

ORDINANCE NO. 23-_____

**AN ORDINANCE
AMENDING TITLE 10 (POLICE REGULATIONS),
CHAPTER 4 (ANIMAL CONTROL)
OF THE NAPERVILLE MUNICIPAL CODE**

Recitals

1. **WHEREAS**, the Animal Control Unit of the City of Naperville's Police Department ("Animal Control") receives and investigates approximately 2,000 annual complaints related to local animals.
2. **WHEREAS**, Animal Control has received an increased number of complaints where residents and their companion animals have been injured by dog bites; and
3. **WHEREAS**, when a dog has attacked and bitten people or companion animals without provocation, the City of Naperville ("City") deems the animal a "Dangerous Dog" subject to increased regulations; and
4. **WHEREAS**, residents have requested that the City strengthen its regulation of Dangerous Dogs to protect the health, safety, and welfare of persons, companion animals, and the community; and
5. **WHEREAS**, Animal Control recommends that the City make changes to certain portions of its animal control ordinance to enhance the enforcement of Dangerous Dogs; and
6. **WHEREAS**, the Corporate Authorities of the City deem it to be in the best interests of the City to amend the Naperville Municipal Code pertaining to animal control regulations; and
7. **WHEREAS**, the City is a home rule municipality in accordance with Article VII Section 6(a) of the Constitution of the State of Illinois of 1970, and is enacting this Ordinance pursuant to its home rule authority.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority that:

SECTION 1: The foregoing Recitals are substantive and incorporated herein as though fully set forth in this Section 1.

SECTION 2: Title 10 (Police Regulations), Chapter 4 (Animal Control) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language as follows:

TITLE 10 – POLICE REGULATIONS

CHAPTER 4 – ANIMAL CONTROL

SECTION:

10-4-1: - DEFINITIONS:

As used in this Chapter the following terms shall be defined as follows:

ALTERED ANIMAL:	An animal which has been spayed or neutered by a licensed veterinarian and which has thereby been rendered incapable of reproduction.
ANIMAL:	Any living, vertebrate creature, domestic or wild, not including man, <u>which may be affected by rabies.</u>
<u>ANIMAL BITE:</u>	<u>Any animal who has bitten or seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded, or pierced, and further includes contact of saliva with any break or abrasion of the skin.</u>
<u>ANIMAL CONTROL FACILITY:</u>	<u>Any facility owned by, or operated under contract with, the City, for the purpose of impounding, housing or harboring seized, stray, homeless, abandoned or unwanted animals.</u>
ANIMAL RESCUE ORGANIZATION:	Any not-for-profit organization which has tax-exempt status under Section 501 (c)(3) of the United States Internal

	Revenue Code, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes. This term does not include any entity which, is or is housed on the premises of, a breeder or broker, obtains dogs, cats or rabbits from a breeder or broker in exchange for payment or compensation, or resells dogs, cats or rabbits obtained from a breeder or broker and provides payment or compensation to such breeder or broker.
ANIMAL SHELTER:	Any facilities operated, owned or maintained by a duly incorporated humane society, animal welfare society or other nonprofit organization whose purpose is to provide for and promote the welfare, protection and humane treatment of animals.
<u>BUSINESS DAY:</u>	<u>"Business day" means any day including holidays that the animal control facility is open to the public for animal reclaims.</u>
CAT:	Any animal of the family Felidae.
<u>CONFINED:</u>	<u>"Confined" means restriction of an animal at all times by the owner, or his agent, to an escape-proof building, house, or other enclosure away from other animals and the public.</u>
DANGEROUS ANIMAL <u>DOG:</u>	<u>Dangerous Dog means a dog whose behavior constitutes a physical threat of bodily harm to a person or companion animal in a place where such person or animal is conducting himself peacefully or lawfully; a dog that chases or approaches a person or companion animal upon a street, sidewalk or any public grounds in a menacing fashion or apparent attitude of attack; or a dog that bites a person or companion animal but does not cause great bodily harm.</u> 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 of the family Canidae.
EXCESSIVE NOISE:	Habitual or prolonged barking, howling, yelping, whining, meowing, or other sounds indigenous to the animal. Excessive noise caused by engaging or menacing the animal shall not be considered a nuisance violation.
<u>ENCLOSURE:</u>	<u>"Enclosure" means a fence or structure of at least 6 feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious Dangerous Dog. in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious dog within the enclosure. The enclosure shall be securely enclosed and locked secured and designed with secure sides, top, and bottom and shall be designed to prevent the animal dog from escaping from the enclosure. If the enclosure is a room within a residence, it cannot have direct ingress from or egress to the outdoors unless it leads directly to an enclosed pen and the door must be locked secured. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times.</u>
FOWL:	Any domesticated birds, poultry or water fowl <u>waterfowl</u> .
HUMANE DISPATCH <u>EUTHANASIA:</u>	Disposal by euthanasia. <u>Any form of humane euthanasia performed upon an animal that has been approved by American Veterinary Medical Association.</u>
IDENTIFIED ANIMAL:	Any animal <u>implanted with a</u> microchip, wearing a current <u>City license tag</u>

