

## **ORDINANCE NO. 2-2021**

### **STATE OF WISCONSIN**

#### **Town of Russell**

#### **Sheboygan County**

### **SECTION I - TITLE AND PURPOSE**

The title of this ordinance is the Town of Russell Dangerous Animal Ordinance. The purpose of this ordinance is for the town to regulate by permit and penalty the possession, display, sale, purchase, and exhibition of certain dangerous animals in the town.

### **SECTION II - AUTHORITY**

The Town Board of the Town of Russell has the specific authority under s. 169.43, Wis. stats., and general authority under its village powers under s. 60.22, Wis. stats., to adopt this ordinance.

### **SECTION III - ADOPTION OF ORDINANCE**

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by permit of the possession, display, sale, purchase, and exhibition of dangerous animals within the town.

### **SECTION IV - DEFINITIONS**

In this ordinance:

- A. “Bovine animal” means domestic cattle and American bison of any age or sex.
- B. “Cattle” means any of the various animals of the domesticated genus Bos.
- C. “Cervid” means a member of the family of animals that includes deer, elk, moose, caribou, reindeer, and the subfamily musk deer. “Cervid” includes all farm-raised deer.
- D. “Circus” means a scheduled event staged by a traveling company with mobile facilities in which entertainment consisting of a variety of performances by acrobats, clowns, or trained animals is the primary attraction or principle business.
- E. “Dangerous animal” includes any of the following:
  - 1. A carnivorous animal species;
  - 2. Any animal that has killed or caused great bodily harm to a human being or a domestic animal without provocation;
  - 3. Any animal brought from another city, village, town or county that has been declared dangerous or prohibited or its equivalent by that jurisdiction;

4. Any animal declared dangerous under this section that subsequently has a second or more reported incident in which the animal has bitten, inflicted great bodily harm or attacked a human being or domestic animal, without provocation, on public or private property;
5. Any dog that is subject to being destroyed under Wis. Stats. § 174.02 (3);
6. Members of the family ursidae commonly known as bears, the species *Felis concolor* commonly known as cougars, including *Canis lupus*, commonly known as wolves, and any other animal designated as a harmful wild animal under Wisconsin Statutes, or by rule of the State of Wisconsin, Department of Natural Resources; or
7. Any animal, owned, harbored or trained primarily or in part for the purpose of fighting.
8. The animal is utilized as a weapon in the commission of a crime.

F. "Domestic animal" means any of the following:

1. Domesticated cats of the subspecies *Felis silvestris catus*.
2. Domesticated dogs of the subspecies *Canis lupus familiaris*.
3. Rodents kept in cages, aquariums, or similar containers, including gerbils, hamsters, guinea pigs, and white mice.
4. Fish kept in aquariums or self-contained bodies of water and farm-raised fish, except fish that have been released to waters of the state.
5. Farm-raised deer that are kept by a person registered under s. 95.55, Wis. stats.
6. Livestock.
7. Poultry.
8. Farm-raised game birds, except farm-raised game birds that have been released to the wild.
9. Ratites.
10. Foxes, fitch, nutria, marten, fisher, mink, chinchilla, rabbit, or caracul that are born, bred, and raised in captivity and are not endangered or threatened species.
11. Pet birds.
12. Any other animal listed as a domestic animal by rule by the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection.

- G. "Equine animal" means a horse, mule, zebra, donkey, or ass.
- H. "Farm-raised deer" means a captive cervid, but includes a non-captive cervid that has an ear tag or other mark identifying it as being raised on a farm. "Farm-raised deer" does not include a cervid kept by an institution accredited by the American association of zoological parks and aquariums.
- I. "Farm-raised game bird" means a captive bird of a wild nature that is not native. "Farm-raised game bird" does not include poultry or ratites, or birds kept pursuant to a license issued under ss. 169.15, 169.19, 169.20, or 169.21, Wis. stats.
- J. "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine other than wild hogs, farm-raised deer, farm-raised game birds, South American camelids, and ratites.
- K. "Person" means an individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.
- L. "Pet bird" means a psittacine or softbill that is not native, is not identified on the federal list of endangered and threatened species, and is not a migratory bird.
- M. "Poultry" means domesticated fowl, including chickens, turkeys, and waterfowl, that are bred for the primary purpose of exhibition or producing eggs or meat. "Poultry" does not include ratites.
- N. "Possess" means to own, control, restrain, transport, or keep.
- O. "Public zoo or aquarium" means a zoo or aquarium that is an accredited member of the American Zoo and Aquarium Association.
- P. "Ratite" means a member of the group of flightless birds that includes the ostrich, emu, cassowary, kiwi, and rhea.
- Q. "Self-contained body of water" means a body of water that has no inlet from or outlet to a natural body of water, except that it may have pipes or similar conduits to put in or withdraw water that are equipped with barriers that prevent the passage of fish between the body of water and the other waters of the State of Wisconsin.
- R. "South American camelid" means a llama, alpaca, vicuña, or guanaco.
- S. "Town" means the Town of Russell, Sheboygan County, Wisconsin.
- T. "Town board" means the board of supervisors for the Town of Russell, Sheboygan County, Wisconsin, and includes designees of the board authorized to act for the board.
- U. "Town clerk" means the clerk of the Town of Russell, Sheboygan County, Wisconsin.

