

08/02/2022

*Elizabeth Garcia*

**RE: DECLARATION AND ORDER OF DANGEROUS ANIMAL**

Dear *Elizabeth*

Please let this letter and the attached order serve as your notice, that the City of Appleton's Humane Officer has formally declared your animal: Kylo, Sex: Male, Breed: German Shephard, Color: Black/brown, R+, L-



as a **DANGEROUS ANIMAL**, pursuant to the City of Appleton Municipal Code, Section 3-131.

I have declared your ANIMAL as dangerous after conducting my investigation, which is summarized below:

Incident # A22021699: On 05/10/22 *Elizabeth Garcia* was cited for her animal (Kylo, Sex: Male, Breed: German Shephard, Color: Black/brown, R+, L-), being involved in an animal attack vs a child. In this incident Kylo went after another dog while on a leash with Elizabeth's child holding onto the leash. This child asked the other child victim to help and that is when Kylo attacked the helping child. Kylo bit the child three times. Once on the hand. Once on the Arm, leaving a mouth sized abrasion on the arm, and once on the child's buttock, leaving multiple abrasions. This attack was determined to be a unprovoked attack.

Incident #A22034020: On 7/19/22 *Elizabeth Garcia* was cited for her animal (Kylo, Sex: Male, Breed: German Shephard, Color: Black/brown, R+, L-), being involved in an animal attack vs 2 children. In this attack Kyle was let outside by his owner. Kylo then attacked the first child by jumping on them causing scratch marks and then went after another child by attacking them. This second attack caused deep puncture wound on the child's arm as well as addition scratch marks. This incident was determined to be a UNPROVOKED attack.

Due to the repeated unprovoked attacks vs children that caused injury, Kylo, sex: Male, Breed: German Shephard, Color: Black/brown, R+, L-“ is being declared as Dangerous Animals for the City of Appleton.

**IMMEDIATE ACTION IS REQUIRED:**

Because your ANIMAL has been declared dangerous, you must comply with leashing, muzzling, and confinement requirements IMMEDIATELY, as set forth in City of Appleton Municipal Code Section 3-132. You must, within thirty (30) days, comply with all other requirements of City of Appleton Municipal Code Section 3-132 of the dangerous declaration. The pertinent section of the municipal code is attached to this document. This order is intended to protect against injurious results to human beings and domestic pets caused by unprovoked attacks by your animal.

**APPEAL RIGHTS ARE TIME-SENSITVE:**

If you or any other owner or caretaker of the above-named animals wishes to contest the attached Order, within 72 hours YOU MUST deliver to the Health Officer a written objection to the order stating specific reasons for contesting the order. Failure to timely file an objection will result in your forfeiture of the right to appeal this Order.

The Health Deputy Director, Charles Sepers, with the City of Appleton Health Department can be reached at:

**Health Officer - Dr. Charles Sepers**  
100 North Appleton Street  
Appleton, WI 54911  
*Phone: 920-832-6497*  
*Fax: 920-832-5853*  
*Email: Charles.Sepers@appleton.org*

I have enclosed copies of the City of Appleton Municipal Ordinances pertaining to this matter. Please review and comply with City of Appleton Municipal Code Section sections 3-1, 3-2, 3-131, 3-132, 3-133, and 3-134.

If you have any further question, please contact the City of Appleton Health Department.  
Sincerely,

**Matt Fillebrown**  
Lead CSO #9563 / Humane Officer  
Appleton Police Department

*Enclosures:*

Order  
City of Appleton Municipal Code Sections 3-1, 3-2, 3-131, 3-132, 3-133, 3-134

CC: CPT. Frisch - Appleton Police Department, ACA Nicholas VandeCastle - Appleton City Attorney's Office, and Charles Sepers - Health Department

IN THE CITY OF APPLETON,  
OUTAGAMIE COUNTY,  
STATE OF WISCONSIN

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CITY OF APPLETON  
A Wisconsin Municipal Corporation

Petitioner,

v.

*Elizabeth Garcia* as owner of: Kylo, Sex: Male, Breed: German Shephard, Color: Black/brown, R+, L-

Respondent.

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**ORDER DECLARING ANIMAL DANGEROUS**


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As the owner and/or caretaker of *the above-named ANIMAL*, you are hereby notified that the City of Appleton has declared that *the above-named ANIMAL* AS dangerous pursuant to the City of Appleton's Municipal Code 3-131.

