

DOG LAW ENFORCEMENT ORDINANCE

MONTCALM COUNTY, MICHIGAN

ADOPTED: APRIL 15, 1968
EFFECTIVE DATE: DECEMBER 1, 1968

As Amended on the following dates:

- October 1975*
- October 1981*
- June 1982*
- November 1982*
- May 1983*
- August 1986*
- December 1987*
- August 25, 2003*
- January 14, 2008*
- January 28, 2013*
- March 28, 2016*

An ordinance relating to and providing for a County Animal Control Officer, his duties, authority, responsibility and removal of officer from office; definitions and purpose of ordinance; licensing and vaccination of dogs; confinement of dogs at night; kennel and dog licenses and tags, loss and transferability thereof; Animal Shelter and impoundment of dogs and others animals and redemption of dogs impounded; killing of dogs and procedure of complaints to court on Dog Law Ordinance and Statute violations and enumeration of violations, and punishments therefore and cost assessments; non-limitation of common law liability of dog damage; County Treasurer's records on dog licenses prima facis evidence of ownership or non-ownership and issuance or non-issuance of licenses; collection, disbursement and accounting for fees and monies; entry upon private property; penalty provisions for violation of ordinance and severability clause.

[Amended 8/25/03 by Ord No. 3]

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

ARTICLE I

Section 1. Deeming it advisable in the interest of protecting the public 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. No. 339, Public Act of 1919, of the State of Michigan as Amended and to create the position of Animal Control Officer and define his duties and powers, the County of Montcalm, Michigan, does hereby adopt the following ordinance.

[Article 1, Section 1 amended 8/25/03 by Ord No. 3]

ARTICLE 2

Section 2. Definitions. For the purpose of this ordinance the following terms shall have the following meanings respectively designated for each.

Section 2.1 POLICE OFFICER means any person employed or elected by the People of the State of Michigan, or by a Municipality, County or Township, whose duty it is to preserve peace or to make arrests or to enforce the law and includes game, fish and forest fire wardens and members of the State Police and Conservation Officers.

[Article 2, Section 2.3 amended 8/25/03 by Ord No. 3]

Section 2.2 ANIMAL CONTROL OFFICER means any person employed by the County for the purpose of enforcing this ordinance or state statutes pertaining to dogs, as well as persons or assistants employed by the County to act in the Animal Control Department.

[Article 2, Section 2.4 amended 8/25/03 by Ord No. 3]

Section 2.3 OWN to have a right of possession in a dog; to keep or harbor a dog or to have a dog in one's care or possession.

Section 2.4 PERSON the word "person" shall include State and Local Officers or employees, individuals, corporations, co-partnerships and associations.

Sections 2.5 KENNEL the term "kennel" shall mean any establishment wherein or whereon dogs are kept for the purpose of breeding, boarding, sale, leasing, trading or sporting purposes.

Section 2.6 Singular word shall include the plural. Masculine shall include the feminine and neuter.

Section 2.7: BUSINESS DAYS shall be defined as Monday through Friday, excluding holidays recognized by the county.

[Article 2, Section 2.9 amended 8/25/03 by Ord No. 3]

Section 2.8: DIRECTOR shall be employed by the County to oversee the Animal Shelter

Section 2.9: ANIMALS means dogs, cats, horses, stallions, colts, geldings, mares; sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine, fur bearing animals being raised in captivity, game farm animals (i.e. deer and elk) and all domestic fowl, ornamental birds and game birds possessed or being reared under authority of a breeder's license pursuant to Act No. 191 of the Public Acts of 1929, as Amended, being Sections 317.71 to 317.85 of the Compiled Laws of the State of Michigan for the year 1948.

ARTICLE 3

ANIMAL CONTROL OFFICER: DUTIES AND AUTHORITY
[Amended 8/25/03 by Ord No. 3]

Section 3.1 OFFICE OF ANIMAL CONTROL OFFICER An Animal Control Officer and such assistants as may be required shall be appointed by the Montcalm County Board of Commissioners for a term of one year and for such further terms as the Board deems wise, sufficient or expedient.

[Article 3, Section 3.1 amended 8/25/03 by Ord No. 3]

Section 3.2 COMPENSATION In lieu of all fees and other remunerations under the statutes of this State, the Animal Control Officer and his assistants shall be paid a salary as established and determined by appropriate Resolution of the Board of Commissioners of Montcalm County, Michigan.

