

Proposed Village of Cass City, MI Ordinance No. 180

AN ORDINANCE TO AMEND

THE VILLAGE OF CASS CITY CODE OF ORDINANCES,
CHAPTER 4, ARTICLE I, (In General), SECTION 4-1 to 4.30, Article II (Dogs) SECTION 4-31 to
4.37

ENTITLED "**ANIMALS**, AS FOLLOWS.

The Village of Cass City ordains.....

Chapter 4

ANIMALS*

Article I. In General

Secs. 4-1 – 4-30. Reserved

Article II. Dogs

Sec. 4-31.	Running at large; restraint
Sec. 4-32.	Barking or howling.
Sec 4-33.	Vicious dogs.
Sec 4-34.	Impoundment.
Sec 4-35.	Picking up strays.
Sec 4-36.	Kennel license.
Sec 4-37.	Violation; municipal civil infraction.

***Cross reference** – Environment, ch 16.

State law reference – Authority to adopt animal control ordinance, MCL 287.290; crimes related to animals and birds, MCL 750.49 et seq.; wildlife conservation, MCL 324.40101 et seq.

CD4:1

ARTICLE I. IN GENERAL

Sec. 4-1. Purpose.

The purpose of this chapter is to protect the health, safety and welfare of citizens and animals by:

- (a) Regulating the ownership, harboring or maintaining of animals;
 - (b) Preventing injury to person and property;
 - (c) Limiting the number of animals that may be kept;
 - (d) Regulating the confinement of animals;
 - (e) Prohibiting the harboring of certain animals;
 - (f) Requiring that sanitary conditions be maintained both inside structures and on premises within the village;
 - (g) Requiring a license for certain animals;
 - (h) Requiring rabies shots and other vaccinations / medications for certain animals; and
 - (i) Regulating noise and odors made by animals.
- (Ord. No. § , - -2018)

Sec. 4-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abuse, in addition to its common meaning, means the failure of any owner, as defined in this chapter, to seek veterinary treatment for an injured or obviously ill domestic animal on his or her premises or failure to request and permit proper public authorities to remove stray domestic animals on property owned, leased or occupied by that person.

Animal means any living organism typically capable of moving about, but not of making its own nourishment by photosynthesis, including any:

- (a) Mammal;
- (b) Reptila;
- (c) Bird;
- (d) Snake;
- (e) Turtle;

- (f) Fish;
- (g) Mollusk;
- (h) Crustacean; or
- (i) Any other vertebrate or invertebrate other than a human being.

Dangerous animal means an animal that has menaced, scratched or bitten a person or animal so as to draw blood or break bones. An animal shall not be considered dangerous because it has bitten or attacked a person or an animal that has, without justification, provoked the animal by attacking or tormenting the animal, its owner or its young. In addition, an animal shall not be considered dangerous because it bites or attacks a person who is trespassing or committing another tort or crime on the property of the animal's owner or if the animal is responding in a manner that a reasonable person would conclude was intended to protect a person if that person is engaged in a lawful activity or is the subject of an assault.

Domestic animal means an animal that has traditionally, through a long association with humans, lived in a state of dependence upon humans, or under the dominion and control of humans and is generally recognized in the community to be kept as a tame pet, including, but not limited to:

- (a) Dogs;
- (b) Cats;
- (c) Gerbils;
- (d) Ferrets;
- (e) Mice;
- (f) Rabbits;
- (g) Caged Birds; and
- (h) Fish.

Exotic or wild animal means an animal of a species not indigenous to the State of Michigan and which is not a domestic animal, including, but not limited to:

- (a) Apes, monkeys and related forms, except monkeys used to assist disabled people;
- (b) Poisonous reptiles, spiders and insects, but not non-poisonous species;
- (c) Constrictor snakes four feet or more in length;
- (d) Cats from the wild family, including, but not limited to, bobcats, cheetahs, cougars, jaguars, leopards, lions, lynxes, mountain lions, panthers, pumas, tigers;
- (e) Non-domesticated animals including hybrid crosses of non-domesticated animals, including, but not limited to, racoons, skunks, foxes, wolf-dogs, etc.;
- (f) Crocodilians, including, but not limited to, crocodiles and alligators;
- (g) All birds of prey, all other poisonous animals and all endangered species.

