

ORDINANCE 20

AN ORDINANCE RELATING TO AND PROVIDING FOR ANIMAL CONTROL WITHIN THE BOUNDARIES OF BERRIEN COUNTY; PURPOSE OF ORDINANCE: DEFINITIONS: COUNTY ANIMAL CONTROL OFFICER, HIS DUTIES, AUTHORITY, RESPONSIBILITIES AND REMOVAL FROM OFFICE; LICENSING AND VACCINATION OF DOGS; CONFINEMENT OF DOGS (AND OTHER ANIMALS) UNDER CERTAIN CIRCUMSTANCES, COUNTY ANIMAL SHELTER AND IMPOUNDMENT OF DOGS (AND OTHER ANIMALS) AND REDEMPTION OF DOGS (AND OTHER ANIMALS) IMPOUNDED; KILLING AND SEIZING OF DOGS (AND OTHER ANIMALS); USE OF FIREARMS UNDER CERTAIN CIRCUMSTANCES, PROHIBITION OF WILD ANIMALS, ENUMERATION OF CERTAIN VIOLATIONS AND PROCEDURE THEREFORE; PENALTIES; PRESERVATION OF CERTAIN RIGHTS; COUNTY TREASURER'S DUTIES AND RECORDS; FEES AND EXPENSES: RECEIPTS AND DISBURSEMENTS OF FUNDS; CONSTRUCTION; REPEAL.

THE PEOPLE OF THE COUNTY OF BERRIEN, MICHIGAN, DO ORDAIN:

ARTICLE I

PURPOSE

Deeming it advisable in the interest of protecting the public health, safety, convenience and welfare and to provide for the orderly and uniform administration of the dog licensing provisions of the State of Michigan and in particular Act 339 of the Public Acts of 1919, as amended, being Sections 287.261 – 287.293 of the Compiled Laws of 1948, (MSA Sections 12.511 – 12.543), and to create the position of Animal Control Officer and define his duties, authority and responsibilities, and to regulate and control the conduct, keeping and care of dogs and certain other animals, livestock and poultry: the County of Berrien, Michigan does hereby adopt the following Ordinance:

ARTICLE II

DEFINITIONS

For the purpose of this Ordinance, the following terms shall have the following meanings respectively designated for each:

- (a) **“ANIMALS”** Unless otherwise stated, the word “Animal” as used in this Ordinance shall include birds, fish, mammals and reptiles.
- (b) **“LIVESTOCK”** means horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, hogs, swine, and fur bearing animals being raised in captivity.
- (c) **“POULTRY”** means all domestic fowl, ornamental birds, and game birds possessed or being reared under authority of a breeder's license pursuant to Act 191 of the Public Acts of 1929, as amended, being Section 317.71 to 317.85 of the Compiled Laws of 1948 (MSA Sections 13.1271 – 13.1285).

- (d) **“LAW ENFORCEMENT OFFICER”** means any person employed or elected by the people of the State of Michigan, or by any city, village, county or township whose duty it is to preserve peace or to make arrest or to enforce the law, and includes game, fish and forest fire wardens and members of the State Police and Conservation Officers.
- (e) **“ANIMAL CONTROL OFFICER”** means any person employed by the county for the purpose of enforcing this Ordinance or state statutes pertaining to dogs or other animals as well as persons employed by the county to act in the Animal Control Division.
- (f) **“OWNER”** The term owner and “persons owning premises” shall mean both the owner of title of record and those occupying or in possession of any property or premise.

The term “owner”, when applied to the proprietorship of any animal, must be the age of 18 years and capable of taking care of said animal. An owner is a person having a right of property in the animal, an authorized agent of the owner, and every person who keeps or harbors the animal or has it in his care, custody or control, and every person who permits the animal to remain on or about the premise occupied by him.