	required by this Chapter, or County Rabies Tag securely fastened to a collar or harness worn by the animal which identifies the owner of the animal and the owner's address.
<u>IMPOUNDED:</u>	<u>Means taken into the custody of the public animal control facility.</u>
<u>INTACT ANIMAL:</u>	<u>An animal that has not been sterilized.</u>
KENNEL OPERATOR:	Any person who operates an establishment, other than a pound or 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 they have produced or raised. A person who owns or harbors three (3) or fewer female animals shall not be considered a kennel operator.
<u>LEASH:</u>	<u>Any cord, rope, strap, or chain which shall be securely fastened to the collar or harness of a dog or other animal and shall be of sufficient strength to keep such dog or other animal under control.</u>
LIVESTOCK:	Any cattle, calves, sheep, swine, horses, mules, goats or other animals, other than fowl, which can or may be used in and for the preparation of meat or meat products for consumption by human beings or animals.
<u>MICROCHIP:</u>	<u>A passive electronic device that is implanted into an animal by means of a pre-packaged sterilized implanting device for the purposes of identification and/or recovery of the animal.</u>
<u>MUZZLE:</u>	<u>A device constructed of strong, soft material or metal which will prevent a dog from biting any person or animal; provided, that such muzzle must be made in a manner which will not cause injury to</u>

	<u>the dog nor interfere with its vision or respiration.</u>
OWNER:	Any person who has a right of property in an animal, who keeps or harbors an animal, who has an animal in their care, who acts as custodian of an animal, or who knowingly permits any domestic animal to remain on or about any premises occupied by them.
PERSON:	Any person, firm, corporation, partnership, association or other legal entity.
PET SHOP OPERATOR:	Any person who operates an establishment, other than a pound or 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 they have produced and raised shall not be considered a pet shop operator.
POUND:	Any facility owned by, or operated under contract with, the City, for the purpose of impounding, housing or harboring seized, stray, homeless, abandoned or unwanted animals.
<u>PROBLEM PET OWNER:</u>	<u>A problem pet owner is a person who has been found to have violated any section of this chapter three (3) times within any 12 month period.</u>
PUBLIC NUISANCE:	Any animal or animals which: (a) chases passersby or passing vehicles, (b) attacks other animals, (c) is at large three (3) or more times within a 12-month period, (d) damages private or public property, or (e), makes excessive noise in violation of this Chapter.
RESTRAINT:	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; or,

	2. <u>It is securely enclosed, confined or restrained restricted on premises where it lawfully may be so as to be unable to enter upon the public way or to molest engage persons lawfully using the public way.</u>
RUNNING AT LARGE:	Any animal that is free of restraint off the premises of the owner.
WILD ANIMALS:	All naturally wild animals native to the State of Illinois.

10-4-2: - ANIMAL CONTROL OFFICER:

thru

10-4-3-1: - KENNELS, PET SHOPS AND ANIMAL SHLTERS LICENSE AND FEE:

* * *

10-4-3-2: - DOG AND CAT LICENSE REQUIREMENTS:

1. Required; Issuance: All persons who own or keep any dog and/or cat within the corporate limits of the City shall obtain a City dog and/or cat license for each such animal. New residents of the City of Naperville shall have thirty (30) days to obtain a City dog and/or cat license.
2. License Nontransferable: No person may transfer a dog and/or cat license from one dog and/or cat to another.
3. Displaying License: Every owner of a dog and/or cat shall firmly secure a current City dog and/or cat license to the licensed dog and/or cat by means of a collar.
4. Any dog that has been deemed as a Dangerous Dog under section 10-4-5-5 of this Chapter shall be required to obtain a Dangerous Dog license identifying the dog as dangerous. The tag color and shape shall change annually. A fee of \$100.00 shall be paid to the City of Naperville upon issuance, and after completion of an annual inspection.