Because the animal has been declared dangerous, you are further notified that you must immediately comply with leashing, muzzling, and confinement requirements of City of Appleton Municipal Code Section 3-132. You must, within thirty (30) days, comply with all other requirements of City of Appleton Municipal Code Section 3-132 of the dangerous declaration.

This order remains in effect, even if appealed, until modified or withdrawn. This order is in effect for the lifetime of the animals.

**SO ORDERED on August 2nd 2022 12:00pm.**

  
Matthew Fillebrown, Certified Humane Officer  
Appleton Police Dept. City of Appleton, WI

I, Elizabeth Garcia (respondent's printed name), acknowledge receipt of this order and understand the contents of the order, including the time limits if I wish to appeal.

Signed: E Garcia

Date: 8/2/22



## Charles E. Sepers

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**From:** Elizabeth Gracia <elizabethgracia24@gmail.com>  
**Sent:** Wednesday, August 3, 2022 12:40 PM  
**To:** Charles E. Sepers  
**Subject:** Appeal of dangerous dog Kylo

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Mr. Sepers,

I am writing this as my formal objection of Kylo being labeled a dangerous animal. While there were incidents that attacks took place, the injuries were unintentional and non aggressive injuries. Since the second incident Kylo has been working with a trainer on proper leash and commands with the trainer and at home. Looking to see what the next steps are for the appeal process and if you need anything else from me.

Thank you for your time and consideration,

Elizabeth

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## Charles E. Sepers

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**From:** Elizabeth Gracia <elizabethgracia24@gmail.com>  
**Sent:** Wednesday, August 3, 2022 12:20 PM  
**To:** Charles E. Sepers  
**Subject:** Reference letter regarding Kylo being a dangerous animal.  
**Attachments:** Kylo Letter.docx

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

This is a letter from one of Kylo's trainers regarding his behavior. I also have letters that the parties involved in his incidents that they would like to provide on the circumstances revolving the incidents and Kylo as a dog. Will leave you a voicemail on next steps of the appeal.

Thank you,

Elizabeth

Attention: This message was sent from a source external to the City of Appleton. Please use caution when opening attachments or clicking links.

**Derek Michals**

124 N 10<sup>th</sup> St  
Oostburg, WI 53070

920-254-8346  
Derek Michals

8/3/2022

**Elizabeth Gracia**

1201 Bartell CT APT 35  
Appleton, WI 54914

Dear **Elizabeth Gracia**:

I am writing to you to give you a summary of the experience I had with Kylo, your German Shepard, the weekend of July 15-17, 2022. Up till that time, I had never encountered Kylo before. He exhibited typical excitement for his breed on meeting a new person. After working with you and Kylo for approximately 15 minutes, he responded to typically training enough, that I was able to take possession from you for an extended trip with the intention of leash, and demeanor training.

Throughout the weekend he received training from me on leash behavior, socialization, and obedience commands. Kylo responded well to the training, and by the end of it was able to walk on a leash without issue, listen to commands, and was able to ignore other animals by command.

While he did show signs of typical canine excitement, he did not show any signs of aggression, and responded well to the training provided. There were two other dogs involved in his training, to assist in socialization with other dogs. He did not show aggression to them but went to play with them. He did receive training on proper levels of excitement when interacting with those other dogs.

In my volunteer work with Great Lakes Search and Rescue, as well as police K9 units, Kylo exhibited normal German Shepard traits that training would remedy.

Sincerely,

**Derek Michals**

## Charles E. Sepers

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**From:** Elizabeth Gracia <elizabethgracia24@gmail.com>  
**Sent:** Thursday, August 4, 2022 9:58 AM  
**To:** Charles E. Sepers  
**Subject:** ESA  
**Attachments:** Stephanie-White--Housing-Single-Animal-Approval-EID109-OID2385153.pdf

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Official emotional support letter. Kylo is also an emotional support animal for my 8 year old with special needs. Attention: This message was sent from a source external to the City of Appleton. Please use caution when opening attachments or clicking links.