Livestock means animals used for human food and fiber or animals used for service to human beings. The term "livestock" includes, but is not limited to:

- (a) Cattle;
- (b) Sheep;
- (c) Swine;
- (d) Llamas;
- (e) Goats;
- (f) Bison;
- (g) Equine;
- (h) Poultry; and
- (i) Rabbits.

The term “livestock” does not include animals that are human companions, such as dogs and cats.

Owner means every person who:

- (a) Has any right of ownership in any animal;
- (b) Keeps or harbors any animal;
- (c) Has an animal in his or her care or possession; or
- (d) Permits an animal to remain in or around premises owned, leased or occupied by that person.

Provoke means to perform an act that a reasonable person would conclude is likely to precipitate a bite or an attack by an animal.

Public nuisance animal means an animal which:

- (a) Unreasonably annoys humans;
- (b) Endangers the life or health of humans or other animals;
- (c) Substantially interferes with the rights of citizens (other than the owner of the animal) to the enjoyment of life or property.
- (d) Is repeatedly found at large;
- (e) Damages the property of any person other than the owner of the animal;
- (f) Intimidates or unreasonably disturbs pedestrians or passersby;
- (g) Chases vehicles;
- (h) Excessively makes disturbing noises, including but not limited to, continued and repeated howling, barking, meowing, squawking, whining, or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.
- (i) Causes fouling of the air by odor, thereby creating unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored.

Reasonable control means having an animal:

- (a) On a suitable leash;
- (b) Confined in a suitable cage or location to designated property or by radio collar or similar device;
- (c) Under the oral control of the owner or a responsible person designated by the owner at all times when the owner or responsible person is on private property with the permission of the person or persons with right of occupancy of that private property.
- (d) On a leash or in a cage at all times when an animal is not on private property and is on public property such as streets, sidewalks or other public places.

Torment means a willful act of aggression that causes pain, suffering or distress to an animal or causes physical, mental or emotional anguish to an animal.

(Ord. No. § , - -2018)

Sec. 4-3. Application of this chapter.

This chapter shall not apply to:

- (a) Museums or demonstration projects operated by governmental entities or bona fide nonprofit or charitable institutions;
- (b) The business premises of a licensed veterinarian or veterinary hospital;
- (c) An animal shelter located in a non-residential zoning district;

- (d) Public or private stables;
- (e) Riding academies; or
- (f) Circuses.

(Ord. No. § , - -2018)

Sec. 4-4. Abuse; poisoning, injuring or disturbing.

(a) A person shall not abuse, mistreat, torment or treat any domestic animal in a cruel or inhumane fashion.

(b) A person shall not knowingly leave or deposit any poison on any public place or exposed private place where it endangers, or is likely to endanger, any animal. This section shall not prohibit the use of poisonous bait upon vermin in any area which does not endanger any other animal. In addition, this section shall not prohibit the use of poisons by licensed exterminators in the course of their business.

(c) No person, except a public officer or peace officer acting in his or her legal capacity, shall intentionally injure, kill or capture any wild animal or disturb any wild animal's nest or the contents thereof.

(d) Any person who, as the operator of a motor vehicle, or otherwise injures a domestic animal shall immediately report such injury or death to the village police department and, if ascertainable, the animal's owner.

(Ord. No. § , - -2018)

State law reference – Cruelty to animals, MCL 750.50; poisoning animals, MCL 750.437.

Sec. 4-5. Harboring and maintaining animals.

(a) A person shall not own, harbor or maintain any animal within the village except a domestic animal as defined in this chapter. No person shall keep or harbor or permit to be kept or harbored any wild, dangerous, exotic or other undomesticated animal.

(b) Every owner of every animal in the village shall provide their animal with sufficient amounts of wholesome food and water, proper shelter and protection from weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(c) A person shall maintain real property where an animal is harbored or maintained in a clean, habitable and sanitary condition so that animals and humans are not harmed or affected by dangerous conditions, disease, odor or vermin.