10-4-3-3: - NONRESIDENTS, EXEMPTION:

thru

10-4-4-4: - LICENSES AND INOCULATIONS: * * *

10-4-4-5: - HUMANE DISPOSAL:

Any animal not redeemed in accordance with this Chapter may be offered for adoption, humanely ~~dispatched~~ euthanized or offered to an animal shelter. If accepted by an animal shelter, the animal shelter may offer the animal for adoption or humanely ~~dispatch~~ euthanize the animal.

10-4-4-6: - INTERFERENCE WITH IMPOUNDING:

thru

10-4-5-1: - RABIES INOCULATION: * * *

10-4-5-2: - NUMBER OF DOGS AND CATS:

1. The number of dogs and cats that a person may keep on their property in the City is limited to a maximum of no more than three (3) dogs and no more than three (3) cats with the exception that a litter may be kept for a period of time not exceeding four (4) months from birth. To otherwise exceed this maximum shall be unlawful. A person keeps an animal if they provide shelter, food, water and care to said animal, or otherwise exercise any control over the animal.
2. The provisions of this Section shall not apply to persons who are licensed to engage in the businesses of pet shop operator, kennel operator or animal shelter.

10-4-5-3: - RUNNING AT LARGE: * * *

10-4-5-4: - PUBLIC NUISANCE:

1. It is unlawful for any owner to fail to exercise proper care and control of their animals to prevent them from becoming a public nuisance.
2. It is unlawful for an owned animal to be making excessive noise in violation of this Section within City limits.
 - 2.1. An owned animal cannot make excessive noise outside for more than ten (10) ~~consecutive~~ minutes between 7:00 a.m. and 10:00 p.m. and for no more than two (2) ~~consecutive~~ minutes between 10:01 p.m. and 6:59 a.m.
 - 2.2. A complaint under this Section must meet one of the following criteria:
 - 2.2.1. A complaint made by one person, which is accompanied by audio or video recordings depicting excessive noise in excess of the time limit; or

- 2.2.2. Complaints made by two (2) or more persons, residing in different households, regarding the same animal during the same time frame; or
- 2.2.3. Complaint made by one person, but corroborated by animal control or law enforcement officer who heard the excessive noise during the time limits herein.

10-4-5-5: - DANGEROUS DOGS:

1. Dangerous Dog Investigation and Appeal Process:

- 1.1. Whenever an animal control officer or police officer determines upon investigation that a dog is a "Dangerous Dog" as defined in this Chapter, the officer shall notify the owner of the animal in writing of their determination, the reasons for their determination, the requirements of this Chapter regulating the keeping of Dangerous Dog(s), and the procedures to appeal the determination of the officer. Notification shall be by personal service or certified mail, return receipt requested.
- 1.2. Any owner of a dog which has been determined dangerous as set forth in this Section may appeal that determination in writing to the Police Chief within seven (7) days of service of the notice. The Police Chief or their designate within seven (7) days of receipt of a written appeal shall hold a hearing on whether the dog is dangerous as defined in this Chapter. The Police Chief or their designate shall render a decision within seven (7) days of the close of the hearing. No dog shall be declared dangerous unless a preponderance of the evidence shows the dog meets the definition of a Dangerous Dog set forth in the Ordinance.
- 1.3. No dog may be declared dangerous if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or who was teasing, tormenting, abusing or assaulting the dog or who has, in the past, been observed or reported to have teased, tormented, abused or assaulted the dog or who was committing or attempting to commit a crime.

