

**Town of Martell  
Pierce County, Wisconsin  
Dog Ordinance  
Ordinance No: 2021-02  
Amending Town of Martell Ordinance No. 2013-02, entitled Dog Ordinance**

The Town Board of the Town of Martell, pursuant to its authority under Wisconsin Statutes Chapters 95, 173, 174 and 951 does hereby rescind Ordinance No. 2013-02 and adopt this Ordinance No. 2021-02 in its stead to update, clarify and add new provisions.

**Section 1: State Statutes Adopted.**

Wisconsin Statutes Chapters 95 (Animal Health), 173 (Animals: Humane Officers), 174 (Dogs), and 951 (Crimes Against Animals), are adopted by reference. If there is a conflict between the provisions of Wisconsin Statutes and this Ordinance, the provisions of this Ordinance shall apply except in those cases where State Statutes are preemptive.

**Section 2: Purpose.**

This Ordinance is adopted in the interest of promoting the public's health, safety, and welfare and to protect the Town's animal population. Dogs which are unlicensed, running at large, disturbing the peace, vicious or are owned or harbored in violation of this Ordinance are detrimental to the public's health, safety and welfare are declared to be a public nuisance. The provisions of this Ordinance are applicable to all owners and custodians of dogs. Where any obligation is made applicable to an owner of a dog it shall also be applicable to the custodian having custody of the dog.

**Section 3: Licensing of Dogs; Rabies Vaccination Required.**

(a) All dogs over five months of age must be licensed. No person shall own any dog within the Town limits or permit any dog on any property owned by the person for a period of more than 30 days unless such dog is licensed. All persons owning or keeping dogs within the Town shall contact the Town Treasurer for information on obtaining a license. The current annual license fees are \$5.00 per dog for a spayed/neutered animal or \$10.00 for all other dogs. License fees are due by January 31 of each year or on or before the date during the year the dog becomes five months of age. License fees shall be doubled if not paid by January 31, or within 30 days after the dog becomes five months of age. These fees may be increased from time to time by resolution of the Town Board. The license fees collected shall be divided among the Town, County and State as provided in Section 174.08 and 174.09 of the Wisconsin Statutes. Other penalties for nonpayment of license fees or other violations of Chapter 174 may be imposed at the discretion of the Board where applicable.

(b) Rabies vaccination. The owner of a dog shall have the dog vaccinated against rabies by a veterinarian pursuant to Wisconsin Statutes.

(c) The owner of any dog shall keep a valid tag securely fastened to the dog's collar or harness which must be worn by the dog at all times except when the dog is indoors or where an exception in this Ordinance or in Wisconsin Statute Chapter 174 applies.

#### **Section 4: Regulation of Dogs.**

**(a) Limitation on number of dogs.** Number limited. No person or household shall own, harbor, or keep in its possession more than three dogs where the nearest neighboring residence is located less than one quarter (1/4) mile from the yard upon which is located the house occupied by the person or household or the structure providing routine shelter to the dog. The term "yard" shall refer to the entire parcel of land upon which the house or structure is located, not to exceed forty (40) acres in size. By way of example, if a house is located on a forty acre parcel with separate tax parcel number, the forty acre parcel shall be considered the yard; if it is located on a three acre parcel with separate tax parcel number, the three acre parcel shall be considered the yard. A forty acre parcel shall be deemed a quarter quarter of a section or, in the case of fractional quarters, a fractional quarter of either.

(a) Exceptions to limit.

- (1) A litter of pups or a portion of a litter may be kept for not more than twenty-four (24) weeks from birth.
- (2) A male dog may be used for breeding purposes for a period not to exceed thirty (30) days, provided the dog is licensed at its home location and has a current rabies vaccination.
- (3) Hospitals, clinics, or other premises operated by licensed veterinarians, for the care and treatment of dogs owned by others, are exempt from the number limitations provided herein.
- (4) Dogs in training from a certified training program to lead a blind, deaf, or physically impaired person are exempt from the number limitations provided herein, provided the dogs are licensed and have a current rabies vaccination.