(d) The keeping of livestock is not permitted except by express permission of the village council; pursuant to reasonable proof of vaccinations and health maintenance.

(e) A person shall not keep, harbor or maintain any dangerous or public nuisance animal within the village. The owner of any animal that bites another person shall immediately summon necessary medical assistance, secure the animal to prevent escape and notify the village police department or the animal control division of the county health department.

(Ord. No. § , - -2018)

4-6. Abandoned or unwanted animals.

(a) It is unlawful to abandon or release into the wild, or cause to be abandoned or released into the wild, any animal without making provisions for the animal's adequate care, unless the premises are temporarily vacated for the protection of human life during a disaster.

(b) 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.

(c) Unwanted animals shall be offered to an animal shelter. If an unwanted animal is not accepted by an animal shelter, then the animal shall be humanely disposed of by a licensed veterinarian.

(Ord. No. § , - -2018)

4-7. Number of animals; vaccination; confinement and control; licensing.

(a) Unless otherwise provided in this section, a person shall not own, harbor or maintain more than three domestic animals total six months of age or older, except fish, on any premises at any time. Any person owning more than three domestic animals six months of age or older prior to the enactment of this ordinance shall be grandfathered in and permitted to keep those domestic animals. However, no person shall be permitted to obtain any additional domestic animals once this ordinance is enacted, if the total amount of domestic animals is more than three domestic animals six months of age or older.

(b) A person shall not own, harbor or maintain a dog or cat that is four months or older without obtaining a certificate of vaccination of rabies. Any such person shall produce proof of current vaccination at the request of any village official or designated person.

(c) A dog shall be confined to the owner's premises at all times unless the dog is otherwise under the reasonable control of the owner as defined in this chapter. All other domestic animals shall be under the reasonable control of the owner at all times.

(d) An owner shall not permit or allow his or her domestic animal to leave the owner's premises under any circumstances unless the domestic animal is currently immunized against rabies unless the owner has obtained a waiver for immunization from the village council. This section does not prevent an owner from taking his or her domestic animal to the offices of a veterinarian for the purpose of having the domestic animal immunized.

(e) An owner shall license any dog over the age of four months with the county.

(Ord. No. § , - -2018)

State law reference – Dogs attacking or biting persons, MCL 287.286a; rules for controlling rabies, MCL 333511.

Sec. 4-8. Removal of waste; sanitary conditions.

(a) A person shall not permit an animal to discharge fecal material, without immediately cleaning up or removing the fecal material, upon:

(1) Any public property; or

- (2) Any private property within the village, without permission from the owner, lessee or occupant of the private property.

This subsection does not apply to service animals for the disabled if the person is physically unable to comply or dogs working for police service.

(b) An owner of an animal shall not walk or exercise any animal on property not owned by the person walking or exercising the animal, whether public or private property, unless the owner has appropriate device or means for the collection of fecal material in his or her immediate possession and an appropriate container for the transportation of the fecal material for proper disposal. This subsection does not apply to service animals for the disabled if the person is physically unable to comply, or dogs working for police service.

Sec. 4-9. Disposal of animal carcasses.

Animal carcasses shall be disposed of in accordance with methods defined in Michigan's bodies of dead animals act, Public Act No. 239 of 1982 (MCL 287.651 et seq.).

(Ord. No. § , - -2018)

Sec. 4-10. Animals running at large.

(a) It shall be unlawful for any animal to run at large on any:

- (1) Public property; or
- (2) Private property within the village, without the permission from the owner, lessee or occupant of the private property.

(Ord. No. § , - -2018)

4-11. Violations and penalties.

(a) A violation of this article shall be a municipal civil infraction violation. The sanction for a municipal civil infraction citation shall be civil fine in the amount provided by this Code, plus any costs, damages, expenses and other sanctions as authorized under Chapter 87 of Public Act No. 236 (1961), as amended and other applicable laws:

- (1) Unless otherwise specifically provided by this Code, the fine for each violation shall be \$50.00.
- (2) An increased fine may be imposed by the court for each repeat offense in accordance with the following:
 - a. The fine for any offense that is a first repeat offense shall be \$100.00.
 - b. The fine for any second repeat offense or any subsequent repeat offense shall be \$250.00.
- (3) In addition to all other remedies, the village may commence and prosecute appropriate actions or proceedings in court to restrain or prevent any noncompliance with or violation of any of the provisions of this Code, or to correct, remedy or abate such noncompliance or violation.