2. Keeping of Dangerous Dogs:

Any owner of a dog declared a Dangerous Dog within City limits shall comply with the following requirements:

- 2.1. Confinement: It is unlawful for any person to keep or maintain any dog which has been found to be a Dangerous Dog unless such dog is kept in an enclosure. In addition, it is unlawful for any person to keep or harbor a Dangerous Dog on a porch or patio or in any part of a house or building that would allow the dog to exit such structure on its own volition.
- 2.2. Leash Requirement: It is unlawful for any owner or keeper of a Dangerous Dog as defined by this chapter to permit the dog to leave the premise of its owner or enter any public way when not under control by a leash of no more than 6 feet in length. It shall be unlawful to secure any dog deemed dangerous with any retractable leash or similar device.
- 2.3. Muzzle Requirement: Any owner or keeper of a dog deemed dangerous while in public shall secure the dog with a properly fitted muzzle that prevents the animal from coming into contact with any person or companion animal by means of its mouth or teeth.
- 2.4. Microchip and Altering Requirement: The owner must provide proof that the animal has been neutered and microchipped within 15 days, if not already, at the owners' expense.
- 2.5. Liability Insurance Required: The owner of a Dangerous Dog shall present to the City proof that the owner has procured liability insurance in the amount of at least \$100,000.00.
- 2.6. Registration and Warning Signs Required: The owner shall register such dog with the City of Naperville and procure a tag in accordance with the provisions of section 10-4-3-2 and shall post signage that has a minimum dimension of 8 X 10 inches, is clearly legible and visible from the front and rear property lines, which reads as follows: "Beware of Dangerous Dog".
- 2.7. The owner shall immediately notify the animal control division if the dog is loose, unconfined, has attacked another animal, has attacked a human being, has been permanently removed from the City, or has died.
- 2.8. Exception. A Dangerous Dog may be temporarily allowed out its confinement enclosure if it is securely muzzled, leashed, and restrained by a person 18 years of age or older.

3. Annual Inspections:

- 3.1. The animal control department shall send to the owner of a Dangerous Dog a Notice of Annual Inspection request by regular, and certified mail. The owner will have thirty (30) days upon issuance of the request to contact the animal control department to schedule a mutually agreed upon date and time for an inspection.

3.2. The animal control officer shall inspect leashes, muzzles, and areas where the dog is confined and determine whether the enclosure is secure, that facilities exist to adequately feed, house, and maintain the dog, that the location of the enclosure is not likely to endanger the peace, quiet, health, safety or comfort of persons in the vicinity of the location, and that maintenance of the animal in the location has not resulted in or is not likely to result in the animal being subjected to neglect, suffering, cruelty or abuse.

3.3. Owners failing to schedule an inspection, fail to pass an annual inspection or fail to comply with requirements of keeping a Dangerous Dog shall be issued a written notice outlining the violations and be provided with five (5) days to come into compliance.

4. Dangerous Dog Penalties:

Violations or continued non-compliance of sections 10-4-5-5:2 and 10-4-5-5:3 of the Municipal Code shall result in a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate offense shall be deemed committed upon each and every day such violation continues.

10-4-5-6: - PROBLEM PET OWNER:

1. Designation of Problem Pet Owner: A person shall be designated as a problem pet owner when the owner of any animal has been found to have violated any section of this Chapter on three (3) separate occasions within any 12-month period.

2. Violations of this Section of the Municipal Code shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate offense shall be deemed committed upon each and every day such violation continues.

10-4-6: - FOWL AND LIVESTOCK:

thru

10-4-9: - CARE AND TREATMENT OF ANIMALS: * * *

10-4-10: - PROHIBITED ACTS, CONDITIONS:

1. Unwanted Animals: No owner may abandon an animal. Unwanted animals shall be offered to responsible persons for adoption or to an animal shelter or pound. If an unwanted animal is not accepted by either an animal shelter or pound, the animal shall be humanely dispatched by a licensed veterinarian.

2. Keeping Of Wild Animals: No person shall keep or permit to be kept on their premises any wild animal as a pet or for display or exhibition purposes unless they have obtained a State permit. This Subsection shall not apply to zoological parks performing animal exhibitions or circuses.

The animal control officer or any police officer shall have the power to release or order the release of any wild animal capable of surviving in the wild and/or turn same over to an agency with a State permit to house wildlife.

3. Nuisance: It is unlawful for any owner to permit their dog or cat to discharge such animal's excrement upon any public or private property within the City, other than the owner's property, if such owner does not immediately thereafter remove and clean up such animal's excrement from the public or private property. This Subsection shall not apply to an owner who is visually handicapped if such owner's dog is a seeing eye guide dog.