- (g) **“PERSON”** The word “person” shall include state and local officers or employees, individuals, corporations, co-partnerships and associations.
- (h) **“KENNEL”** means any establishment wherein or whereon three (3) or more dogs are confined and kept for sale, boarding, breeding or training purposes, for remuneration, constructed so as to prevent the public or stray dogs from obtaining entrance thereto and gaining contact with dogs lodged therein.
- (i) **“RABIES-SUSPECT ANIMAL”** The term “rabies-suspect animal” shall mean any animal which has been determined by the Michigan Department of Public Health to be a potential rabies carrier and which has bitten a human, or any animal which has been in contact with or been bitten by another animal which is a potential rabies carrier, or any animal which is a potential rabies carrier which shows symptoms suggestive of rabies.
- (j) **“POUNDMASTER”**: CHIEF, ANIMAL CONTROL SERVICES: DOG WARDEN: DOG CATCHER. The terms “Poundmaster”, “Chief”, “Animal Control Services”, “Dog Warden” or “Dog Catcher” are synonymous with “Animal Control Officer”, “Director, Animal Control Department” and shall include the deputies of such person.
- (k) **“DAY”** shall mean working days.
- (l) **“BOARD OF COMMISSIONERS”** shall mean the Berrien County Board of Commissioners. **“TREASURER”** shall mean the Berrien County Treasurer.
- (m) **“NON-AGRICULTURAL AREA”** shall mean any area zoned by a city, village, township or other governmental body, agency or commission as other than for agricultural purposes.

- (n) **“WILD ANIMAL”** means any living member of the animal kingdom, including those born or raised in captivity, except the following : human beings, domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), rodents, any hybrid animal that is part wild, and captive-bred species or common cage birds.

ARTICLE III

ANIMAL CONTROL OFFICER DUTIES, AUTHORITY AND RESPONSIBILITIES

SECTION 1

An Animal Control Officer shall be appointed by the Board of Commissioners and shall serve as Director of the Animal Control Department. Said person shall be supervised by the County Coordinator and parent Committee (Administration).

SECTION 2

In lieu of all fees and other remuneration under the statutes of the state, the Animal Control Officer, and his assistants, except census takers, shall be compensated as established and determined by appropriate resolution of the Board of Commissioners.

SECTION 3

The Animal Control Officer shall fulfill the following duties:

- (a) The Animal Control Officer shall promptly seize, take up and place in the animal shelter all dogs found running at large or being kept or harbored any place within the county contrary to the provisions of this Ordinance or the statutes of the state.
- (b) The Animal Control Officer shall be a peace officer for the purposes of this Ordinance and shall be legally authorized and it shall be his duty to issue appearance tickets, citations or summonses to those persons owning, keeping or harboring animals contrary to the provisions of this Ordinance.
- (c) It shall be the duty of the Animal Control Officer to destroy in a humane manner, all impounded dogs (or other animals) lacking a collar, license or other evidence of ownership after being impounded for five (5) working days, or if the animal has a collar, license or evidence of ownership, seven (7) working days from the date of mailing to the animal's owner written notice that the animal has been impounded. If, however, said dog or other animal is valuable or otherwise desirable for keeping, the Animal Control Officer may release said dog, or other animal, to any person who will undertake to remove said animal from the county or keep said animal within the county in accordance with the provision of this Ordinance and the statutes of the state, including compliance with licensing and vaccination requirements, upon payment of the proper charge for the care and treatment of said animal while kept in the animal shelter or dispose of said dog (or other animal) at the expiration of the holding period required herein in a manner approved by the Board of Commissioners. Such regulations regarding the redemption of animals from the animal shelter and boarding and other charges shall be posted in a conspicuous place at the animal shelter. The bodies of all animals destroyed at the animal shelter or elsewhere in the county shall be disposed of by the Animal Control Officer in a manner approved by the

Berrien County Board of Commissioners. Upon receipt of a written authorization signed by the owner, any animal voluntarily turned in to the animal shelter by the owner thereof for disposition need not be kept for the minimum period set forth herein before release or disposal of such animal is made by the Animal Control Officer, as provided herein.