[Article 3, Section 3.2 amended 8/25/03 by Ord No. 3]

Section 3.3 DUTIES 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 this State.
[Article 3, Section 3.3a amended 8/25/03 by Ord No. 3]
- b. The Animal Control Officer shall be properly deputized as a peace or public officer for the purpose of this Ordinance. The Animal Control Officer is hereby designated as the authorized County official to issue municipal civil infractions for violations of this Ordinance. A municipal civil infraction may be commenced upon the issuance of a municipal civil infraction citation directing the alleged violator to appear in court.
[Article 3, Section 3.3b amended 8/25/03 by Ord No. 3]
- c. It shall be the duty of the Animal Control Officer or his assistants, to destroy in a humane manner, all impounded dogs which are not claimed and released within FOUR business days after being impounded; provided, however, if in his judgment, said dog is valuable or otherwise desirable for keeping, the Animal Control Officer or his assistants, may dispose of said dog to any reasonable person who will undertake to remove said dog from County or keep and harbor said dog within the County in accordance with the provisions of this Ordinance and the State statutes pertaining to dogs, or the Animal Control Officer may at the expiration of the FOUR business day period, sell said dog to any person who shall pay the proper charge for the care and treatment of said dog while kept in said Animal Shelter and comply with the provisions of the State statutes and this Ordinance relating to licensing and vaccinating and or such reasonable rules and regulations as are promulgated and set forth from time to time by the Board of Commissioners of Montcalm County, including spaying and neutering of dogs or treatment thereof. Such regulations regarding the sale of dogs from the Animal Shelter and boarding and other charges shall be posted in a

conspicuous place at the Animal Shelter. The bodies of all dogs destroyed at the pound or elsewhere in the County shall be disposed of by the Animal Control Officer in a manner approved by the Health Department, or Law Enforcement and Courts Committee of the Board of Commissioners. Any animals voluntarily turned into the Animal Shelter by the owners or custodians thereof for disposition by the Animal Control Officer need not be kept for the minimum period of FOUR business days before disposition, disposal or sale of such animal is made by the Animal Control Officer or his assistants and any costs shall be paid by owner.

[Article 3, Section 3.3c amended 8/25/03 by Ord No. 3]

Section 3.4 It shall be the further duties of the Animal Control Officer or his assistants to enforce the provisions of this Ordinance and statutes of the State of Michigan pertaining to dogs, and he may make complaint to the District Court or other appropriate courts within the County of Montcalm, Michigan, in regard to any violation thereof.

[Article 3, Section 3.4 amended 8/25/03 by Ord No. 3]

Section 3.5 REMOVAL FROM OFFICE The Animal Control Officer may be removed from office by majority vote of the Board of Commissioners elect.

[Article 3, Section 3.5 amended 8/25/03 by Ord No. 3]

Section 3.6 All fees and monies collected by the Animal Control Officer or his assistants as herein provided shall be accounted for and turned over to the Montcalm County Treasurer on or before the FIRST of each and every month or more often if reasonably necessary under the standard practices of the Montcalm County Treasurer's accounting system.

[Article 3, Section 3.7 amended 8/25/03 by Ord No. 3]

ARTICLE 4

LICENSING AND VACCINATION

Section 4.1

- a. It shall be unlawful for any person to own any dog FOUR months old or over, unless such dog is licensed as provided for by the laws of the State of Michigan, or to own any dog FOUR months old and over that does not at all times wear a collar with a tag approved by the Director of Agriculture, securely attached to such collar except when engaged in lawful hunting accompanied by its owner or custodian. Application for such license shall be made in accordance with the applicable laws of the State of Michigan and shall be accompanied by proof of vaccination of the dog for rabies within one year preceding the date of application. However, when the dog is vaccinated with modified live rabies virus of chick embryo origin, or other vaccine approved by the Director of Agriculture of like or longer lasting affect, proof of vaccination with TWO years preceding the date of the application for license or such other period of time as appropriately designated by the Director of Agriculture, shall be deemed compliance with this ordinance and the state statute applicable thereto.

- b. No dog shall be exempt from the rabies vaccine requirements as herein set forth unless a registered, qualified and practicing veterinarian of the State of Michigan certifies, in writing, that such rabies vaccine would be detrimental to the health of said dog and thereafter, if the Prosecuting Attorney of Montcalm County, Michigan, shall approve same in writing, he shall issue a certificate authorizing the owner of such dog to obtain the dog license without such rabies vaccine and such dog shall be licensed accordingly under the provisions of this Ordinance.

