

# Article VI – General Nuisance Regulations

## Chapter 602 – Animals

Effective September 22, 2009 – Ordinance 2009-08

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### **602.01 PURPOSE**

The purpose of this chapter is to provide for the preservation of public peace and to protect the health, safety, and welfare of citizens and property by regulating the control of domestic animals by their owners within the Village of Lake Isabella. Furthermore, it is also the purpose of this chapter to ensure that domestic animals are provided with humane living conditions.

### **602.03 DEFINITIONS**

The following words and phrases used in this Chapter are hereby defined as follows:

*Adequate Care*: The provision of sufficient food, water, shelter, sanitary conditions, and veterinary medical attention in order to maintain an animal in a state of good health.

*Animal*: Any living vertebrate creature, domestic or wild, not including a human being.

*Animal Control Officer*: Any Person designated by the Village of Lake Isabella or Isabella County to enforce the provisions of this chapter or county animal control ordinance, or any law enforcement officer certified by the State of Michigan.

*Animal Pound*: Any Animal shelter where a Domestic Animal may be impounded. The Animal Pound may be maintained by the Village, by the Isabella County, or by any third party which operates an Animal shelter and which contracts with the Village or County.

*At Large*: Off the premises of the Owner and not physically under control of the Owner, or a member of the Owner's immediate family, by leash, cord, chain, or otherwise.

*Dangerous Animal*: Any Animal which, without provocation, attacks or injures a Person who is peaceably conducting themselves in any place

where they lawfully may be. Dangerous Animals shall also include any Animal which, because of its size, vicious propensity, or other characteristic, would constitute a danger to human life, property, or Domestic Animals if not restrained or kept in a safe manner.

*Dog*: Any Animal in the canine family, of either or no sex, and of any age.

*Domestic Animal*: An Animal kept as a pet, including, but not limited to, all Dogs and cats.

*Kennel Operator*: Any person who operates an establishment, other than an Animal Shelter, where Dogs and/or cats are maintained for boarding, training, or similar purposes for a fee or compensation; or who sells, exchanges, or offers for adoption with or without charge, Dogs and/or cats which he or she produced or raised.

*Neglect*: Failure to sufficiently and properly care for an Animal to the extent that the Animal's health is jeopardized.

*Owner*: Any Person who has a right or property interest in an Animal, who keeps or harbors an Animal, who has an Animal in his or her care, who acts as custodian of an Animal, or who knowingly permits any Domestic Animal to remain on or about any premises occupied by him or her for a period of 5 days or more.

*Person*: Any corporation, partnership, limited liability company, association, or other legal entity, as well as a natural human being.

*Pet Shop Operator*: Any Person who operates an establishment, other than an Animal Shelter, where Animals are sold, offered for sale, exchanged, or offered for adoption with or without charge. A person who sells, offers to sell, exchanges, or offers for adoption only such Animals that he or she has produced or raised shall not be considered a pet operator.

*Police Officer*: Any Person employed by the Village or by the State of Michigan, Isabella County, or Sherman Township and whose duty it is to preserve the peace or to make arrests or to enforce the law.

*Public Nuisance*: Any Animal or Animals which:

- (1) Chases pedestrians, bikes, or passing vehicles.
- (2) Attacks other Animals.
- (3) Is at large three (3) or more times within a year's time.
- (4) Damages private property.
- (5) Barks, howls, yelps, or runs at large, so as to disrupt the peace of the neighborhood.

*Restrain*: An Animal shall be deemed under restraint if:

- (1) It is under the control of its Owner or other responsible Person by means of a leash, cord, rope, strap, chain, or lead held by such Owner or Person and securely fastened to the collar or harness attached to the Animal.
- (2) It is securely enclosed, confined, or restrained on the premises where it may lawfully be so as to be unable to enter upon the public way or to molest Persons lawfully using the public way.

***Sanitary Conditions:*** Space free from health hazards including excessive Animal waste, overcrowding of Animals, or other conditions that endanger the Animal's health. This definition does not include a condition resulting from any customary and reasonable practice pursuant to farming or Animal husbandry.

***Shelter:*** Adequate protection from the elements suitable for the age and species of the Animal and weather conditions to maintain the Animal in a state of good health, including structures or natural features such as trees and topography.

***State of Good Health:*** Freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the Animal, unless the Animal is undergoing appropriate treatment.

***Water:*** Potable water that is suitable for the age and species of the Animal, made regularly available unless otherwise directed by a veterinarian licensed to practice veterinary medicine.