DR. STEPHANIE WHITE, LLC TELETHERAPY COUNSELING  
STEPHANIE WHITE, PSYD, PHD, LCSW, DCSW  
Wisconsin License: #8957-123

361 FALLS RD #526  
GRAFTON, WI 53024

TEL. NO.: (907) 313-8919  
contact@drstephaniewhitetelehealth.com

10/18/2021

Romarrigo Higgans  
1740 Oakridge Rd Apt A  
Neenah, WI 54956  
+19203781477  
Senoritagracia24@yahoo.com  
03/03/2014

Dear Romarrigo,

As per our discussion and review of your history, I have diagnosed you with a mental and emotional disability recognized in the Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition (DSM-5). Specifically, Other Specified Anxiety Disorder 300.09 (F41.8).

I am also familiar with the limitations imposed by your diagnosed disability and the need to mitigate those limitations and associated symptoms. As such, during our most recent consultation and evaluation I approved a dog (85 lb(s) (German Shepherd Dog)) as an emotional support animal for you. In my professional opinion, it is necessary that this dog live with you because its presence will mitigate the symptoms of your disability by allowing you to fully enjoy your home and the common areas associated with your home. Specifically, the presence of the dog will allow you to reduce your anxiety and relax in your home; allow you to increase your self-esteem and care for yourself; increase your ability to self-regulate; I have personal knowledge of your medical history to recommend an emotional support animal to ameliorate excessive anxiety symptoms that obstructs your motivation, sleep patterns, energy, and social interactions; The presence of this emotional support animal is necessary for your mental health because it will mitigate the symptoms associated with anxiety often experienced. The ESA will help to uplift your mood and provide positive focus and grounding.

In order to comply with my prescribed treatment, you may need to take some steps that will allow you to live with your ESA, including presenting some documentation to your landlord. I have written this letter to comply with the Fair Housing Act, the Americans With Disabilities Act, and other laws providing people with disabilities an equal opportunity to use and enjoy a dwelling, so your landlord should not need you to disclose any additional information. Please understand that you may voluntarily disclose your personal medical/mental health information to whomever you choose; however, I advise you to be very judicious about the people to whom you may provide this letter and additional information.

I highly recommend that you take the steps necessary to establish your rights and continue to use an emotional support animal as we explore and address the root causes of your diagnosis. If you feel that your emotional support animal no longer provides the necessary benefits or your symptoms increase, please contact me so that we may determine if this is the best path for you.

If you do take the necessary steps to establish your rights but your landlord refuses to provide you with a reasonable accommodation, you have the right to make complaint with US Department of Housing and Urban Development (HUD) by filing a claim of discrimination through the HUD website - [www.hud.gov](http://www.hud.gov) - or calling the discrimination hotline at 1-800-669-9777. They will investigate the claim free of charge.

Please understand that you are responsible for your ESA's behavior and for any damage that it may cause- please make sure that it is well-behaved. In addition, please note that your diagnosis and treatment is ongoing and will need to be reassessed on a routine basis.

Sincerely,

Stephanie White, PsyD, PhD, LCSW, DCSW



WI LCSW (8957-123) since 6/25/2018  
Dr. Stephanie White, LLC Teletherapy Counseling Services  
907-313-8919-O  
985-590-4092-F  
contact@drstephaniewhitetelehealth.com  
<https://www.drstephaniewhitetelehealth.com/>  
<https://www.psychologytoday.com/profile/455389>

## Charles E. Sepers

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**From:** ELIZABETH GRACIA <senoritagracia24@yahoo.com>  
**Sent:** Wednesday, August 3, 2022 7:47 PM  
**To:** Charles E. Sepers  
**Subject:** Fw: Kylo

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

[Sent from Yahoo Mail for iPhone](#)

Begin forwarded message:

On Wednesday, August 3, 2022, 7:40 PM, Stephanie Meitner <stephaniemeitner@yahoo.com> wrote:

Mr. Sepers,

I am writing on behalf of Kylo the not aggressive dog. I have been around Kylo from the day he was first picked up and brought home. I have never seen any aggressive behavior from him or any attempt from him. I have been around German Shepherd's most of my life in fact I have a 2 year old male right now as a grandpuppy. My daughter who works at the Dog House off of Northland Avenue had never meet him and she did all his bathing and grooming and if anyone knows that isn't a dog's favorite and he was absolutely amazing for my daughter. I know Elizabeth has done what she needs to do for classes and followed what she needs to. I hope you realize he is a beautiful dog who got caught up doing what his instinct teaches them to do, just like humans to protect themselves and family. Thanks for listening.

Stephanie Meitner.