- (d) The Animal Control Officer shall promptly investigate all dog (animal) bite cases by a rabies-suspect animal involving human exposure and shall search out and attempt to discover the animal involved and shall either impound or require its owner to quarantine the animal for examination for disease in accordance with applicable provisions of this Ordinance and/or the statutes of the state. In the event the owner of a quarantined animal is unable to maintain the quarantine during the required period, the owner shall deliver said animal to the animal shelter, or upon notice to the Animal Control Officer, to a veterinary clinic for impoundment. Failure of an owner to maintain a quarantine or to deliver a quarantined animal for impoundment shall constitute a misdemeanor punishable as set forth in Article XI of this Ordinance. The Animal Control Officer shall also be obliged to seize and impound any rabies-suspect dog (animal).
- (e) The Animal Control Officer shall assume the duty (provided in Section 316 of Act 339 of the Public Acts of 1919, being Section 287.276 of the Compiled Laws of 1948, (MSA Section 12.526), as amended to determine and locate all unlicensed dogs, to list such dogs, and to deliver said list to the Prosecuting Attorney for the necessary proceedings as provided by this Ordinance and/or the statutes of the state.
- (f) The Animal Control Officer is hereby authorized and empowered in accordance with the provisions of this Ordinance to enter upon private premises for the purpose of inspecting same for the purpose of determining the harboring, keeping or possessing of any dog or dogs for the specific purpose of determining if the owners of said dogs have complied with the appropriate provisions of this Ordinance and to apprehend and take with him any dogs for whom no license has been procured in accordance with this Ordinance or for any other violation hereof. The provisions of this subsection shall specifically include, but not be limited to, investigation of or seizure for cruelty to animals.
- (g) The Animal Control Officer shall have the right and obligation to inspect any kennel, a license for which has been issued by the Treasurer pursuant to this Ordinance and the statutes of the state, and shall have the duty to suspend said license if, in their opinion, conditions exist which are unhealthy or inhumane to the animals kept therein pending correction of such conditions, and further shall have the duty to revoke said license if such conditions are not corrected within a reasonable period of time, generally being within seven (7) days.
- (h) The Animal Control Officer shall have the right and obligation to investigate complaints of dogs alleged to be dangerous to persons or property and shall have the right to seize, take up and impound such animals.
- (i) The Animal Control Officer shall have the right and obligation to investigate complaints of cruelty to dogs or other animals, and shall have the right to seize, take up and impound any dog or other animal, livestock or poultry which has been subject to such cruelty.

- (j) The County Treasurer and/or the Animal Control Department shall be responsible for the sale of licenses and the keeping of appropriate records and books of account with respect thereto.
- (k) The Animal Control Officer shall have such other duties relating to the enforcement of this Ordinance as the Board of Commissioners may from time to time provide.

SECTION 4

It shall be the further duty of the Animal Control Officer to enforce the provisions of this Ordinance and the statutes of the state pertaining to dogs and other animals, and he may make complaint to the appropriate court of competent jurisdiction in reference to any violation thereof.

SECTION 5

The Animal Control Officer shall dispose of any animal taken up and/or impounded as provided for herein; in accordance with the provisions of this Ordinance and/or the statutes of the state.

SECTION 6

All suspensions and/or revocations of licenses and all seizures for cruelty or dangerousness as provided for herein, shall be in accordance with such rules and regulations as are adopted from time to time by the Board of Commissioners.

SECTION 7

The Animal Control Officer may be removed from office in accordance with the appropriate collective bargaining agreement, if one exists. Non-union and appointed employees shall serve at the pleasure of the Board of Commissioners.

SECTION 8

The Animal Control Officer is further authorized and shall at all times carry a book of receipts properly numbered in sequence for accounting purposes, for the issuing of dog licenses as provided in this Ordinance and shall issue such dog licenses in accordance herewith.