**602.05 KEEPING OR HOUSING ANIMALS**

- A. The keeping or housing of pets (including cats, Dogs, household fish, and household birds) and other animals shall only be permitted within the Village as is authorized by this Chapter.
- B. It shall be unlawful to own, harbor, or possess, more than two dogs over six months of age in or upon any parcel within the Village unless otherwise approved as a kennel via a Special Land Use by the Planning Commission.

**602.07 DOG LICENSE**

No Owner of any Dog shall own, harbor, maintain, possess, or permit any Dog over the age of 6 months to remain on such Owner's premises within the Village unless the Owner shall have complied with the laws of the State providing for the licensing and registration of the Dog. Every Owner of a Dog shall be required to provide the Dog with a collar to which the license tag issued for that dog shall be affixed. The Owner shall be responsible to see that the collar and tag are worn by the Dog constantly when it is off the Owner's property.

**602.09 HARBORING, KEEPING DOMESTIC ANIMALS; PROHIBITIONS**

- A. **Prohibited Acts:** It shall be unlawful for any Owner to keep, harbor, or have charge of any domestic Animal, whether licensed or unlicensed, which has become a public nuisance, or when any one or more of the following facts exist:
  - (1) The Animal has an ugly or vicious disposition, shows vicious habits and/or has molested any Person or Animal lawfully in or upon any public street or place. For purposes of this Section, any Animal who has bitten or attacked another Person shall be automatically presumed to be vicious.

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- (2) The Domestic Animal has attacked or bitten any Person or has destroyed any property or other domestic animal.
  - (3) The Domestic Animal appears to be suffering from rabies or affected with hydrophobia, mange, or other infectious or dangerous disease.
  - (4) The Domestic Animal, by destruction of property or trespassing upon the property of others, has become a nuisance in the vicinity where kept, as witnessed by an Animal Control Officer or by the sworn compliant of any two (2) persons from two (2) separate households in the vicinity where the Domestic Animal is kept.
  - (5) The Domestic Animal, by loud barking, howling, yelping, whining, meowing, or other sound, has become a nuisance in the vicinity where kept, as witnessed by an Animal Control Officer or by the sworn compliant of any two (2) persons from two (2) separate households in the vicinity where the Domestic Animal is kept.
- B. Running at Large: No person shall cause or permit any Animal kept by him or her to run at large within the Village. Animals which are on any street, alley, sidewalk, path, park/common area (whether public or private), or any other public place, without being restrained, shall be deemed to be running at large. It shall be unlawful to permit any Animal to run at large on the property of another without the permission of the owner of that property.
- C. Keeping of Wild Animals: No person shall keep or permit to be kept on his or her premises any wild animal (such as, but not limited to, bear, deer, large snakes, large reptiles, or large members of the cat family) as a pet or for display or exhibition purposes, unless he or she has obtained a permit from the State of Michigan authorizing such activity and complies with the Village zoning code. This subsection shall not apply to performing animal exhibitions or circuses. An Animal Control Officer shall have the power to release or order the release of any wild Animal capable of surviving in the wild and/or turn such Animal over to any agency authorized by the State of Michigan to house wildlife.
- D. Keeping Dangerous Animals:
- (1) No Person shall permit any Dangerous Animal to be on any private or public property, other than the Owner's property, unless such Animal is securely muzzled or caged. Adequate safeguards shall be taken to prevent unauthorized access to a Dangerous Animal on the Owner's premises by Persons unlawfully on the premises.
  - (2) Whenever an Animal Control Officer determines upon personal observation or investigation that an Animal is a Dangerous Animal, as defined in this chapter, the officer shall notify the Owner of the Animal in writing of the determination, the reasons for the determination, and the requirements of this chapter regulating the keeping of Dangerous Animals.

(3) Any Dangerous Animal running at large and which cannot safely be taken or impounded may be destroyed by an Animal Control Officer, provided, however, that in all cases where the Animal has seized or bitten any person or Animal with its teeth or jaws so as to cause a puncture or abrasion of the skin, or where the Animal is suspected to be rabid, no injury should be done to the head of the Animal.