[Article 4, Section 4.1 amended 8/25/03 by Ord No. 3]

Section 4.2 DOG LICENSES The license fee for all dogs in accordance with this Ordinance shall be established as follows:

- a. The dog license fees may be from time to time changed on or before January 1st of each year and for subsequent years by the Rules and Regulations pertaining to same as established by the Board of Commissioners of Montcalm County, Michigan.
- b. It shall be unlawful for any person except the owner or authorized agent to remove any license tag from a dog.

[Article 4, Section 4.2 amended 8/25/03 by Ord No.3]

Section 4.3 KENNEL LICENSE The keeping of household dogs generally regarded as household pets is permitted in Montcalm County; however, no more than six (6) dogs four (4) months of age or older, in any combination thereof, shall be kept or housed in or at one (1) dwelling unit. If resident's wish to keep more than described above, the resident will be required to purchase a kennel license and abide by the kennel law of Montcalm County.

Any person operating a kennel within Montcalm County will be required to obtain a certificate from Montcalm County Animal Control stating that they have taken the mandated Kennel License course. This course is free of charge. For more information and scheduling of this course, please contact the Animal Control Director at Montcalm County Animal Control at (989) 831-7487.

Section 4.4 KENNEL SPECIFICATIONS You must have three or more dogs to qualify for a kennel license. The dogs must be kept and used for the purpose of training, breeding, sporting or sales, or if the number of dogs on your premises is greater than six (6) dogs, four (4) months of age or older in any combination.

Implied Consent: The application for the receipt of a license as required herein shall include an implied consent by the owner to permit an inspection of both, real and personal property under his control, for the purpose of carrying out the provisions of this article, including inspection for cruelty to animals or an inspection of sanitary conditions.

All dogs licensed under the kennel license must be kept within the kennel structure unless being used in the lawful act of hunting, transportation to and from vet visits, transfer to

another kennel, breeding, showing or for serious health concern or whelping puppies. In addition to females whelping puppies, up to six (6) dogs or puppies at a time will be allowed in the home for socialization, any more than six (6) dogs or puppies in the house for socialization at any given time is a violation of this ordinance.

You must apply for your kennel license between January 1st and March 31st of the stated year. This is so MCAC is aware you are interested in that year and you may be put on our inspection roster. Once your kennel inspection has been completed the inspecting officer will leave you a notice outlining you passed inspection or informing you of changes that will need to be made before your kennel will be approved. If you do not wish to make necessary changes to receive a kennel license, or if you have six (6) or less dogs and decide to license your dog's individually instead of obtaining a kennel license, you will be required to license each dog individually prior to June 30th of the said year. Failure to license dogs by June 30th of said year may result in citations being issued.

The fees are as follows:

Number of Dogs	License Fee	Inspection Fee	Total
3-10	\$30.00	\$35.00	\$65.00
11-20	\$60.00	\$35.00	\$95.00
21-30	\$90.00	\$35.00	\$125.00
31-40	\$120.00	\$45.00	\$165.00
41-50	\$150.00	\$45.00	\$195.00
51-60	\$180.00	\$45.00	\$225.00
61-70	\$210.00	\$55.00	\$265.00
71-80	\$240.00	\$55.00	\$295.00
81-90	\$270.00	\$55.00	\$325.00
91-100	\$300.00	\$65.00	\$365.00
101-110	\$330.00	\$65.00	\$395.00
11-120	\$360.00	\$65.00	\$425.00
121-130	\$390.00	\$75.00	\$465.00
131+	\$400.00	\$75.00	\$475.00

If payment is not received by June 1st of said year a late fee will be applied, the late fee is 25% of the total fee .

Kennel tags should be placed on the individual dog, six (6) months or older, if the owner does not wish to place the kennel tag on each dog due to health or safety concerns, the kennel tags will need to be in an accessible areas so the inspecting officer may view them.

Sec. 1 Condition of facilities. The facilities for housing dogs shall be structurally sound and shall be maintained in good repair to prevent injury to the dogs, to contain the dogs and restrict the entrance of other animals.

Sec. 2 Kennel structure. To qualify as a kennel there must be a four sided structure with a roof outside the primary human dwelling that is capable of housing the amount of dogs with the appropriate square footage as outlined in section 4 below. The kennel may be attached to the primary human dwelling, but may not be within its structure, i.e. garages and attached buildings are acceptable; however, basements, mudrooms and sunrooms, for example, are part of the human dwelling and are not considered eligible housing facilities.