SECTION 9

All fees and monies collected by the Animal Control Officer as herein provided shall be accounted for and turned over to the Treasurer on or before the first of each and every month or more if reasonably necessary under the standard practices of the Treasurer's accounting system.

SECTION 10

It shall be the further duty of the Animal Control Officer to wear uniforms and carry such other equipment as shall be prescribed, from time to time, by the Board of Commissioners. Said uniforms shall be distinct from uniforms worn by area law enforcement personnel, however, said uniforms may be similar to those worn by conservation officers or park rangers. The Animal Control Officer shall also be required to wear a safety vest made of Kevlar or some other suitable material prescribed by the Board of Commissioners, and shall also utilize a distinctive badge, insignia, and related materials, as prescribed by the Board of Commissioners.

SECTION 11

It shall be the duty of the Animal Control Officer to secure training pursuant to procedures established by the Board of Commissioners. Training shall include, but not be limited to firearm safety, humane treatment of animals and investigative procedures. Under no circumstances shall an Animal Control Officer discharge a weapon from a moving vehicle. The Animal Control Officer shall file a discharge report on each occasion involving discharge of a weapon by said officer. The discharge report shall be in conformity with the procedures established by the Berrien County Sheriff's Department, along with any supplemental provisions established by the Board of Commissioners.

ARTICLE IV

LICENSING AND VACCINATION

SECTION 1

It shall be unlawful for any person to own any dog six (6) months old or over unless the dog is licensed as hereinafter provided, or to own any dog six months old or over that does not at all times wear a collar with a tag approved by the Director of the Michigan Department of Agriculture, attached, as hereinafter provided, except when engaged in lawful hunting accompanied by its owner; or for any owner of any female dog to permit the female dog to go beyond the premises of such owner when she is in heat, unless the female dog is held properly in leach, or for any person except the owner, to remove any collar and/or license tag from a dog; or for any owner to allow any dog, except working dogs such as leader dogs, farm dogs, hunting dogs, and other dogs, when accompanied by their owner, while actively engaged in activities for which such dogs are trained, to stray unless held properly in leach.

SECTION 2

Before March 1 of each year, the owner of any dog six (6) months old or over, except as provided in Section 3 of the Article, shall apply to the county, township or city treasurer or his authorized agent, where the owner resides, in writing, for a license for each dog owned or kept by him. Such application shall state the breed, sex, age, color and markings of such dog, and the name and address of the last previous owner. Such application for a license shall be accompanied by a valid certificate of vaccination for rabies, with a vaccine licensed by the United States Department of Agriculture, signed by an accredited veterinarian. Dogs attaining the age of six (6) months after March 1, shall have thirty (30) days in which to obtain a license.

SECTION 3

No dog shall be exempt from the rabies vaccination requirements as herein set forth.

SECTION 4

- (a) The fee for licenses shall be established by the Board of Commissioners.
- (b) For dogs reaching the age of six (6) months after March 1, the owner thereof shall obtain a license within ten (10) days of the date in which a dog reaches six (6) months of age at the rate set forth in Article IV, Section 4(a).

- (c) A dog which is used as a guide or leader dog for a blind person, a hearing dog for a deaf or audibly impaired person, or a service dog for a physically limited person is not subject to any fee for licensing, as provided in MCL 287.291.
- (d) The license fee any dog for which a license has not been obtained in accordance with Article IV, Section 4(a) and (b) shall be considered delinquent and the fee for acquiring a license for such dogs shall be set by the Board of Commissioners.
- (e) The dog license fees as herein established may be changed from time to time on or before November 1 of each year and for subsequent years by the rules and regulations pertaining to same as established by the Board of Commissioners.
- (f) Current dog licenses issued by other counties within Michigan, and any other, governmental agencies shall be honored in Berrien County until the following January 1.