Note: Commercial dog kennel operators must apply for and receive a conditional use permit from the County, with prior hearing and approval (not mere recommendation) by the Town.

(b) Waiver. An annual conditional waiver of this Limitation may be granted by the Town Board for 4 or more but not more than 11 dogs if an applicant requests such a waiver in writing, pays a \$100 fee, and if, after a public hearing, the Town Board finds

that the health, safety, and welfare of the public is adequately protected. This fee shall be in lieu of an annual kennel license fee.

Prior to such public hearing, the applicant must provide all property owners and tenants within one quarter (1/4) mile with at least fifteen (15) days advance written notice of the public hearing (such written notice shall be personally served by the applicant, or via regular first-class mail). The waiver is limited to one per residence, is good for one year, and the holder of such a waiver must apply for renewal at least 30 days prior to the expiration of their current waiver.

If the Town has not had any complaints about the dogs within the past year, the Town Board may issue a renewal waiver for a period of one year upon payment of the license fee per dog (currently \$5.00 for a spayed/neutered animal or \$10.00 for an intact animal). If the Town has had complaints during the past year, the applicant must pay a fee of \$100 (in lieu of a kennel license fee) and the Town Board must hold a public hearing, with notice as provided earlier in the paragraph. The Town Board may grant a renewal if it finds that the applicant has adequately taken steps to address any valid complaints and the health, safety and welfare of the public is adequately protected. All dogs owned, kept, or harbored pursuant to this waiver shall have a current rabies vaccination.

**(b) Running at Large Prohibited.** No owner of any dog shall permit such dog to run at large within the Town. A dog shall not be considered to be at large if accompanied by the owner while walking and under voice command control; or is secured to a leash, chain, or rope, under the control of any person; or if confined within a fenced enclosure. A dog shall not be considered to be at large if it is actively engaged in a legal hunting activity, including training, if the dog is monitored or supervised by a person and the dog is on land that is open to hunting or on land on which the person has obtained permission to hunt or to train a dog. Every law enforcement officer, Town Board member, or animal control officer shall apprehend any dog running at large contrary to this section and shall confine the same to an appropriate animal shelter.

A reasonable attempt shall be made to contact the owner of a confined dog. The owner of any dog so confined in the animal shelter may reclaim the same upon the payment of all costs and charges incurred by the Town in apprehending and keeping said dog. Impounded animals shall be kept for not less than seven days unless reclaimed by their owners. If by any means the owner can be readily identified, the Animal Control Officer or other town official shall notify the owner by telephone, mail, or personal contact of such impoundment. Animals not claimed by their owners within seven days shall be humanely destroyed or given for adoption by any person or agency delegated by the Town Board to exercise such authority. Owners are encouraged to have microchips implanted to prove ownership.

**(c) Animal Control Officer.** The Town contract for the services of an Animal Control Officer who shall be designated as Animal Control Officer of the Town. Said contract may include provisions for using facilities owned or maintained by said Animal Control

Officer as an animal shelter. The Animal Control Officer may be a Corporation or other entity such as an animal shelter which may designate, from time to time in its discretion, the person or persons who shall assume the duties of Animal Control Officer.

**(d) Unlicensed Dogs.** Any law enforcement officer, the Animal Control Officer or Town Board member may apprehend any unlicensed dog pursuant to this Ordinance and Wis. Stats. Chapters 173 and 174.