Sec. 3 Floors. Walls. Ceilings. Kennel floors, kennel runs and pens, and removable resting boards, if provided, shall be constructed of non-toxic, easily cleaned, water impervious materials. Walls and ceilings shall be painted and kept clean. Pea gravel and stone are an allowed substance to be used on the floors in lieu of concrete and cement.

Sec. 4 Runs and Pens. Outside runs/outside exercise pens must be provided and shall be not less than thirty-six (36) inches wide for each dog weighing not more that forty-five (45) pounds, forty-eight (48) inches wide for a dog weighing more than forty-five (45) pounds. The minimum length of runs shall be ten (10) feet. The runs will be provided for the dogs to exercise; state law states that all dogs require regular exercise to promote health and well being.

Inside pens/cages. The guidelines shall be of the following sizes: For each dog weighing not more than twenty-five (25) pounds, twelve (12) square feet per dog, for dogs weighing more than twenty-five (25) pounds but not more that forty-five (45) pounds, sixteen (16) square feet per dog, and for dogs weighing over forty-five (45) pounds, twenty (20) square feet per dog. Regardless of square footage, the state law requires that dog(s) must be able to turn around, lie down and stretch out freely without touching another animal or the sides/top of the cage/crate. Cages with wire or mesh style floors must have a resting board or solid, sanitizable base, that the dog may lie of; the size must be adequate enough for the dog to lie on without having to lie on the mesh/grate flooring. These size regulations are per dog, if there are two (2)dogs in one pen, the size will need to be doubled; however, three (3) is the total allowed amount of dogs per pen/run. This exception to this regulation is if a mother has a litter of puppies that are still dependent upon her (10 weeks old, max age). Also, same litter puppies may be housed in the same pen as long as it meets the square footage requirements listed above. The maximum allowed amount of cages/crates at one kennel is twenty (20). After twenty (20), you are required to have runs off of the kennel buildings or runs with dog houses, as long as the dogs are a cold hardy breed and can be kept in dog houses with runs throughout all seasons. Please see the Dog House section for regulation regarding dog houses.

Dog Houses. Dog houses within a fenced area will be allowed for cold hard breeds of dogs only, no small or toy breeds. The dog house must be within or attached to a run of appropriate size as listed above. The allowable amount of dogs per open/run are outlined above and must be followed by kennels using dog houses. The run will need to be of a sanitizable material such as concrete or pea gravel. The dog house must be of proper size for the type of dog being housed and will protect them against inclement weather, preserve the dog's body heat and keep them dry. The shelter shall be kept clean and in sanitary condition.

Sec. 5 Lighting. Lighting by either natural or artificial means shall provide for at least eight hours per day except where contraindicated for health reasons. A means to control the amount of sunlight entering dog quarters during the warm seasons of the year shall be provided.

Sec. 6 Ventilation. The kennel space shall be ventilated in such a manner as will provide fresh air at all times.

Sec. 7 Kennel temperature. The kennel temperature shall be maintained at a reasonable and suitable level to promote the health and comfort of the type of dog or dogs housed through all seasons of the year.

Sec. 8 Sanitation. Environmental sanitation shall be adequate to keep vermin at a minimum.

Sec. 9 Removal and disposal of excreta. Feces and other excreta shall be removed at least once daily and the runs washed down with water and disinfectant cleaner. Excreta shall be disposed of in a sanitary manner.

Sec. 10 Shelter from inclement weather. All dogs shall be provided access to shelter which will protect them against inclement weather, preserve the dog's body heat and keep them dry. The shelter shall be kept clean and in a sanitary condition.

Sec. 11 Water and food supplies. Dogs shall be provided with clean fresh water and sufficient and wholesome food, food and water containers shall be kept clean and sanitized.

Sec. 12 Vaccinations. All dogs over 6 months of age housed in the kennel must be vaccinated against rabies. The vaccination must be given by a licensed veterinarian and proof of such vaccine must be available to Animal Control Officers upon request.

Sec. 13 Exercise. Regular exercise shall be provided to each kennel dog/puppy in a manner that is suitable for the age, species, and physical condition of the animal and maintains the animal in a state of good health.

Any violation of the above sections will result in the revoking of the kennel license without refund and citations may be issued for each violation of the above sections.

Section 4.5 If any dog tag is lost it shall be replaced without cost by the County Treasurer or Animal Control Department, upon application by the owner of the dog, and regarding the loss of such tag.

[Article 4, Section 4.4 amended 8/25/03 by Ord No. 3]

Section 4.6 No license tag issued for one dog shall be transferable to another dog.

