

PROPOSED Sherburne County Ordinance No. _____
Prohibited Animals– Sherburne County

1. Prohibited Animals.

- a. Purpose and Intent. It is the intent of Sherburne County to protect the public against the health and safety risks that Prohibited Animals pose to the community and to protect the welfare of individual animals that are held in private possession, pursuant to Minnesota Statute 145A.05 subd. (1) and (2). By their very nature, Prohibited Animals are wild and potentially dangerous and, as such do not adjust well to a captive environment. The intent of this Ordinance is to use the same statutory framework as Minnesota Statute § 346.155, which governs possessing regulated animals.

2. Jurisdiction.

The jurisdiction of this Ordinance shall apply to all unincorporated areas of Sherburne County.

3. Definitions.

- a. Companion Animal. Means any animal that is commonly kept by persons as a pet or for companionship. The definition of “companion animal” includes, but is not limited to: domesticated dogs, domesticated cats, domesticated birds and horses/donkeys.
- b. Domestic Animal. Means any animal that is livestock, a companion animal, or both.
- c. Educational Purposes. Means possession of a non-releasable prohibited animal for educational, or exhibition purposes as allowed only under a separate permit from the Minnesota Department of Natural Resources, pursuant to Minnesota Rules 6244.0800.
- d. Falconry Permit. Means a valid falconry permit issued by the Department of Natural Resources, pursuant to Minnesota Rules 6234.0800.
- e. Livestock. Means any animal commonly used, and so used, by persons for use, draft or pleasure purposes. The definition of “livestock” includes, but is not limited to: poultry, cattle, swine, sheep, goats, horses/donkeys/mules, llamas, alpacas, deer, emu, ostrich, bison, elk, salmon, rabbits, reindeer and peacocks.
- f. Prohibited Animal. Means any animal that is not normally domesticated in the United States or is wild by nature. Prohibited animals include, but are not limited to, any of the following orders and families, whether bred in the wild or captivity, and also any of their hybrids with domestic species. The prohibited animals listed in parenthesis are intended to act as examples and are not to be construed as an

exhaustive list or limit the generality of each group of animals, unless otherwise specified:

- i. Non-human primates and prosimians (monkeys, chimpanzees, baboons, gorillas);
 - ii. Felidae (lions, tigers, bobcats, cougars, leopards, jaguars, lynx, other non-domesticated cats);
 - iii. Canidae (wolves, coyotes, foxes, jackals, other non-domesticated dogs);
 - iv. Ursidae (all bears)
 - v. Reptilia (all venomous snakes).
 - vi. Crocodylidae and Alligatoridae (crocodiles, alligators and caiman)
 - vii. Proboscidae (elephants)
 - viii. Hyanenidae (hyenas)
 - ix. Artiodatyla (hippopotamuses, giraffes, camels, not cattle or swine or sheep or goats)
 - x. Procyonidae (raccoons, coatis)
 - xi. Marsupialia (kangaroos, opossums)
 - xii. Perissodactylea (rhinoceroses, tapirs, not horses or donkeys or mules)
 - xiii. Edentara, (anteaters, sloth, armadillos)
 - xiv. Viverridae, (mongooses, civets and genets)
 - xv. Any animal that is not normally domesticated in the United States or is wild by nature.
- g. Regulated Animal. Means any animal defined under Minn. Stat. § 346.155, subd.1(e).
- h. Wildlife Rehabilitator. Means a person who has a valid Department of Natural Resources novice, general, or master class wildlife rehabilitation permit issued pursuant to Minnesota Rules 6244.0100 to 6244.2000 or a valid license from the United States Fish and Wildlife Services if the person attempts to rehabilitate migratory birds.

4. **Keeping of Prohibited Animals.**

It shall be unlawful for any person to own, possess, keep, harbor, bring, or to have in one's possession any prohibited animal(s) within the unincorporated areas of Sherburne County.

It shall be unlawful for the owner, possessor, or any other person in control of a lot, tract, or parcel of land within Sherburne County or any residence or other premises situated thereon to knowingly permit any other person to be in possession of a prohibited animal or prohibited animals upon the property, residence or premises.

- a. Exceptions. The following shall be exempt from these regulations under the conditions noted to possess native, to Minnesota, Prohibited Animals:
 - i. Licensed humane societies;

- ii. Animal control officers, (acting in the course and scope of their employment as valid licensed animal control officer);
 - iii. Conservation officers; (acting in the course and scope of their employment as valid licensed Conservation officer)
 - iv. Licensed veterinary hospitals or clinics;
 - v. A Wildlife Rehabilitator licensed by the Minnesota Department of Natural Resources and the United States Fish and Wildlife Services who temporarily keeps any prohibited animal(s) within Sherburne County when the purpose is to return the prohibited animal(s) or to humanely euthanize the prohibited animal(s).
 - vi. A person possessing a valid Minnesota issued falconry permit.
 - vii. Educational Possession. A person may possess a prohibited animal for educational purposes, so long as the person possesses all applicable Minnesota and Federal licenses applying to the possession of the prohibited animal.
 - viii. Special permits for prohibited animals. The State of Minnesota has authority to issue special permits for certain prohibited animals. (Minnesota Statutes 97A.401). Nothing in this ordinance limits the Commissioner of Natural Resources from deciding if such a permit is to be issued.
- b. Non-Native Species. It is unlawful to possess non-native to Sherburne County prohibited animals. The exceptions on subdivision 3(a) do not apply to any non-native to Minnesota prohibited animal(s).
- c. Wildlife Sanctuaries. Wildlife Sanctuaries or Sanctuary, as defined in Minn. Stat. § 346.155, are not exempt from this ordinance and the exemptions in paragraph (a) do not apply to Wildlife Sanctuaries or Sanctuary.
- d. Inspection. At any and all times, the County shall have the right to inspect any regulated prohibited animal(s) when acting as animal control officer as provided in MN Stat. 346.155 or those under animals under Seizure as set forth in Subd. 4(e)(v). Any party who intentionally interferes with or obstructs the inspection violates this Ordinance. This paragraph in no way diminishes the authority for a law enforcement officer to obtain a search warrant or an order for inspection.
- e. Seizure:
- i. The Sherburne County Sheriff, upon issuance of consent or search warrant, must be granted access at reasonable times to sites where it has reason to believe a violation of the Ordinance is occurring or has occurred.
 - ii. If a person who possesses a prohibited animal is not in compliance with the requirements of this section, the Sherburne County Sheriff shall provide for the custody and care provided that the procedures in this subdivision are followed.
 - iii. Upon request of a person possessing a prohibited animal, the Sherburne County Sheriff's Office may allow the animal to remain in the physical custody of the owner for up to 30 days, based on practicality, during which