[Sent from Yahoo Mail on Android](#)

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## Charles E. Sepers

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**From:** ELIZABETH GRACIA <senoritagracia24@yahoo.com>  
**Sent:** Wednesday, August 3, 2022 7:31 PM  
**To:** Charles E. Sepers  
**Subject:** Fw: Kylo

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

[Sent from Yahoo Mail for iPhone](#)

Begin forwarded message:

On Wednesday, August 3, 2022, 5:54 PM, Melissa Steinberg <[melissa.steinberg1017@gmail.com](mailto:melissa.steinberg1017@gmail.com)> wrote:

Dear Mr Sepers,

My name is Melissa Steinberg and I am writing this on behalf of the animal named Kylo.

I am writing to give you my opinion on Kylo and his behaviours, as well as on behalf of his family. In July of 2022 there was an incident with Kylo and my 2 children; Kylo had gotten over excited and jumped on my youngest and bit my middle child's arm, while these injuries were very minimal and my children are fine, we do not feel any contempt towards Kylo and understand that he was just excited and acted how any excited animal would.

We also understand that Kylo is working with a trainer to better his behaviours. I am writing to you today to give my opinion that Kylo should not be labeled as a dangerous animal and given another chance after his work is done with the trainer. Kylo is a very sweet animal and is very loved by all who know him.

Thank you for your time and if you have any questions please feel free to contact me at the following.

[melissa.steinberg8710@gmail.com](mailto:melissa.steinberg8710@gmail.com)  
920-205-0804

Sincerely,

Melissa Steinberg

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## Charles E. Sepers

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**From:** ELIZABETH GRACIA <senoritagracia24@yahoo.com>  
**Sent:** Thursday, August 4, 2022 9:53 PM  
**To:** Charles E. Sepers  
**Subject:** Fw: KYLO

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

[Sent from Yahoo Mail for iPhone](#)

Begin forwarded message:

On Thursday, August 4, 2022, 9:32 PM, lindsay ristow <l.ristow83@gmail.com> wrote:

Dear Mr. Sepers,

My name is Lindsay Ristow and My daughter name is Trinity Lewis . Trinity was bit by Kylo but she was not attacked aggressively! There was another small dog that Kylo was trying to go play with, but my daughter tried to intervene and Kylo then bit her and started to chase her and bit her thigh. Kylo only wanted to play and thought my daughter wanted to play as well. He is a loving dog and have not had any other problems! My daughter still loves Kylo and pets him when she sees him. I believe he is young and with his training he will be just fine ! There are so many kids in our area that absolutely adores him. He far from an aggressive dog! He definitely deserves a second chance ! If you any questions you can call me at 920-323-5345. Thank you for taking the time to read my letter and please reconsider!

Sincerely, Lindsay Ristow

--

Lindsay Ristow  
920-323-5345

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## DIVISION 2. DANGEROUS ANIMALS

### Sec. 3-131. Procedure for declaring animal dangerous.

(a) Upon conducting an investigation the humane or law enforcement officer may issue an order declaring an animal to be a dangerous animal. Whenever an owner or caretaker wishes to contest an order, he or she shall, within seventy-two (72) hours after receipt of the order, deliver to the Health Officer a written objection to the order stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the Agenda for the Board of Health to be reviewed at the next regular meeting. The Board of Health shall act as a quasi-judicial body allowing the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared dangerous.

(b) After the hearing, the owner or caretaker shall be notified in writing of the Board's determination. If the Board upholds the determination that the animal is dangerous, the owner or caretaker shall comply with the requirements of §3-132. If the owner or caretaker further contests the determination, he or she may, within five (5) days of receiving the panel's decision, seek review of the decision by the Circuit Court.

(c) Upon an animal being declared dangerous, the owner or caretaker shall immediately comply with leashing, muzzling and confinement requirements of §3-132 with all other requirements in that section being satisfied within thirty (30) days of the dangerous declaration or reaffirmation thereof, or within such time as established by the Board of Health.

(Code 1965, §23.06(4)(e); Ord 17-05, §1, 3-8-05 ; Ord 117-07, §1, 7-24-07)

### Sec. 3-132. Harboring dangerous animals.

#### (a) *Dangerous animals regulated.*

- (1) No person may harbor or keep a dangerous animal within the city unless all provisions of this section are complied with. Any animal that is determined to be a prohibited dangerous animal under this division shall not be kept or harbored in the city.
- (2) The issuance of a citation for a violation of this section need not be predicated on a determination that an animal is a dangerous animal.