Section 4.7 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 given to the County Treasurer or the Animal Control Department, who shall note such transfer upon his record. 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 hunting game, or for breeding, trial or show in this State.

[Article 4, Section 4.6 amended 8/25/03 by Ord No. 3]

Owners however must have proof that all dogs have received rabies vaccinations administered by a licensed veterinarian.

ARTICLE 5

CONFINEMENT OF DOG AFTER BITING

Section 5.1 Any dog that shall bite a person or animal shall be securely confined by the Animal Control Officer at the County Animal Shelter or a licensed veterinarian for a minimum period of ten (10) days following the biting of some person or animal. Said dog shall be kept at the County Animal Shelter or a licensed veterinarian at the expense of the owner, keeper, custodian or person in charge thereof.

[Article 5, Section 5.1 amended 8/25/03 by Ord No. 3]

The Director is authorized to allow home confinement of a dog under a policy approved by the Law Enforcement & Courts Committee of the Board of Commissioners.

ARTICLE 6

CONFINEMENT

Section 6.1 It shall be unlawful for any owner to allow any dog to stray beyond his premises unless under reasonable control of some person or when engaged in lawful hunting, accompanied by his owner or custodian.

Section 6.2 Every dog shall at all times between sunset and sunrise of the following day be confined upon the premises of its owner or custodian except when said dog is otherwise under the reasonable control of some person designated as the custodian of the dog by the owner or keeper thereof.

ARTICLE 7

ANIMAL SHELTER AND IMPOUNDMENT [Amended 8/25/03 by Ord No. 3]

Section 7.1 Unlicensed dog or dogs found running at large shall be seized by any duly authorized County Animal Control Officer or other peace officers, and impounded, confined in a humane manner for a period of not less than FOUR business days, and may thereafter be disposed of in a humane manner if not claimed by their owners.

Section 7.2 When dogs are found running at large, and their ownership is known to the Animal Control Officer, his assistants, or other peace officers, such dog need not be impounded but the Animal Control Officer may, in his discretion, issue a municipal civil infraction to the owner or owners of such dog or dogs as provided in Section 15.1 of this Ordinance.

Section 7.3 Immediately upon impounding a dog or dogs or other animal or animals, the Animal Control Officer shall make every reasonable effort to notify the owners of such dog or dogs or other animal or animals so impounded and inform such owner or owners of the conditions whereby they may regain custody of such animal, pursuant to the regulations for the operation of the Animal Shelter.

Section 7.4 Any person may redeem a dog or dogs from the Animal Shelter by executing a sworn statement of ownership, furnishing a license and tag as required by State Law and paying the required fees posted at the Animal Shelter.

Section 7.5 The Board of Commissioners of Montcalm County, Michigan, shall maintain an appropriate Animal Shelter for the purpose as herein set forth.
[Article 7, all Sections amended 8/25/03 by Ord No. 3]

ARTICLE 8

KILLING OF DOGS

Section 8.1 Any person may kill any dog which he sees in the act of pursuing, worrying or wounding any animals or attacking persons, and there shall be no liability on such person in damages or otherwise, for such killing. Except as otherwise provided in this section, it shall be unlawful for any person, other than a Police Officer or the Animal Control Officer or his assistants to kill or injure or attempt to kill or injure any dog which bears a license tag for the current year. The County Animal Control Officer shall not receive any fees for the killing of such dogs, his salary being in lieu thereof.
[Article 8, all Sections amended 8/25/03 by Ord No. 3]

ARTICLE 9

COMPLAINT TO DISTRICT OR OTHER COURT OF
CERTAIN FACTS: PROCEDURE AND VIOLATIONS

As an alternative to issuing a municipal civil infraction pursuant to Section 15.1, the Animal Control Officer may submit a signed and sworn complaint to the County District Court that any one of the following facts exists:

Section 9.1 That any dog over four months old is running at large unaccompanied by its owner, or engaged in lawful hunting and not under the reasonable control of its owner or custodian, without license attached to the collar on such dog;

Section 9.2 That any dog at any time licensed or unlicensed has destroyed property or habitually trespasses in a damaging way on property of persons other than the owner's property;

Section 9.3 That any dog at any time licensed or unlicensed has attacked or bitten a person;

Section 9.4 That any dog shows vicious habits and molests passers-by when lawfully on the public highway or right-of-way;

Section 9.5 That any dog duly licensed and wearing a license tag is running at large contrary to the provisions of this Ordinance and the applicable laws of the State of Michigan.