SECTION 5

No license or license tag issued for one dog shall be transferable to another dog. Whenever the ownership or possession of any dog is permanently transferred from one person to another within the same county, the license of such dog may be likewise transferred, upon proper notice, in writing by the last registered owner, given to the Treasurer who shall note such transfer upon his records. This Ordinance does not require the procurement of a new license, or the transfer of a license already secured, where the possession of a dog is temporarily transferred for the purpose of boarding, hunting game, breeding, trial or show.

SECTION 6

If the dog license tag is lost, it shall be replaced by the Treasurer, upon application by the owner of the dog, and upon production of such license and a sworn statement of the fact regarding the loss of such tag. The cost of said replacement shall be \$2.00 (two dollars), or as otherwise determined by rules and regulations of the Board of Commissioners.

SECTION 7

Any person who owns, keeps or operates a kennel may, in lieu of individual licenses required under this Ordinance and under the laws of the State of Michigan, apply to the Animal Control Department for a kennel license entitling him to own, keep or operate such kennel in accordance with the applicable laws and the fee for same shall be in accordance with the laws of the state or as established by the rules and regulations of licensing fees by the Board of Commissioners.

SECTION 8

Any person owning a kennel shall, on or before June 1 of the year following such ownership, obtain a kennel license from the Animal Control Department if the person qualifies under Act 339, Public Acts of 1919, as amended. The fee to be paid for a kennel license shall be set by the Board of Commissioners. A fee of double the original license fee shall be charged for each previously licensed kennel, whose kennel license is applied for after June 1.

ARTICLE V

CONFINEMENT

Any dog that shall bite a person, animal or livestock shall be handled in accordance with the National Association of State Public Health Veterinarians, Inc. (NASPHV, Inc.), Compendium of Animal Rabies Control 1989, as amended. In the event the owner of such animal is unable to or fails to comply with any of the prescribed procedures, the Animal Control Officer shall take possession and custody of such animal and follow the prescribed procedure. The owner of such animal shall bear the costs thereof. Failure of the owner of such animal to keep, maintain and confine or dispose of the animal when and as required by the NASPHV, Inc., Compendium of Rabies Control 1989 or if unwilling or unable to do so, to release custody of said animal to the Animal Control Officer or when so directed deliver said animal to a veterinarian clinic for confinement, shall be in violation of this Ordinance and subject to the penalties set forth in Article X.

ARTICLE VI

REDEMPTION OF IMPOUNDED ANIMALS

SECTION 1

All dogs found running at large shall be seized by the Animal Control Officer or by other law enforcement officers, and impounded at the animal shelter for a period of five (5) working days if the dog lacks a collar, license or other evidence of ownership, if the dog possesses a collar, license or other evidence of ownership, it shall be held for a period of not less than seven (7) working days from the date of mailing the notice of the dog's impoundment to its owner. After the required holding period has elapsed the dog may be killed, sold or otherwise disposed of if not claimed by the owner, in a manner authorized by this Ordinance.

SECTION 2

When dogs are found running at large, and their ownership is known to the Animal Control Officer, such dog need not be impounded, but, the Animal Control Officer may, in his discretion, cite the owner of such dog to appear in court to answer charges of violation of this Ordinance.

SECTION 3

Immediately upon impounding a dog or other animal, the Animal Control Officer shall make every reasonable effort to notify the owner of such dog or other animal so impounded and inform such owner of the conditions whereby custody of such dog or other animal may be regained pursuant to the regulations for the operation of the animal shelter.

SECTION 4

An owner may redeem a dog from the animal shelter by executing a sworn statement of ownership, furnishing a license and tag as required by this Ordinance and state law, and pay the fee(s) established by resolution by the Board of Commissioners.

SECTION 5

A dog may be adopted after five (5) working days if the dog lacks a collar, license, or other evidence of ownership. If the dog possesses a collar, license, or other evidence of ownership, it shall be held for a period of not less than seven (7) working days from the date of mailing the notice of the dog's impoundment to its owner.