**(e) Dangerous and Vicious Dogs.**

1. No person shall knowingly keep or harbor a vicious or dangerous dog within the Town. "Vicious Dog," as used in this section means a dog with respect to which there is reason to suspect may suddenly assault a person or their property on the person's own property (land) or property of others or while peacefully walking or riding on the public roadways, right of ways and other public lands or while lawfully on the premises of the owner of such dog. "Dangerous Dog" means any dog which constitutes a physical threat to human beings or to other domestic animals by virtue of a known history of engaging in an unprovoked assault or bite whether or not such assault or bite actually caused bodily harm. Dangerous Dog also includes a dog trained, owned, or harbored for the purpose of dog fighting.
2. A dog shall not be deemed dangerous or vicious solely because of an incident where:
  - a. It bites, attacks or menaces anyone assaulting its owner.
  - b. It bites, attacks, or menaces a trespasser on the property of the owner of the property.
  - c. It bites, attacks, or menaces any person or other animal who has tormented or abused it.
  - d. It is acting in defense of an attack from a person or other animal upon its owner or other person.
  - e. It is protecting or defending its young or other animal on the land owned or occupied by its owner.
3. Precautions to be taken by owners/custodians of dangerous or vicious animals.
  - a. Each owner shall confine within a building or secure enclosure every dangerous or vicious animal and shall not take such animal out of the building or secure enclosure unless the animal is securely muzzled and restrained. Every fierce, dangerous, or vicious animal must at all times be securely confined indoors or confined in a securely and totally enclosed

and locked pen with a top and sides. The floor of the enclosure must be a concrete slab, and the enclosure must be securely attached to the slab.

b. No potentially dangerous animal shall be left unattended by chaining, tethering, or otherwise tying to any inanimate object such as a tree, post or building, outside of its secure enclosure.

c. Except when being transported in and securely confined within a vehicle, no potentially dangerous animal shall be permitted off the property of its owner except when it is attended by its owner or and is restrained by a secure collar, leash, cord, chain, or similar physical restraint of sufficient strength to prevent escape and the animal must be muzzled by a means sufficient to prevent biting other persons or domestic animals.

4. Verified complaints regarding potentially dangerous animals.

a. Whenever any person shall complain to the Sheriff's Department or Town Board Member that a potentially dangerous animal is being kept by a person in the Town, the Sheriff's Department, Town Board Member or Animal Control Officer shall notify the owner of said animal that a complaint has been received and that the person should take all actions necessary to comply with the requirements of this Ordinance.

b. If after receiving the notice described above, the person does not comply with the requirements of this Ordinance regarding the behavior or keeping of their animal(s), then a verified complaint may be presented to the Sheriff's Department or Town Board Member, that a potentially dangerous animal is being kept by the person in violation of this Ordinance. The Animal Control Officer shall inform the owner of such animal that the verified complaint has been received. The animal shall be taken by the Animal Control Officer and impounded and there quarantined in a humane manner for a period of not less than 10 days. If the owner does not comply, the Animal Control Officer may apply to the Circuit Court and request a warrant to seize the dog.

Notification shall be by personal service or certified mail, return receipt requested.

**(f) Quarantine.**

(1) Any animal that has bitten a person shall be quarantined for 10 days.

(2) The animal may be quarantined by the owner. If quarantined by the owner, the owner shall furnish proof in writing that the owner has quarantined the animal in compliance with Section 4 (e)(3) of this Ordinance. During quarantine, the animal shall be securely confined and kept from contact with any other animal.

When the owner surrenders the animal for the quarantine, the owner is responsible for payment of all expenses associated with such quarantine.

(3) No officer or other person shall kill or cause to be killed any animal suspected of being rabid except in an emergency and where it is clearly necessary to kill such animal to protect the safety of a person, other animals, or property and upon probable cause that such animal is rabid. If, after the animal has been placed in quarantine, a diagnosis of rabies is made by a licensed veterinarian, the animal shall be humanely killed and disposed of in a sanitary manner.

**(g) Dogs Infected with Rabies.** Pursuant to Wis. Stat. §95.21, any law enforcement officer, Animal Control Officer, or Town Board Member who has reason to believe a dog may be infected with rabies, may take lawful steps to capture and quarantine a dog, or if quarantine and capture is not possible, the law enforcement officer, Animal Control Officer, or Town Board member may kill such dog.

a. Any person who suspects that a dog is infected with rabies shall report his or her suspicion to a law enforcement officer, or Town Board Member, describing the dog and giving the name of the owner, if known.

b. No person shall knowingly harbor or keep any dog infected with rabies or any dog known to have been bitten by a dog known to have been infected with rabies, or fail to report to a law enforcement officer, Animal Control Officer or Town Board Member with existence of a dog which he or she knows to be infected with rabies.