- E. Diseased Animals: It shall be unlawful for an Owner to permit a Domestic Animal afflicted with a contagious disease to run at large or to be exposed in any public place whereby the health of any other animal or Person may be affected.
- F. Abandoned or Unwanted Animals: It shall be unlawful to abandon an Animal or cause an Animal to be abandoned, in any place, without making provisions for the Animal's adequate care, unless the premises are temporarily vacated for the protection of human life during a disaster. An Animal that is lost by an Owner or custodian while traveling, walking, hiking, or hunting shall not be regarded as abandoned under this section when the Owner or custodian has made a reasonable effort to locate the Animal. Unwanted Animals shall be offered to an Animal Shelter. If an unwanted Animal is not accepted by an Animal Shelter, the Animal shall be humanely dispatched by a licensed veterinarian.
- G. Order to Show Cause Why Animal Should not be Destroyed: An Animal Control Officer may issue a citation of a violation of this Section or a complaint may be filed in the District Court of Isabella County, and the District Court shall thereupon issue a summons to the Owner of such Animal to show cause why the Animal should not be killed or otherwise disposed of as ordered by the Court. Upon hearing, the District Court Judge, upon finding that one or more of the facts as set forth in this Section exists, shall order the Animal to be killed or otherwise disposed of as ordered by the Court. All costs incurred for the disposition of the Animal shall be paid by the Owner. Such action shall be in addition to any penalty imposed pursuant to Section 602.15 of this Ordinance.

**602.11 CARE AND TREATMENT OF ANIMALS**

- A. Humane Care: No person shall cruelly treat, beat, torment, overload, overwork, or otherwise abuse any Animal. No owner of an Animal shall Neglect or fail to provide such Animal with Adequate Care.
- B. Inhumane Treatment: No person shall cause any Animal to be subjected to cruel or inhumane treatment, including, but not limited to:
- (1) The unnecessary separation of a female Animal from its offspring before such time as the offspring can survive such separation.
  - (2) Painting, dyeing, or otherwise coloring any Animal as a novelty or for purposes of sale, exchange, or adoption.

- (3) Promoting, inciting, or conducting Animal fights or the killing of Animals for wagering or entertainment.
- (4) Keeping an Animal in any container or other enclosed area without sufficient food, water, light, ventilation, and care for an unreasonable length of time so as to cause undue discomfort or suffering.
- (5) The unnecessary killing of any species of Animal except rat, mouse, mole, or vole.
- (6) The transporting of any living Animal on the running board, fenders, hood, or other outside part of any vehicle, unless suitable harness, cage, or enclosure is provided so as to protect such Animal from falling or being thrown therefrom.

**602.13        REMOVAL OF EXCREMENT**

- A. Any person owning or having charge of any dog, cat, horse, or other animal shall be responsible for the removal of any excrement deposited by such dog or cat on public thoroughfares, sidewalks, parks, or any public property whatsoever, or upon any private property. Any person owning or having charge of a dog or cat, which deposits excrement on public or private property, other than the property of the animal's owner or keeper, shall upon being aware of such fact, immediately remove such excrement and dispose of it in a sanitary manner. This provision shall not apply to blind or physically handicapped persons while walking with their guide dog.
- B. It shall also be unlawful under this section to permit excessive animal excrement to accumulate on any property to the degree that it becomes offensive or injurious to health or constitutes a nuisance.
- C. Animal excrement shall not be placed in storm sewers, street gutters, or ditches within a public right-of-way, but shall be disposed of in a sanitary manner.

**602.15        PENALTIES**

- A. Any person, firm, corporation, trust, partnership, or other legal entity which violates or refuses to comply with any provision of this chapter shall be responsible for a municipal civil infraction and shall be subject to fines, costs, and other relief as provided for in Chapter 222 of the codified ordinances of the Village of Lake Isabella.
- B. In addition to any other penalties or remedies available, the Village is authorized and empowered to direct the property owner to remove or otherwise abate the nuisance. If such notice is given, it shall be in writing, addressed to the property owner as it appears on the latest ad valorem property tax assessment roll, or current owner if such is different and known to the Village and be mailed via first class or posted at the property in violation, and shall inform the property owner of the following:

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- a. The nature of the violation/nuisance
- b. The time in which the violation/nuisance must be abated.
- C. Upon failure, neglect or refusal of any property owner to comply with the provisions of this chapter, the Village or its authorized contractor, or other designee, is authorized and empowered to enter the property owner's property to abate the nuisance, or to provide and to make payment for the abatement of the nuisance maintained.
- D. When the Village abates a nuisance as provided herein, the cost of any abatement, including legal expenses and the authorized administrative fee will be billed to the property owner. The cost and fee will be a debt of the property owner to the Village, which may be assessed as a single lot assessment in accordance with Chapter 214 of the codified ordinances of the Village of Lake Isabella, and shall constitute a lien against the property, including interest, until paid, and enforced and collected in the same manner as ad valorem property taxes.
- E. The failure to receive the notice as provided for in subsection (2) is not a defense to any action brought by a member of the public for injury or by the Village to collect the costs of abatement or impose penalties or other fees authorized by this article.

**602.17 ADMINISTRATIVE LIABILITY**

No Village officer, agent, appointee, contractor of employee, or member of the Township Board, shall be personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of duties and responsibilities pursuant to this Chapter.