ARTICLE VII

KILLING AND SEIZING OF DOGS AND OTHER ANIMALS

SECTION 1

The Animal Control Officer may kill any dog or other animal which is observed in the act of pursuing, attacking or about to attack or wounding a dog, any livestock, poultry or person, and there shall be no liability on such officer in damages or otherwise, for such killing. A landowner, livestock owner, his/her agents or assistants shall have the authority to protect domestic animals, livestock, poultry or persons from injury caused by any dog or other animal within the borders of the property under the control of said owners, assistants or agents, subject to applicable provisions of state and federal law. Any dog that enters any field or enclosure which is owned by or leased by a person producing livestock or poultry, outside of a city, unaccompanied by its owner, or its owner's agent, shall constitute a trespass, and the owner of the dog shall be liable in damages.

SECTION 2

It shall be lawful for any person to receive any dog or other animal running at large in violation of this Ordinance and to turn said dog or other animal over to the Animal Control Officer.

SECTION 3

Unless authorized by the Board of Commissioners, the Animal Control Officer is not to use or carry sidearms or pistols. Any authorized rifle or shotgun must be carried in the truck or other vehicle used by the Animal Control Officer. Said weapons shall not be discharged unless necessary to carry out the purposes set forth in this Article.

SECTION 4

For purposes of this Article, the Animal Control Officer shall be authorized to utilize outboard emergency lights mounted on his truck or other vehicle. Said lights shall be amber in color, unless another color is designated by the Board of Commissioners. In connection herewith, the Animal Control Officer shall not utilize a siren, whistle, or similar device, shall not engage in high speed pursuit of animals or motorists, shall not stop motorists or otherwise prevent motorists from traveling on public streets or highways, and shall not otherwise engage in law enforcement activities without the prior permission of the Berrien County Sheriff and the Board of Commissioners.

SECTION 5

Weapons training will be in accordance with the requirement established in Article III, Section 11.

ARTICLE VIII

PROHIBITION OF WILD ANIMALS

No wild animal shall be kept permanently or temporarily except in an accredited American Association of Zoologies Parks and Aquariums (AAZPA) facility.

ARTICLE IX

ENUMERATION OF CERTAIN VIOLATIONS AND PROCEDURE THEREFORE

SECTION 1

The owner of any dog shall be deemed in violation of this Ordinance and subject to the penalties set forth in Article X if:

- (a) The owner's dog, regardless of age, and whether licensed or unlicensed, wearing a collar or not wearing a collar, runs at large, provided however, that a dog engaged in hunting need not be leashed when the reasonable control of its owner.
- (b) The owner's dog, regardless of age, and whether licensed or unlicensed, wearing a collar or not wearing a collar, except a leader dog for a blind person, hearing dog for a deaf or audibly impaired person, or a service dog for a physically limited person which is accompanied by its owner, to be within the confines of any public park when such park, by appropriate designation at its entrance, prohibits dogs or other animals.
- (c) The owner's dog at any time, whether licensed or unlicensed, destroys property, real or personal, or trespasses in a damaging way on property of persons other than the owner.
- (d) The owner's dog or other animal at any time, whether, licensed or unlicensed, attacks or bites a person.
- (e) The owner's dog shows vicious habits and molests passers-by when such persons are lawfully on the public highway or right-of-way.
- (f) No person shall hinder, harass, injure, or interfere with a dog or other animal being used for law enforcement purposes by a law enforcement official.

SECTION 2

An owner of livestock or poultry shall be in violation of this Ordinance and subject to the penalties set forth in Article XI and Act 328 of the Public Acts of 1976, being Section 433.11, et seq of the Compiled Laws of 1948 (MSA 18.789(1), et seq) if the owner's livestock or poultry runs at large upon the premises of another or upon any public street, lane, alley or other public ground in the county unless otherwise specifically allowed.

SECTION 3

Subject to the provisions of applicable federal and state laws, no person shall keep any exotic animal or type of animal which the Animal Control Officer may determine to be a hazard to the community.

