with an order issued under s.95.21, Wis. Stats. to  
297 deliver an animal to an officer, isolation facility or veterinarian or who does not comply  
298 with the conditions of an order that an animal be quarantined shall be fined not less than  
299 \$100 nor more than \$1,000 or imprisoned not more than 60 days or both.

300  
301 4. Any person who violates the provisions identified in s.951.18 (1), Wis. Stats. shall be  
302 subject to the penalty provisions of s.951.18, Wis. Stats.

303  
304 (m) *Abatement Orders.* Any person who fails to comply with an order of abatement as required  
305 under s. 173.11(1), Wis. Stats. shall forfeit not less than \$100 nor more than \$500 plus the costs  
306 of prosecution for each violation.

307  
308 (n) *Modification or Withdrawal of Abatement Orders.* Abatement orders issued under s. 173.11,  
309 Wis. Stats. may be modified or withdrawn by the Director of the department of Parks and Land  
310 Use. Any person affected by an abatement order issued under s. 173.11, Wis. Stats. may make a  
311 written request to the Director of the Department of Parks and Land Use for administrative  
312 review under Chapter 18 of the Waukesha County Code. The Director will act upon such  
313 request according to the timeline set forth in s.173.11, Wis. Stats.

314  
315 (o) *Each Day a Separate Offense.* Each day a violation exists shall constitute a separate  
316 violation.

317  
318 (p) *Effective Date.* The provisions of this Article shall take effect subsequent to publication, on  
319 January 1, 2004.

320  
321 BE IT FURTHER ORDAINED that this ordinance shall be effective upon approval and  
322 publication.

323  
324 BE IT FURTHER ORDAINED that the provisions of this ordinance shall be included and  
325 incorporated in the Code of Ordinances of the County of Waukesha, Wisconsin, as an addition or  
326 amendment thereto and shall be appropriately renumbered to conform to the numbering system  
327 contained therein.

328  
329 BE IT FURTHER ORDAINED that any code section or part of a section in conflict with this  
330 ordinance is hereby repealed and declared null and void and of no effect.

AMEND THE WAUKESHA COUNTY CODE TO INCLUDE REGULATIONS  
FOR A HUMANE OFFICER PROGRAM AND COLLECTION  
OF A SURCHARGE ON DOG LICENSE FEES

Presented by:  
Executive Committee

James T. Dwyer  
James T. Dwyer, Chair

Patricia A. Hauko  
Patricia A. Hauko

Kenneth C. Herro NO  
Kenneth C. Herro

Walter L. Kolb NO  
Walter L. Kolb

Richard L. Manke  
Richard L. Manke

Duane E. Paulson  
Duane E. Paulson

Duane Stamsta  
Duane Stamsta

Approved by:  
Land Use, Parks, and Environment Committee

Walter L. Kolb  
Walter L. Kolb, Chair

Pauline T. Jaske  
Pauline T. Jaske

James Jeskewitz NO  
James Jeskewitz

Absent  
Scott Klein

William A. Mitchell  
William A. Mitchell

Daniel Pavelko (No)  
Daniel Pavelko

Vera Stroud  
Vera Stroud

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 8-29-03, Kathy Nickolaus  
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: ✓  
Vetoed: \_\_\_\_\_

Date: 8-29-03, Daniel M. Finley  
Daniel M. Finley, County Executive

**FISCAL NOTE**

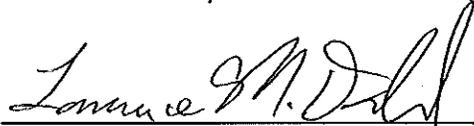
**AMEND THE WAUKESHA COUNTY CODE TO INCLUDE REGULATIONS FOR A HUMANE OFFICER PROGRAM AND COLLECTION OF A SURCHARGE ON DOG LICENSE FEES**

The ordinance authorizes a \$2.00 increase to the County surcharge on dog license fees in 2004 to fund increased demand for services to address animal neglect and abuse issues. Based on the 20,900 licenses outstanding, this would raise \$41,800 per year. In its 2004 budget proposal, The Parks and Land Use Department will request that one full-time Humane Animal Specialist position be abolished and two on-call extra help Humane Animal Specialist positions no longer be funded. The department will also request that two full-time Humane Officer positions be created and one on-call extra help Humane Officer position be funded in the Parks and Land Use 2004 budget to provide equipped and certified staff to meet the current need. The salary range for the newly created Humane Officer positions has not yet been established. Assuming it will be the same as for the Humane Animal Specialist, the net impact of the change is estimated as follows:

Create Two Humane Officer Positions	\$108,350
Abolish One Humane Animal Specialist Position	(\$54,175)
Reduction in On-Call Extra Help Costs - Net	(\$12,975)
Revenue Increase	(\$41,800)
Estimated Net Impact	(\$600)

According to Parks and Land Use staff, the entire program is estimated to cost \$153,000 in 2004 (of which approximately \$25,000 is related to a State mandated rabies control program). The Department explored outsourcing the animal abuse and neglect responsibilities of the program to the Humane Animal Welfare Society of Waukesha County (HAWS). HAWS estimated the program would cost about \$200,000 a year and relieve the County of about \$128,000. Therefore, the outsource option would cost about \$72,000 more in property taxes than the expanded program authorized in this ordinance, or about \$114,000 more if the \$2.00 fee increase is not adopted. Another alternative the County could consider would be discontinuing its animal neglect and abuse program, in which case under statute each local municipality would become responsible for the program.

Approval of these position changes and inclusion of the additional revenues from the fee increase will be part of the 2004 budget proposal which will require further County Board action.



Lawrence M. Dahl  
August 8, 2003

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WAUKESHA COUNTY BOARD OF SUPERVISORS

EO 158-55

V

DATE-08/26/03

(ORD) NUMBER-1580055

- 1 K. HERRO.....AYE
- 3 D. STAMSTA.....AYE
- 5 J. MARCHESE.....AYE
- 7 J. JESKEWITZ.....NAY
- 9 P. HAUKOHL.....AYE
- 11 K. HARENDA.....
- 13 J. MORRIS.....NAY
- 15 D. SWAN.....AYE
- 17 J. BEHREND.....AYE
- 19 W. MITCHELL.....AYE
- 21 W. KOLB.....AYE
- 23 P. PRONOLD.....NAY
- 25 K. CUMMINGS.....NAY
- 27 D. PAULSON.....AYE
- 29 M. THOMAS.....NAY
- 31 V. STROUD.....AYE
- 33 D. PAVELKO.....NAY
- 35 C. SEITZ.....NAY

- 2 R. THELEN.....
- 4 H. CARLSON.....AYE
- 6 D. BROESCH.....AYE
- 8 J. DWYER.....AYE
- 10 S. WOLFF.....AYE
- 12 J. GRIFFIN.....AYE
- 14 J. LA PORTE.....AYE
- 16 R. MANKE.....AYE
- 18 B. MORRIS.....AYE
- 20 M. KIPP.....AYE
- 22 G. BRUCE.....AYE
- 24 A. SILVA.....
- 26 S. KLEIN.....AYE
- 28 P. JASKE.....AYE
- 30 K. NILSON.....
- 32 P. GUNDRUM.....
- 34 R. SINGERT.....NAY

TOTAL AYES-22

TOTAL NAYS-08

CARRIED X

DEFEATED \_\_\_\_\_

UNANIMOUS \_\_\_\_\_

TOTAL VOTES-30