(b) In this section, the term "violation of this Code" means any of the following:

- (1) Doing an act that is prohibited or made or declared unlawful, an offense, or a violation by ordinance or by rule or regulation authorized by ordinance.
- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
- (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, or violation by ordinance or by rule or regulation authorized by ordinance.

(c) Any provision of this code that is made or declared to be a misdemeanor, civil infraction or municipal civil infraction is a violation of this Code.

(d) In this section, the term “violation of this Code” does not include failure of a village officer or village employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(e) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.

(f) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(g) Violations of this Code that are intermittent or ongoing are a nuisance per se and may be abatable by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or quasi-judicial enforcement.

(h) The ordinance enforcement officer is designated as the authorized Village official to issue municipal civil infractions for violations of this article, as provided by the village municipalities.

(i)

Secs. 4-12 – 4-30. Reserved.

ARTICLE II. DOGS¹

Sec. 4-31. Running at large; restraint.

Dogs on a leash no longer than eight feet or accompanied by the owner shall not be deemed to be running at large.

(Ord. No. 110, § 1, 7-27-1982)

Sec. 4-32. Barking or howling.

It is unlawful to keep or harbor any dog which by loud or frequent barking, yelping or howling shall cause annoyance to the neighborhood or to the people passing on the streets of the village.

(Ord. No. 110 § 2, 7-27-1982)

Sec. 4-33. Vicious Dogs.

It is unlawful to harbor a dog which is fierce or vicious or a dog that is a dangerous animal as defined by this chapter and Public Act No. 426 of 1988 (MCL 287.321 et seq.).

(Ord. No. 110, § 3, 7-27-1982)

Sec. 4-34. Impoundment.

Any dog found in violation of this article will be picked up and impounded by either the village police or the county animal control officer.

(Ord. No. 110, § 4, 7-27-1982)

Sec. 4-35. Picking up strays.

It shall be the right of a private citizen to pick up any and all stray dogs running at large in violation of section 4-10 and turn such dogs over to the village police or the county animal control officer.

(Ord. No. 110, § 5, 7-27-1982)

Sec. 4-36. Kennel license.

Any person keeping three or more dogs over the age of four months on his or her property shall obtain a kennel license from the county treasurer.

(Ord. No. 110, § 6, 7-27-1982)

Sec. 4-37. Violation; municipal civil infraction.

Pursuant to Sec. 4-11, a violation of this article shall be a municipal civil infraction violation and subject to payment of a civil fine of as set forth in Sec. 4-11(a)(1)-(3). (as authorized by chapter VI,

¹ State law reference – Dog law, MCL 287.261 et seq.

section 2, of the General Law Village Act, Public Act No. 3 of 1985(MCL 66.2), the village municipal civil infraction ordinance (article II of chapter 20), and other applicable laws.)

A Motion to approve Village of Cass City, MI Ordinance No. 180, AN ORDINANCE TO AMEND THE VILLAGE OF CASS CITY CODE OF ORDINANCES, CHAPTER 4, ARTICLE I, (In General), SECTION 4-1 to 4.30, Article II (Dogs) SECTION 4-31 to 4.37 ENTITLED "ANIMALS, ORDINANCE,

Was offered by **Trustee Biefer** and supported by **Trustee Zawilinski**

Ayes: 7 Nays: 0

Resolution: Adopted as presented

Carl A. Palmateer

Nanette Walsh

President, Village of Cass City

Clerk/Treasurer, Village of Cass City

Introduction and First Reading: June 25, 2018

Public Notice: July 3, 2018

Public Hearing: July 30, 2018

Second Reading: July 30, 2018

Adopted: *July 30, 2018*

Effective: Upon adoption by the Cass City Village Council, this ordinance shall become effective 30 days later.