SECTION 4

A person shall be in violation of this Ordinance and subject to the penalties set forth in Article X if he/she removes a collar or tag from any dog or other animal without the permission of its owner, or decoys or entices any dog or other animal out of an enclosure or off the property of its owner, or seizes, molests, injures, or teases any dog or other animal while held or led by any person or while on the property of its owner.

SECTION 5

In the event of any of such violations or of a violation of any other provision of this Ordinance or of the laws of the state, the Animal Control Officer as well as any law enforcement officer may issue an appearance ticket, citation or summons to the owner of said dog, animal, livestock or poultry, or other person, summoning them to appear before a district court or other appropriate court within the county to answer the charges made in violation of this Ordinance. The said Animal Control Officer or law enforcement officer may sign a complaint before said court for violation of the provisions of this Ordinance, proceed to obtain the issuance of a warrant and make arrest of the person to whom said violation is charged and bring them before the court to answer the charges. In the event a warrant is issued, the arrest of the person against whom said violation is charged shall be made by a law enforcement officer, who may be accompanied by an Animal Control Officer. The Court may in such case, in its discretion, upon a finding of guilt, assess the penalties in accordance with the penalty provision of this Ordinance.

SECTION 6

In the event of any of such violations or of a violation of any other provision of this Ordinance or of the laws of the state, the Animal Control Officer or other law enforcement officer or any other person may proceed to obtain authorization of the Prosecuting Attorney and make complaint before a district court or other appropriate court within the county and obtain the issuance of a summons similar to that provided in Act 339 of the Public Acts of 1919, being Section 287.280 of the Compiled Laws of 1948, (MSA Section 12.530), as amended, to show cause why such dog, animal, livestock or poultry should not be killed. Upon such hearing, the judge may either order the dog, animal, livestock or poultry killed, may order such dog, animal, livestock or poultry to be sold or otherwise disposed of, or may order the dog, animal, livestock or poultry confined to the premises of the owner, or may make such other order regarding the dog, animal, livestock or poultry as it deems proper and necessary under the circumstances, in addition to any of the penalties enumerated herein. This section shall in no way affect the provisions of Article III, Section 3(c) of the Ordinance.

SECTION 7

Costs, as in civil cases, shall be taxed against the owner of the dog and collected by the court from the person complained against upon a finding of guilt or liability. The provisions of this paragraph shall be in the alternative to the provisions for violations set forth hereinabove, and the officer may, in his discretion, proceed under either section hereof, as warranted by facts and circumstances.

ARTICLE X

PENALTY / FINES AND COSTS

Violation of any of the provisions of this Ordinance shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) and costs of prosecution or by imprisonment in the County jail for a period not to exceed ninety (90) days, or by both such fine, costs and imprisonment as may be determined by a court of competent jurisdiction.

Notwithstanding the provisions set forth in the preceding paragraph, any person, firm or corporation which fails to make timely payment of amounts due for applicable licensing fees pursuant to the provisions of this Ordinance and/or other applicable State statutes shall be liable in the nature of a civil infraction for such costs and fees, as well as any other fines and/or costs as may be ordered by a court of competent jurisdiction.

ARTICLE XI

PRESERVATION OF CERTAIN RIGHTS

SECTION 1

Nothing in this Ordinance shall be construed to prevent the owner of a licensed dog from recovery in an action at law from any peace officer or any other person, except as herein provided.

SECTION 2

Nothing in this Ordinance shall be construed as limiting the common law liability of the owner of the dog or other animal for damages committed by said dog or other animal.

ARTICLE XII

TREASURER'S RECORDS AND DUTIES

SECTION 1

On June 15th of each year, the Treasurer shall make a comparison of his/her records of the dogs actually licensed in each city or township of the county with a report of the supervisors of said townships or assessors of said cities or the Animal Control Officer, to determine and locate all unlicensed dogs.