(b) *Registration.* The owner of any animal declared dangerous, shall register it with the Police Department upon disposition, and annually thereafter on or before April 1 of each year, by providing a current color photograph of the animal and payment of a seventy-five dollar (\$75.00) registration fee.

#### (c) *Leash and muzzle.*

- (1) No owner or caretaker, harboring or having the care of a dangerous animal may permit such an animal to go outside its dwelling, kennel or pen unless the animal is securely restrained with a leash no longer than four (4) feet in length.
- (2) No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its dwelling, kennel or pen unless a person who is sixteen (16) years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal, is in physical control of the leash.
- (3) A dangerous animal may be securely leashed or chained to an immovable object, with the owner or caretaker being in the physical presence of the animal at all times when it is so leashed or chained.
- (4) A dangerous animal outside of the animal's dwelling, kennel or pen shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals.

#### (d) *Confinement.*

- (1) Except when leashed and muzzled, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.
- (2) When constructed in a yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be child-proof from the outside and animal-proof from the inside. A strong metal double fence with adequate space between fences (at least two (2) feet) shall be provided so that a child cannot reach into the animal enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two (2) feet. All structures erected to house dangerous animals shall comply with all city zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (3) *Indoor Confinement.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(e) *Signs.* The owner or caretaker of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two (2) inches high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

(f) *Spay and neuter requirement.* Within thirty (30) days after an animal has been designated dangerous, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

(g) *Liability insurance.* The owner or caretaker of a dangerous animal shall present to the Health Officer or Humane Officer a certificate of insurance that the owner or caretaker has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such policy is cancelled or not renewed, the insurer and animal's owner or caretaker shall notify the Health Officer or Humane Officer of such cancellation or non renewal in writing by certified mail.

(h) *Waiver by Board of Health.* Upon request, by the owner or caretaker, the Board of Health may waive any requirement specified in subsections (a) through (g) that is deemed to be inappropriate for a particular dangerous animal.

(i) *Notification.* The owner or caretaker shall notify the police department within twenty-four (24) hours if a dangerous animal is at large, is unconfined, has attacked another animal or has attacked a human being or has died. No person may sell or transfer possession of a dangerous animal to another person without first notifying the person to whom the dangerous animal is being sold or transferred of the fact that such animal is a dangerous animal and of any requirements imposed upon the selling or transferring party by this division. No person may sell or transfer possession of a dangerous animal to another person, agency, organization or the like without first notifying the Police Department in writing, at least three (3) days in advance of the sale or transfer of possession with the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or given away to a person residing outside the city, the owner or caretaker shall present evidence to the Police Department showing that he or she has notified the Police Department, or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner of the dangerous animal.

(j) *Euthanasia.* If the owner or caretaker of an animal that has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping the animal in accordance with this section, he or she may have the animal humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.

(k) *Waiver.* The Health Officer may waive the provisions of subsections (b) to (g) for a law enforcement or military animal upon presentation by the animal's owner or handler of satisfactory arrangement for safe keeping of the animal.

(Ord 17-05, §1, 3-8-05)

### **Sec. 3-133. Certain animals not be declared dangerous.**

Notwithstanding the definition of a dangerous animal in §3-1:

(a) No animal may be declared dangerous if death, injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a trespass on the land or criminal trespass on the dwelling upon premises occupied by the owner of the animal; was teasing, tormenting, abusing or assaulting the animal; or was committing or attempting to commit a crime or violating or attempting to violate an ordinance which protects persons or property.

(b) No animal may be declared dangerous if death, injury or damage was sustained by a domestic animal which, at the time such was sustained, was teasing, tormenting, abusing or assaulting the animal.

(c) No animal may be declared dangerous if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

(d) No animal may be declared dangerous for acts committed by the animal while being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer. (Code 1965, §23.02(p); Ord 17-05, §1, 3-8-05)

### **Sec. 3-134. Prohibited dangerous animals.**

(a) *Not allowed in city.* No person may bring into or keep in the city any animal that is a prohibited dangerous animal under this section.

(b) Determination of a prohibited dangerous animal.

(1) The Health Officer or Police Department may determine an animal to be a prohibited dangerous animal whenever the Health Officer or Police Department finds that an animal meets the definition of prohibited dangerous animal or is a dangerous animal in non-compliance with any of the provisions of §3-132.