**(h) Dog Which Bites Persons.** Every owner or keeper of a dog and every other person who knows that a dog has bitten any person shall immediately report such fact to the Pierce County Sheriff's Department.

**(i) Barking Dogs: Nuisance Dogs.** No person shall harbor any dog within his or her care or custody which shall continuously bark or create a continuous or intermittent noise or disturbance, or allow such dog to make any unusual or unnecessary noise so as to disturb the neighborhood, or to people passing upon the roadways. No person shall harbor any dog which is permitted at any time to be at large or which by frequent and habitual howling, yelping, barking, or other noise, shall cause serious annoyance or disturbance to persons or to a neighborhood or habitually pursues any vehicle upon any public street or highway.

**(j) Abandonment, Mistreatment or Cruelty Prohibited.** It shall be unlawful for anyone to knowingly abandon or abuse any dog. Each person who does abandon or abuse a dog, or knowingly or willingly permits abandonment or abuse of a dog, or aids in the abandonment or abuse of any animal, shall be subject to the penalties as herein provided. In addition, the provisions of Wis. Stat. Chapter 951 may be enforced by the Town.

**(k) Dog Fighting.** Canine or canine hybrid fighting is prohibited.

**(l) Duties of all Dog Owners.**

(1) For the purposes of this Ordinance, reference to a dog "owner" includes any person who owns, harbors, keeps, or controls an animal, whether that person claims ownership or not. It shall include all temporary custodians of the dog.

(2) It shall be the duty of every owner of any dog to exercise reasonable care and to take all necessary steps and precautions to protect other people, property, and animals from injuries or damage which might result from the dog's behavior, regardless of whether such behavior is motivated by mischievousness, playfulness, or ferocity.

(3) It shall be the duty of every owner of any dog, or anyone having any dog in their possession or custody, to ensure that the animal is kept under restraint and that reasonable care and precautions are taken to prevent the dog from leaving, while unattended, the real property limits of its owner.

(4) It shall be the duty of the owner of any dog to keep the animal under restraint and control at all times while the animal is off the real property limits of the owner.

(5) Failure to keep any dog confined or under restraint as provided and required ~~for~~ in this Ordinance shall be unlawful and shall be punishable as herein provided.

(6) Any violation of this Ordinance that would, by the literal language of this Ordinance, be a violation by a dog is deemed a violation by the owner of that dog.

**(m) Penalties.**

a. Citations. The Town Board Chair, the Town Animal Control Officer and any law enforcement officer may issue citations for any violation of this Ordinance pursuant to the Town Citation Ordinance.

B. First Offense. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$500.00, together with court costs and costs of prosecution. If the offense is due to the dog biting a person, the dog owner is also responsible for paying all damages caused to person or property, including the costs of the injured parties' medical bills, in accordance with Wis. Stat. §174.02.

c. Second Offense. Any person found guilty of violating any provision of this Ordinance who has previously been convicted of a violation of the same Ordinance offense within one year of the date of such conviction shall, upon such second conviction, forfeit not less than \$250.00 nor more than \$1,000.00 for each

such second or subsequent offense, together with court costs and costs of prosecution. If the offense is due to the dog biting a person, the dog owner is also responsible for paying all damages caused to person or property, including the costs of the injured parties' medical bills, in accordance with Wis. Stats. §174.02.

d. Continued Violations. Each violation and each day a violation continues or occurs shall constitute a separate offense.