SECTION 2

On and after June 15th of each year, every unlicensed dog, subject to license under the provisions of this Ordinance or the statutes of the State, is hereby declared to be a public nuisance and the Treasurer shall immediately thereafter list all such unlicensed dogs, as shown by the returns in his/her office of township supervisor, city assessors, Animal Control Officer and shall deliver copies of such lists to the Animal Control Officer and the Director of the Michigan Department of Agriculture as well as those officers listed and set forth in Act 339 of the Public Acts of 1919, being Section 287.277 of the Compiled Laws of 1948, (MSA 12.527), as amended.

SECTION 3

The Treasurer and Animal Control Department shall keep a record of all dog licenses and all kennel licenses issued during the year in each city and township in the county.

Such record shall contain the name and address of the person to whom each license is issued. In the case of all individual license, the record shall also state the breed, sex, age, color and markings of the dog licensed and in case of a kennel license, it shall state the place where the business is conducted. The record shall be a public record and open to inspection during business hours. He shall also keep an accurate record of all license fees collected by him or paid over to him by any city or township treasurer and the Animal Control Department.

SECTION 4

In all prosecutions for violation of this Ordinance, the records of the Animal Control Department and the Treasurer's Office, or lack of same, showing the name of the owner and the license number to whom any license was issued, and the license tag affixed to the collar or harness of the dog showing a corresponding number shall be prima facie evidence of ownership or non-ownership of any dog and of issuance or non-issuance of a dog license or tag.

ARTICLE XIII

FEES AND EXPENSES

SECTION 1

Every township and city treasurer of Berrien County, Michigan, as well as other authorized locations (including veterinary clinics and the Humane Society), shall receive the sum of FIFTY CENTS for each dog license issued for the issuing and recording of same. The remuneration as herein established shall be deemed additional compensation for additional services for each township or city treasurer who receives a salary in lieu of fees, when so designated by the appropriate township board or city council. This fee may be changed from time to time by the Board of Commissioners.

SECTION 2

It shall be the duty of the County Treasurer annually to make a census of the number of dogs owned by all persons in Berrien County, Michigan, in accordance with state law. The County Treasurer is hereby empowered to employ whatever personnel he reasonably believes necessary to conduct this census; such personnel shall receive for their services in listing such dogs such sum as shall be set from time to time by the Board of Commissioners. These activities may be delegated to the Animal Control Department.

SECTION 3

The duties and obligations herein imposed upon the respective designated officials may be delegated to some other appropriate person or persons by each of said officials with like force and effect.

SECTION 4

The fees and expenses as established by this Ordinance may be changed from time to time or before November 1 of each year and for subsequent years by action of the Board of Commissioners.

SECTION 5

All fees and monies as herein provided for, shall be paid in accordance with Article XIV of this Ordinance.

ARTICLE XIV

RECEIPTS AND DISBURSEMENT OF FUNDS

All fees and monies collected under the provision of this Ordinance shall be transferred to the General Fund of Berrien County, Michigan, in accordance with the standard practices of the Treasurer.

ARTICLE XV

CONSTRUCTION

SECTION 1

When not inconsistent with the context, words used in the present tense include the future. Words in the singular include the plural and words in the plural include the singular. Masculine shall include the feminine and neuter. The word "shall" is always mandatory and not merely directive. Words or terms not defined herein shall be interpreted in the manner of their common meaning. Headings shall be deemed for convenience and shall not limit the scope of any article or section of this Ordinance.

SECTION 2

The regulations of this code are minimum standards supplemental to the rules and regulations duly enacted by the Michigan Department of Health and to the laws of the State of Michigan relating to public health. Where any of the provisions of these regulations and the provisions of any other local or state ordinances or regulations apply, the more restrictive of any or all ordinances or regulation shall prevail.

SECTION 3

If any part of this Ordinance shall be held void, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

ARTICLE XVI

REPEAL

All Ordinance or parts of ordinances inconsistent herewith are hereby repealed.

APPROVED: July 15, 2004