(2) Upon conducting an investigation and finding an animal meets the definition of a prohibited dangerous animal, the Police Department may issue an order declaring an animal to be a prohibited dangerous animal. Whenever an owner or caretaker wishes to contest an order, he or she shall, within seventy-two (72) hours after receipt of the order, deliver to the Health Officer a written objection to the order stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the agenda for the Board of Health to be reviewed at the next regular meeting. The Board of Health shall act as a quasi-judicial body allowing the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared a prohibited dangerous animal.

(3) Pending the outcome of the hearing, the animal may be confined subject to Sec. 173.21, Wis. Stats., or held at a location outside the limits of the City.

(4) After the hearing, the owner or caretaker shall be notified in writing of the Board's determination. If a determination is made that the animal is a prohibited dangerous animal, the owner or caretaker shall comply with subsection (a) within five (5) days after the date of the determination. If the owner or caretaker further contests the determination, he or she may, within five (5) days of receiving the panel's

decision, seek review of the decision by the Circuit Court.

(c) ***Destruction.*** Any dog that has caused bodily harm to a person, persons or a domestic animal on two (2) separate occasions off the owner's premises, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under sec. 174.02(3), Wis. Stats. The City Attorney may petition an appropriate court to obtain a court order to destroy such a dog.

(d) ***Enforcement.*** The Health Department and Police Department may make whatever inquiry is deemed necessary to ensure compliance with this section.

(e) ***Waiver.*** The Health Officer may waive the provisions of this section for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.  
Ord 17-05, §1, 3-8-05)



**ARTICLE I. IN GENERAL**

**Sec. 3-1. 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:

**Animal** means any live, vertebrate creature, domestic or wild.

**Animal at large** means an animal that is off the property and/or premises of the owner and/or caretaker and not under restraint.

**Animal control officer** means any person designated by the Police Department to enforce the ordinances of the City and state statutes adopted by reference as they pertain to animal control.

**Animal shelter** means any facility operated by a humane society or municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

**Bodily Harm** means bodily injury including, but not limited to, a laceration requiring stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing.

**Caretaker** means any person who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog, cat or any other domesticated bird or animal.

**Confined** means restriction of an animal at all times by the owner to an escape-proof building, vehicle or other enclosure.

**Cruel** means causing unnecessary and excessive pain, suffering or unjustifiable injury or death to an animal. Additionally, it shall be unlawful to tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.

**Dangerous Animal** means any of the following:

- (1) Any animal which, when unprovoked, inflicts bodily harm on a person, domestic pet or animal on public or private property.
- (2) Any animal which repeatedly chases or approaches persons in a menacing fashion or apparent attitude of attack, without provocation, upon the streets, sidewalks or any public grounds or on private property of

another without the permission of the owner or person in lawful control of the property.

- (3) Any animal with a known propensity, tendency or disposition to attack, to cause injury to, or otherwise threaten the safety of humans or other domestic pets or animals.

**Domestic animal** means any animal which normally can be considered tame and converted to home life.

**Dwelling unit** means a building or portion thereof designed to be used exclusively for residential purposes.

**Health officer** means the City Health Officer or his duly designated representative.

**Humane officer** means an individual appointed as such in accordance with §173.03.

**Kennel** means any premises wherein any person engaged in the business of boarding, breeding, buying, letting for hire, training for a fee or selling of dogs or cats.

**Leash** means a strap, chain, or cord that is no more than eight (8) feet in length and of appropriate strength to control the animal, used by a person of sufficient capability to restrain, control, and guide an animal.

**Licensing authority** means the political body authorized to issue animal licenses.

**Molests** means excessive barking, running up to or charging, threatening, jumping on or otherwise harassing people or other domestic animals or the passing public that are in the public right-of-way, or on public property, or on their own property, or property of anyone other than the owner and/or caretaker of the animal.

**Owner** means any individual that has the right of property in an animal or who keeps, harbors, cares for, acts as its custodian or who knowingly permits an animal to remain on or about his premises/property for five (5) or more consecutive days.

**Pet store** means any retail establishment in a commercially zoned building whose business includes the sale of live animals.

**Prohibited Dangerous Animal** means any of the following:

- (1) Any animal that is determined to be a prohibited dangerous animal under this division.