Said complaint shall request the District Court to issue a summons to the owner, keeper, custodian or person having charge over said dog to appear and show cause why said dog, who has committed any of the acts listed above, should not be ordered to be destroyed. Upon such hearing, the District Court shall proceed to determine whether the dog displays any one or more of the acts listed under Sections 9.1 through 9.5. If the District Court so finds, it shall forthwith order the Animal Control Officer to cause said dog to be destroyed or confined to the premises of the owner. If the owner disobeys this order, the owner may be punished as provided in Section 15.1 of this Ordinance.

Costs as in a civil case shall be charged to the owner of the dog, and collected by the County. The County Board of Commissioners shall audit and pay claims for the services of the District Court rendered under this Article IX, unless the same are paid by the owner, keeper or custodian of the dog.

If any costs are required to institute such proceeding in any Court, the Animal Control Officer shall pay such costs from his departmental budget.

[Article 9 All Sections amended 8/25/03 by Ord. No. 3]

ARTICLE 10

RIGHT OF RECOVERY

Section 10.1 Nothing in this act shall be construed to prevent the owner of a licensed dog from recovery in an action at law from any peace officer or other person, except as herein provided.

ARTICLE 11

COMMON LAW LIABILITY

Section 11.1 Nothing in this Ordinance shall be construed as limiting the common law liability of the owner of a dog for damages committed by said dog.

ARTICLE 12

COUNTY TREASURER'S RECORDS AND DUTIES

Section 12.1 On June 15th of each year, the County Treasurer shall make a comparison of his records of the dogs actually licensed in such City or Township of the County with the dog census to determine and locate all unlicensed dogs. (12/17/87)

Section 12.2 On and after June 15th of each year every unlicensed dog subject to license under the provisions of this Ordinance or State statute, is hereby declared to be a public nuisance and the County Treasurer shall immediately thereafter list all such unlicensed dogs, as shown by the returns in his office, by the dog census, and shall deliver copies of such lists to the Animal Control Officer and the Commissioner of Agriculture as well as those officers listed and set forth in Compiled Laws of Michigan, 1948, Section 287.277 (Michigan Statutes Annotated, Section 12.527 as amended)
[Article 12, Section 12.2 amended 8/25/03 by Ord No. 3]

Section 12.3 The County Treasurer 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 an individual license, the record shall also state the breed, sex, age, color and markings of the dog licensed; and in the 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. The Director shall also keep an accurate record of all license fees collected by him or paid over to him by any City or Township Treasurer.

Section 12.4 In all prosecutions for violation of Ordinance the records of the County Treasurer's office 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 13

RECEIPT AND DISBURSEMENTS OF FUNDS

Section 13.1 All fees and monies collected under the provision of this Ordinance shall be transferred to the General Fund of Montcalm County, Michigan, in accordance with the standard practices of the Montcalm County Treasurer and the monies paid out in accordance with this Ordinance shall be drawn upon the General Funds of Montcalm County, Michigan.

ARTICLE 14

ENTRY UPON PRIVATE PROPERTY

Section 14.1 The Animal Control Director or their assistants are 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 owner or possessors 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 the Ordinance or for any other violations thereof.

[Article 14, Section 14.1 amended 8/25/03 by Ord No. 3]

ARTICLE 15

PENALTIES, NUISANCE, ENFORCEMENT

Section 15.1. Municipal Civil Infraction. Unless specified otherwise in this Ordinance, any person who violates an order to confine a dog owned by the person to the person's premises pursuant to the provisions of this Ordinance or who shall, on demand, refuse to surrender any dog owned by the person to avoid the destruction thereof pursuant to any order made under this Ordinance, or who violates any provision of this Ordinance, whether as owner, lessee, permittee, licensee, agent, servant, employee or in any other capacity, is responsible for municipal civil infraction, and shall be subject to payment of a civil fine of not less than \$100.00, plus costs and other sanctions, for each infraction (as authorized by Section 10(b) of Act No. 156 of the Public Acts of 1851, as amended). Repeat offenses under this Ordinance shall be subject to increased fines as provided by this Section. As used in this Section, "repeat offense" means a second (or any subsequent) violation of the same requirement or provision of this Ordinance (i) committed by a person within any one year period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Ordinance shall be as follows:

- (i) The fine for any offense which is a first repeat offense shall be not less than \$250.00, plus costs.
- (ii) The fine for any offense which is a second repeat offense, or any subsequent repeat offense, shall be not less than \$500 each, plus costs.
- (iii) Failure to answer a citation or notice to appear in court for a municipal civil infraction is a misdemeanor violation punishable by a fine of not more than \$500.00, plus other costs, or by imprisonment for a term not to exceed 90 days, or both fine and imprisonment.
- (iv) Failure to comply with an order, judgment or default in payment of a civil fine, costs, damage or expenses so ordered may result in enforcement action, including but not limited to imprisonment, collection, placement of liens or other remedies as permitted in Chapter 87 of Act 326 of Public Acts of 1961, as amended.
- (v) A municipal civil infraction is not a lesser included offense of a criminal offense or an ordinance violation that is not a civil infraction.

Section 15.2. Continuing Offenses. Each day on which a violation of this Ordinance continues, constitutes a separate or repeat offense and shall be subject to penalties or sanctions as a separate or repeat offense.

Section 15.3. Non-Exclusive Penalties. The prohibitions and penalties provided by this Ordinance shall be in addition to, and not exclusive of, prohibitions and penalties provided by other applicable laws, rules or regulations.

Section 15.4. Additional Remedies. In addition to any remedies available at law, the County may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this Ordinance.

[Article 15, All Sections amended 8/25/03 by Ord. No. 3]

Section 15.5 Nuisance Animal, Aggressive Animal, Dangerous Animal

Nuisance Animal shall mean an animal running at large, on public or private property other than that of its owner or keeper, whose behavior constitutes a nuisance. Nuisance behavior shall include, but not be limited to: (a) making physical contact with a person or other animal in a harassing manner; (b) urinating or defecation; or (c) damaging inanimate personal property.

Aggressive Animal shall mean an animal that exhibits menacing behavior on public or private property including that of its owner or keeper. Menacing behavior shall include, but not be limited to: charging, scratching, toppling, teeth-baring, snapping, growling, or other predatory mannerisms, directed at a person or other animal in a place where the person or other animal is legally entitled to be.

Dangerous Animal shall mean an animal that bites or otherwise causes serious injury to a person or other animal on public or private property where the injured person or other animal is legally entitled to be, including the property of the animal's owner or custodian. An animal that is intentionally trained or conditioned to fight or guard, except for animals trained for law enforcement or service purposes while engaged in the activities for which they were trained, shall be considered a dangerous animal. A dangerous animal shall include, but not be limited to: (1) a dog which has attacked a human or domestic animal without provocation; or (2) a dog which has been kept or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting; or (3) a dog not owned by a governmental or law enforcement unit trained and used primarily to guard public or private property.

Exceptions

An animal shall not be considered a nuisance, aggressive or dangerous where its act is caused by; (a) an illness or injury suffered by the animal at the time of the act; (b) lawful hunting while the animal is under the control of its owner or custodian; or (c) defense of the animal's owner, or members of the owner's family or household, or their property.

Section 15.6 Nuisance, Aggressive or Dangerous Animal

A person who owns or has custody of a dog shall prevent the dog from engaging in nuisance, aggressive or dangerous behavior.

Section 15.7 Public Hazard

Any animal that is deemed aggressive, dangerous or nuisance may be declared a public health hazard by the Director. At his discretion, the Director may require that the animal be removed from the community, quarantined or confined in a manner specified by the Director.

Section 15.8 Keeping of Nuisance, Aggressive or Dangerous Animals

The Director may order, upon the designation of a dog as a Public Hazard require the owner to keep the dangerous animal under one or more of the following manners:

- A. Confined, except as set forth hereinafter. "Confined," as that term is used in this section, shall mean such dog is securely kept indoors or in a securely enclosed and locked pen or dog run area. Said pen or run must be locked with a key or combination whenever such dog(s) are within the structure. Said pen or dog run area must have sides six feet high or have a durable top securely attached to the sides. If the pen or dog run area has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot deep.
- B. Anytime said dog is not confined to the property of the owner or his keep, shall ensure such dog is securely muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or other animal.
- C. Upon being informed of said dogs declarations as a nuisance, aggressive or dangerous, have the dog sterilized, micro-chipped and have a sign posted stating "Danger Viscous Dog".
- D. Immediately, upon learning of same, notify the Montcalm County Animal Shelter if the animal:
 1. Is loose or unconfined,
 2. Bites a person or attacks another animal.
 3. Is sold, given away or dies.
 4. Has been moved to a different address.
 5. Acquire a minimum of \$50,000 liability insurance coverage that covers animal bites and damage.
 6. Allow inspections of premises where animal(s) are kept upon request of the Director.
 7. Complete a Responsible Pet Ownership class.