time the owner shall take all necessary actions to come in compliance with the Ordinance. During the 30-day period, the Sherburne County Sheriff may inspect, at any reasonable time, the premises where the animal is kept.

- iv. If a person who possess a prohibited animal is not in compliance with this section following the 30-day period described in paragraph (iii), the Sherburne County Sheriff shall seize the animal and place it in a holding facility that is appropriate for the species for up to 30 days.
- v. The Sherburne County Sheriff shall provide a notice of the seizure by delivering or mailing it to the owner, by posting a copy of it at the place where the animal is taken into custody, or by delivering it to a person residing on the property. The notice must include:
 - A. a description of the animal seized; the authority for and purpose of the seizure; the time, place, and circumstances under which the animal was seized; and a contact person and telephone number;
 - B. a statement that a person from whom a prohibited animal was seized shall post security to prevent disposition of the animal pending the hearing process and may request a hearing concerning the seizure and that failure to do so within 5 business days of the date of the notice will result in disposition of the animal. The security shall be sufficient to cover the costs of the hearing officer and the care of the animal for 30 days;
 - C. a statement that actual costs of the care, keeping, and disposal of the prohibited animal are the responsibility of the person from whom the animal was seized, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law; and
 - D. a form that can be used by a person from whom a prohibited animal was seized for requesting a hearing under this subdivision.
- vi. If a person from whom the prohibited animal was seized makes a request within 5 business days of the seizure, a hearing must be held within 30 business days of the request to determine the validity of the seizure and possible placement of the animal. The judge or hearing officer may authorize the return of the animal to the person from whom the animal was seized if the judge or hearing officer
 - A. that the person can and will provide the care required by law for the prohibited animal; and
 - B. the prohibited animal is physically fit; and
 - C. The person was licensed to possess a prohibited animal
- vii. If a judge or hearing officer orders a permanent disposition of the prohibited animal, the local animal control authority may take steps to find long-term placement for the animal with a wildlife sanctuary or institutions accredited by the American Zoo and Aquarium Association, persons authorized by the Department of Natural Resources, or an appropriate United States Department of Agriculture licensed facility.
- viii. A person from whom a prohibited animal is seized is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that

a court or hearing officer finds that the seizure was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the Sherburne County Sheriff and the person claiming an interest in the animal before return of the animal to the person.

- ix. A person from whom a prohibited animal has been seized under this subdivision may prevent disposition of the animal prior to the hearing, by posting security in the amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within 5 business days of the seizure, inclusive of the day of the seizure.
- x. If circumstances exist threatening the life of a person or the life of any animal, local law enforcement or the Sherburne County Sheriff may seize a prohibited animal without an opportunity for hearing or court order, or destroy the animal.
- xi. Further, the County shall not be liable for any costs related to the seizure of the prohibited animal unless the Court finds that the County acted in bad faith in seizing the prohibited animal.

f. Disposition of Animals. Upon proper determination by a Minnesota licensed veterinarian, any prohibited animal taken into custody under this section may be immediately disposed of when the prohibited animal is suffering and is beyond cure through reasonable care and treatment. The Sherburne County Sheriff may recover all costs incurred under this section.

g. Violations and Penalties. Any person who violated any provision of this Ordinance shall be deemed guilty of a misdemeanor and shall be punishable according to Minnesota Law. Nothing in this Ordinance shall preclude charging of a crime pursuant to Minn. Stat. § 346.155. Each day that a violation continues shall constitute a separate offense. The County may also initiate any applicable civil action.

h. Game Farm. This ordinance does not supersede, change or alter the requirements for a game farm interim or conditional use permit, if the game farm's interim or conditional use permit is otherwise allowed pursuant to County ordinance, rules and/or regulations.

5. Interpretation. Unless otherwise provided, this ordinance shall be interpreted by the general rules of interpretation as provided by and for state law.

6. Severability. If any portion of this ordinance is found to be unconstitutional or otherwise invalid by a court of proper jurisdiction, all remaining provisions shall remain in effect and shall not be affected by the ruling on the invalid section.

7. Effective Date. This ordinance revokes any prior ordinances regarding prohibited animals and shall be effective and enforceable on the day following publication.

Passed and Approved this ___ day of _____, 2020.

Chair, Sherburne County Board of Commissioners

Attested by:

Clerk of Sherburne County Board of Commissioners

Date