## ANIMALS

- (2) Any animal that, while off the owner or caretaker's property, has killed a domesticated animal without provocation.
- (3) Any animal that, without provocation, inflicts serious bodily harm on a person on public or private property.
- (4) Any animal brought from another city, village, town or county that has been declared dangerous or vicious by that jurisdiction.
- (5) Any dog that is subject to being destroyed under s. 174.02(3), Wis. Stats.
- (6) Any dog trained, owned or harbored for the purpose of dog fighting.

**Public nuisance** means any animal which:

- (1) Molests passersby or passing vehicles;
- (2) Attacks persons or animals without provocation when such persons or animals are peacefully conducting themselves in a place where they are lawfully entitled to be;
- (3) Is at large on school grounds, parks or cemeteries;
- (4) Is repeatedly at large;
- (5) Damages private or public property;
- (6) Barks, whines or howls in an excessive, continuous or untimely fashion;
- (7) Any animal not having the vaccination as required by §3-18 of the Appleton Municipal Code;
- (8) Is the subject of repeated violations under this chapter.

**Render sterile** refers to a surgical procedure that has been performed on an animal that renders it incapable of siring or bearing offspring. The term includes neutering and spaying.

**Restraint** means that the animal is secured by a leash not more than eight (8) feet in length and under the control of a responsible person and obedient to that person's command, or within the real property limits of its owner.

**Serious bodily harm** means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or Supp. #89

protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

**Veterinary hospital or clinic** means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries of animals.

**Wild animal** means any nonhuman primate, raccoon, skunk, fox, wolf, or any animal which is in part of the canis lupis species, any animal raised for fur-bearing purposes or any other animal or hybrid thereof which can normally be found in the wild state, or poisonous reptiles, crocodilians and any other snake or reptile exceeding six (6) feet in length.

(Code 1965, §23.02; Ord 4-93, §1-6-93; Ord 32-97m §1-4-16-97; Ord 116-00, §1, 12-23-00; Ord 58-04, §1, 4-27-04; Ord 17-05, §1, 3-8-05; Ord 13-16, §1, 2-9-16; Ord 50-16, §1, 7-12-16)

**Cross reference(s)** – Definitions and rules of construction generally, §1-2.

### Sec. 3-2. Enforcement and penalties.

(a) The provisions of this chapter shall be enforced by employees of the Health Department, Police Department or other persons authorized by the City Health Officer or Chief of Police. The City Health Officer may grant any exemptions or variances to the enforcement of this chapter for dogs specially trained to lead blind or deaf persons, to provide support for mobility-impaired persons or to assist with emergency search and rescue operations.

(b) Police Department and Health Department personnel are authorized to catch and impound animals at large, with such authorization to include the pursuit of animals upon the premises of the owner, caretaker or other private property. It shall be a violation of this chapter to interfere with the Health Department, Police Department or other persons authorized by the City Health Officer or Chief of Police in the performance of their duties.

(c) Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §1-16. (Code 1965, §23.13; Ord 40-96, §1, 5-1-96; Ord 164-02, §1, 8-27-02; Ord 17-5, §1, 3-8-105)

**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation. §1-18; health officer §2-261 et seq.; police department, §2-346 et seq.

### Sec. 3-3. Authority to order general confinement of dogs and cats.

Whenever the safety of the public shall require it, the Mayor, by notice published in the official paper of the City, shall order that, for a period of twenty (20) days from and after the date of the notice, no dogs or cats shall be



## LEGAL SERVICES DEPARTMENT

### Office of the City Attorney


100 North Appleton Street

Appleton, WI 54911

Phone: 920/832-6423

Fax: 920/832-5962

**TO:** Members of the Board of Health

**FROM:** Darrin M. Glad, Assistant City Attorney 

**DATE:** August 8, 2022

**RE:** Dangerous Animal Declaration Process

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This memo is to clarify the role that the Board of Health plays when there has been a Dangerous Animal Declaration.

Once an animal has been declared to be a dangerous animal by either the Humane Officer or a Law Enforcement Officer, the owner (or caretaker) of the animal may contest the order. Once a written objection to the order is duly received, the matter comes under the jurisdiction of the Board of Health. The Board of Health shall allow the owner an opportunity to present evidence as to why the animal should not be declared dangerous at the next regular meeting. As a practical matter, an opportunity for evidence supporting the declaration is also allowed. Separate members from Legal Services staff will be present to advise the Board and present evidence supporting the declaration, respectively.