- V. “Veterinarian” means a person who is licensed in the State of Wisconsin to practice veterinary medicine under chapter 453, Wis. stats., and who is certified under rules promulgated by the Department of Agriculture, Trade and Consumer Protection.
- W. “Wis. stats.” means the Wisconsin Statutes, including successor provisions to cited statutes.

## **SECTION V - SUBDIVISION AND NUMBERING OF THIS ORDINANCE**

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a “section,” “subsection,” “paragraph,” or “subdivision” includes all divisions of the referenced section, subsection, paragraph, or subdivision.

## **SECTION VI - AUTHORIZED POSSESSION**

- A. The following persons may possess dangerous animals in the town:
  - 1. A person licensed by the State of Wisconsin, Department of Natural Resources under chapter 169, Wis. stats.
  - 2. A veterinarian, for the purpose of providing medical treatment to the animal.
  - 3. A public zoo or aquarium, with a permit issued by the town.
  - 4. A circus, with a permit issued by the town.
  - 5. A person authorized by the State of Wisconsin, Department of Natural Resources for the possession of the specific type of dangerous animal in the town;
- B. Except as provided in subsection C, any person not included in Subsection A may possess in the town a dangerous animal only with a permit issued by the town board under the specific conditions established by the town board.
- C. A person is exempt from holding a license or other approval under s. 169.04 (4), Wis. stats., or any permit from the town, to possess live native wild animals, if these wild animals are not endangered or threatened species and are any of the following:
  - 1. Arthropods.
  - 2. Chipmunks.
  - 3. Pocket gophers.
  - 4. Mice.
  - 5. Moles.

6. Mollusks.
7. Opossums.
8. Pigeons.
9. Porcupines.
10. Rats.
11. Shrews.
12. English sparrows.
13. Starlings.
14. Ground squirrels.
15. Red squirrels.
16. Voles.
17. Weasels.

#### **SECTION VII - EXHIBITION OF DANGEROUS ANIMALS**

- A. No person may without a permit issued under Section VIII display in the town for the purpose of public viewing any dangerous animals.
- B. This section shall not apply to any of the following:
  1. Persons that have received a license or authorization from the State of Wisconsin, Department of Natural Resources under chapter 169, Wis. stats.
  2. A public zoo or aquarium, with a permit issued by the town board.
  3. A veterinarian, for the purposes of providing medical treatment to the animal.
  4. A circus with permits issued by the town board.

#### **SECTION VIII - PERMITS**

- A. No person may exhibit, possess, sell, or purchase a dangerous animal in the town without a written permit from the town board.
- B. The applicant for a permit shall submit an application that contains all of the following:
  1. The name of the applicant, any agent of the applicant, and the owner of the premises where the dangerous animal will be exhibited, possessed, sold, or purchased, if different from the applicant.
  2. The address of the premises where the dangerous animal will be exhibited, possessed, sold, or purchased.

3. The business and residential telephone number of the applicant, the business and residential telephone number of any agent of the applicant, and the business and residential telephone number of the owner of the premises where the dangerous animal will be exhibited, possessed, sold, or purchased, if different from the applicant.
  4. The age of the applicant and of the owner of the premises where the dangerous animal will be exhibited, possessed, sold, or purchased, if different from the applicant.
  5. The legal description of the premises where the dangerous animal will be exhibited, possessed, sold, or purchased.
  6. The manner, if any, of keeping the dangerous animal.
  7. The type and number of dangerous animals, if more than one, that will be exhibited, possessed, sold, or purchased.
  8. Any other items requested by the town board in writing.
- C. No permit for the display, possession, sale, or purchase in the town of a dangerous animal shall be issued by the town board until a public hearing is held by the town board on the application for a permit. The town clerk shall publish a notice of hearing as a class 2 notice under chapter 985, Wis. stats., the cost of which shall be paid by the permit applicant. The town board may, after the public hearing, issue a permit in writing only if it determines that the exhibition, possession, sale, or purchase in the town proposed by the applicant will not constitute a public nuisance or a threat to health and safety of the residents of the town. The town board may include in the permit specific conditions to protect public health and safety and to prevent a public nuisance. A permit shall be for a fixed period determined by the town board and is subject to revocation in the event of the violation of the conditions of the permit or this ordinance after an applicable public hearing and notice and determination, as provided in this subsection for an initial permit application. Upon a determined emergency condition in the town, the town board may suspend the permit without a hearing.

## **SECTION IX - PROHIBITION**

No person may permit a dangerous animal to run at large or to be released from captivity within the town. Any dangerous animal running at large shall be subject to seizure, detention, and disposal.

## **SECTION X - PENALTY PROVISION**

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$100.00/day, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation

exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

**SECTION XI - SEVERABILITY**

If any provision of this ordinance or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**SECTION XII - EFFECTIVE DATE**

This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. Stats.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Michael Willeford, Chair

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Daniel Schmahl, Supervisor

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Jon Ausloos, Supervisor

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Attest, Lynette Mierzejewski, Clerk

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