e. In addition to any forfeiture imposed, an animal owner who allows an animal to run at large or to otherwise be in violation of this Ordinance shall be required to pay all costs the Town incurs in enforcing this Ordinance, including but not limited to costs for animal pickup, kenneling, boarding, impound fees, veterinarian, or other costs related to dealing with and confining or restraining the animal which is in violation of this Ordinance. If costs are not paid as part of the judgment of conviction or of the citation, the Town shall bill the animal owner for all costs incurred by the Town. If the animal owner does not pay said costs within 30 days, then pursuant to its authority under Wis. Stat. §66.0627, the Town shall impose said costs as special charge against any real estate where the animal resides or is being harbored or kept. Said special charge shall become a lien upon the property for collection along with real property taxes. Landlords shall be notified of renter violations. All relevant correspondence sent to the renter will also be sent to the landlord.

f. Other Enforcement. Nothing in this Ordinance shall preclude the Town from maintaining any appropriate action, including an action for injunctive relief, to prevent or remove a violation of any provision of this Ordinance.

## **Section 5: Enforcement of Restrictions on Dangerous Animals.**

In the event that an Animal Control Officer has received information that a dangerous animal is being harbored in violation of this Ordinance, he/she may:

- (a) Order the violation immediately be corrected and cite the owner or keeper; or
- (b) If the violation cannot be immediately corrected and the animal is posing an imminent serious threat to human beings or other animals, the animal may be seized and impounded at the owner's expense.
- (c) If the owner of the dangerous animal fails to either provide proof that the animal will now be kept restrained or confined in compliance with the provisions of this Ordinance or fails to reclaim it from the shelter after impoundment, the animal will be humanely euthanized at the owner's expense.
- (d) The Town is not liable for impounding animals or the death of any animal which has been impounded or disposed of.

## **Section 6: Appeals Process.**

(a) The owner may file a written request for a hearing to appeal the classification of the animal as dangerous within seven days of receipt of the complaint. The hearing shall be held within seven calendar days of the receipt of the appeal request. The owner shall be notified of the date, time, and location of the hearing. The owner, a representative of the sheriff's office and Animal Control Officer may present oral testimony and other evidence as may be deemed proper and relevant by the Town Board. The Town Board will make their determination whether the animal is a dangerous animal, in writing within a reasonable period following the conclusion of the hearing.

(b) During the appeals process, it shall be unlawful for the owner of a dangerous animal to permit the animal to be outside a proper enclosure unless the dog is muzzled and restrained by a chain or leash, and under the immediate and direct control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person or other animal. If transported, such animal shall be safely and securely restrained within a vehicle or other conveyance. The owner may exercise the animal in a securely fenced or enclosed area that does not have a top without a muzzle or leash if the dog remains in his/her sight and only members of the owner's immediate household or person 18 years of age or older are allowed in the enclosure when the animal is present.

(c) If an animal that has previously been declared dangerous, attacks or bites a person or a domestic animal without provocation, the animal shall be subject to confiscation and place in quarantine for 10 days. After 10 days, the animal shall be destroyed in an expeditious and humane manner.

## **Section 7: Section Interpretation.**

The provisions of this Ordinance shall be liberally construed in favor of the protection of the health, safety, and welfare of the public, and of the Town, and shall not be construed to be a limitation or repeal of any other power now possessed or granted to the Town.

## **Section 8: Severability and conflict.**

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions. This Ordinance is not intended to repeal or overrule any other existing Ordinance or Town regulation, except that where a conflict between this Ordinance and another Ordinance occurs, the provisions of this Ordinance shall apply.

**Section 9: Effective Date.**

Following passage by the Town Board, this Ordinance shall take effect the day after the date of publication or posting as provided by Wis. Stat. §60.80(2) and (3).

ADOPTED this 11<sup>th</sup> day of May, 2021.

Bradley A. Taplin  
Brad Taplin, Town Board Chair

Attest: Sara Cardwell  
Sara Cardwell, Town Clerk

A copy of this Ordinance was posted in the following three public places in the Town of Martell on the 14<sup>th</sup> day of May, 2021.

Town Hall

Recycling Center

Hwy 29 Express

Sara Cardwell  
Sara Cardwell, Town Clerk