Our Code defines a **Dangerous Animal** as any of the following:

- (1) Any animal which, when unprovoked, inflicts bodily harm on a person, domestic pet, or animal on public or private property.
- (2) Any animal which repeatedly chases or approaches persons in a menacing fashion or apparent attitude of attack, without provocation, upon the streets, sidewalks, or any public grounds or on private property of another without the permission of the owner or person in lawful control of the property.
- (3) Any animal with a known propensity, tendency, or disposition to attack, to cause injury to, or otherwise threaten the safety of humans or other domestic pets or animals.

After the hearing concludes, the Board must notify the owner in writing of the Board's determination. Legal Services staff will assist the Board with drafting the written notification. **The Board has 3 options regarding the Dangerous Animal declaration:**

---

Christopher R. Behrens  
*City Attorney*

Amanda K. Abshire  
*Deputy City Attorney*

Darrin M. Glad  
*Assistant City Attorney*

Nicholas J. Vande Castle  
*Assistant City Attorney*

- (1) Uphold the Dangerous Animal determination;
- (2) Uphold the Dangerous Animal determination and waive certain requirements; or
- (3) Rescind the Dangerous Animal determination.

If the dangerous animal declaration is upheld, the requirements that an owner must comply with, unless waived by the Board, are:

(a) ***Dangerous animals regulated.***

- (1) No person may harbor or keep a dangerous animal within the city unless all provisions of this section are complied with. Any animal that is determined to be a prohibited dangerous animal under this division shall not be kept or harbored in the city.
- (2) The issuance of a citation for a violation of this section need not be predicated on a determination that an animal is a dangerous animal.

(b) ***Registration.*** The owner of any animal declared dangerous, shall register it with the Police Department upon disposition, and annually thereafter on or before April 1 of each year, by providing a current color photograph of the animal and payment of a seventy-five dollar (\$75.00) registration fee.

(c) ***Leash and muzzle.***

- (1) The animal must be kept within the fenced area of the owner's yard or on a leash no longer than four feet when outside of the owner's fenced yard.
- (2) No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its dwelling, kennel or pen unless a person who is sixteen (16) years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal, is in physical control of the leash.
- (3) A dangerous animal may be securely leashed or chained to an immovable object, with the owner or caretaker being in the physical presence of the animal at all times when it is so leashed or chained.
- (4) A dangerous animal outside of the animal's dwelling, kennel or pen shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals.

(d) **Confinement.**

- (1) Except when leashed and muzzled, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.
- (2) When constructed in a yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be childproof from the outside and animal-proof from the inside. A strong metal double fence with adequate space between fences (at least two (2) feet) shall be provided so that a child cannot reach into the animal enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two (2) feet. All structures erected to house dangerous animals shall comply with all city zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (3) *Indoor Confinement.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(e) **Signs.** The owner or caretaker of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two (2) inches high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

(f) **Spay and neuter requirement.** Within thirty (30) days after an animal has been designated dangerous, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

(g) ***Liability insurance.*** The owner or caretaker of a dangerous animal shall present to the Health Officer or Humane Officer a certificate of insurance that the owner or caretaker has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such policy is cancelled or not renewed, the insurer and animal's owner or caretaker shall notify the Health Officer or Humane Officer of such cancellation or non renewal in writing by certified mail.



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**IN THE CITY OF APPLETON,  
OUTAGAMIE COUNTY, STATE OF  
WISCONSIN, BEFORE THE  
BOARD OF HEALTH.**

---

CITY OF APPLETON,  
A Wisconsin Municipal Corporation

Petitioner,

v.

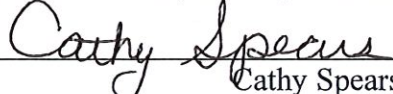
ELIZABETH GRACIA,  
As owner of KYLO: Male, German Shepherd, Black and Brown, R+, L-

Respondent,

---

The Board of Health for the City of Appleton hereby **UPHOLDS** Humane Officer Fillebrown's designation of the Respondent's dog, Kylo, as a Dangerous Animal, under City of Appleton's Municipal Code 3-131.

Dated this 10th day of August 2022

  
\_\_\_\_\_  
Cathy Spears  
Chairperson, Board of Health