4. [RESERVED.] Keeping Dangerous Animals:

~~4.1. Whenever an animal control officer or police officer determines upon personal observation and 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 their determination, the reasons for their determination, the requirements of this Chapter regulating the keeping of dangerous animals, and the procedures to appeal the determination of the officer. Notification shall be by personal service or certified mail, return receipt requested.~~

~~4.2. Any owner of an animal which has been determined dangerous as set forth in Subsection 10-4-10.4.1 of this Section, may appeal that determination in writing to the Police Chief within seven (7) days of service of the notice. The Police Chief or their designate within seven (7) days of receipt of a written appeal shall hold a hearing on whether or not the animal is dangerous as defined in this Chapter. The Police Chief or their designate shall render a decision within seven (7) days of the close of the hearing.~~

~~4.3. No owner 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 lawfully on the premises.~~

~~4.4. Any dangerous animal running at large which constitutes a danger to persons or property and which cannot safely be taken or impounded may be destroyed by the animal control officer, a police officer or any person authorized by the City; 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 and it is the duty of the person slaying said animal to immediately deliver the carcass to the animal control officer or a licensed veterinarian.~~

5. 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 man may be affected.
6. Hunting Animals:
 - 6.1. Game: It shall be unlawful to hunt or trap game animals within the City limits.
 - 6.2. Hunting: It shall be unlawful for any person to engage in killing any animal other than as prescribed by law in the City.

10-4-11: - ANIMAL BITES:

~~The Police Department and Animal Control Department shall investigate reports of animal bites. If an animal has bitten a person, the Police Department shall notify the owner of the animal and the animal shall be delivered promptly to a licensed veterinarian who shall confine or cause to be confined such animal as provided in the Animal Control Act. If the owner is not known, the police officer or animal control officer shall take such animal to a licensed veterinarian to be confined, as provided in the Animal Control Act of the State of Illinois.~~ A bite report shall be completed to include identifying information on the owner of the biting animal, the victim(s) who have been bitten, the biting animal(s) involved, and circumstances of how the bite occurred. The bite report shall be forwarded to the appropriate County Animal Control for follow up.

1. Any person having knowledge that any person has been bitten by an animal shall notify the Police Department or Animal Control Department.
2. When the Police Department or Animal Control Department receives information that any person has been bitten by an animal, the owner shall be notified by the Department that said biting animal shall be delivered and confined under observation by a state licensed veterinarian within 24 hours. The confinement shall be for a period of not less than ten (10) days from the date the bite occurred and shall continue until the animal has been examined and released from confinement by a licensed veterinarian.
3. At the end of the confinement period, the animal shall be examined by a licensed veterinarian, inoculated against rabies, if eligible, and microchipped, if the dog or cat has not been already, at the expense of the owner.
4. It is unlawful for the owner of the animal to conceal the whereabouts, euthanize, sell, give away, or otherwise dispose of any animal known to have bitten a person, until it is examined and released from confinement by a licensed veterinarian.

10-4-12: - INJURED OR DEAD ANIMALS:

thru

10-4-13: - EXTERMINATION OF PETS:

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10-4-14: - ENFORCEMENT; PENALTIES:

1. Violations: This Chapter shall be enforced by an appropriate ordinance enforcement action, and enforcement may be commenced by the issuance of a notice to appear in accordance with Chapter 38, Section 107-12 of the Illinois Criminal Code, Illinois Compiled Statutes, whenever it appears that a violation of this Chapter has been committed. A notice to appear may provide for settlement of the violation by payment of penalties within five (5) days of receipt of the notice to appear.
2. Penalties: Any person violating any provisions of this Chapter, unless otherwise provided herein, shall be subject to a fine of ~~seventy-five dollars (\$75.00) for the first citation, one hundred fifty dollars (\$150.00) for the second citation, and three hundred dollars (\$300.00) for the third and subsequent citations within a 12-month period.~~ one hundred dollars (\$100.00). Subsequent violations shall result in a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate offense shall be deemed committed upon each and every day such violation continues. Service of summons may be by certified mail in accordance with Chapter 24, Section 1-2-9.1 of the Illinois Municipal Code.

10-4-15: – MICROCHIPPING:

thru

10-4-17: - SOURCING OF ANIMALS SOLD BY PET SHOP OPERATORS:

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SECTION 3: This Ordinance shall be in full force and effect from and after its approval.

PASSED this _____ day of _____, 2023.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2023.

Scott A. Wehli
Mayor

ATTEST:

City Clerk