8. Take any other reasonable action requested by the Director to protect the public.

For non-compliance with Part D there will be a \$100 civil infraction penalty for each infraction.

Upon a declaration of an animal as a public hazard, the Director of Animal Control must register the animal as a public hazard.

Section 5.9 Exotic Species

Exotic animals shall be defined as any animal, wild or domestic, whether arriving deliberately or accidentally as follows; Primates, alligators and crocodiles, snakes with an adult size of 8 feet or longer, any poisonous reptile or amphibian, any breed or mix of fox, wolf and large breed exotic felines. Also kangaroos, wallabies and any species of pachyderm or elephant. This ordinance includes any type of animal deemed to be a hazard to the community.

It shall be unlawful to own any exotic animal unless owner is in accordance and licensed to own such animals by the United States Department of Agriculture or the Michigan Department of Agriculture or is a licensed zoo or sanctuary.

ARTICLE 16

REPEAL

Section 16.1 All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

ARTICLE 17

CENSUS AND FEES

Section 17.1 The Board of Commissioners may cause a census to be taken to determine the number of dogs owned, harbored or kept by persons within the County. Such census will be taken at a time and in a manner that the Board of Commissioners shall direct. (12/17/87)

Section 17.2 Gives the Board of Commissioners authority to make changes regarding license costs and fees, if done so prior to January 1, for subsequent year. (10/8/81)
[Article 17, all Sections amended 8/25/03 by Ord No. 3]

ARTICLE 18

SEVERABILITY

Section 18.1 The provisions of this Ordinance are hereby declared to be severable, and if any clause, sentence, paragraph, section or sub-section is declared to be void or ineffective for any reason, it shall not affect any other part or portion hereto.

[Article 18 amended 8/25/03 by Ord. No. 3]

ARTICLE 19

NON-REPEAL

Section 19.1 This Ordinance shall not be construed to repeal by implication any other Ordinance of the county pertaining to the same subject matter.

[Article 19 amended 8/25/03 by Ord. No. 3]

ARTICLE 20

SAVINGS CLAUSE

Section 20.1 Any action to enforce any of the Dog Law Enforcement Ordinance which is pending on the effective date of this Ordinance amendment and which arose from a violation of a provision of the Dog Law Enforcement Ordinance repealed by this Ordinance amendment, or any enforcement action which is started within one (1) year after the effective date of this Ordinance amendment arising from a violation of a provision of the Dog Law Enforcement Ordinance repealed by this Ordinance amendment and which was committed prior to the effective date of this Ordinance amendment, shall be processed and determined exactly as if the applicable provision of the Dog Law Enforcement Ordinance had not been repealed.

[Article 20 amended 8/25/03 by Ord. No. 3]

Section 21. Board of Appeals.

A. **Application for Appeal.** Any person directly affected by a denial by the Director shall have the right to appeal to the Law Enforcement and Courts Committee of the Board of Commissioners (hereafter "Board"), provided that a written application for appeal is filed within seven (7) days after the day of the denial. An application for appeal shall be based on a claim that the Ordinance has been incorrectly interpreted, the provisions of this Ordinance do not fully apply, the requirements of this Ordinance are adequately satisfied by other means, or that the strict application of any requirement of this Ordinance would cause an undue hardship. All appeals shall be accompanied by payment of such fees as shall from time to time be established by resolution of the County Board of Commissioners.

B. **Notice of Meeting.** The Board shall meet upon notice from the chairman, within twenty (20) days of the filing of an appeal, or at stated periodic meetings.

C. **Open Hearing.** All hearings before the Board shall be open to the public and all meetings and notices of meetings of the Board and its committees shall comply with the Open Meetings Act (MCL 15.261 *et seq.*). The appellant, the appellant's representative, the Animal Control Director and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Board membership.

1. **Procedure.** The Board shall adopt and make available to the public, through the secretary, procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

D. **Postponed Hearing.** When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

E. **Board Decision.** The Board shall modify or reverse the decision of the Animal Control Director only by a concurring vote of a majority of the total number of appointed Board members.

1. **Records and Copies.** The decision of the Board shall be recorded. Copies shall be furnished to appellant and to the Animal Control Director.

2. **Administration.** The Animal Control Director shall take immediate action in accordance with the decision of the Board.

EFFECTIVE DATE OF ORDINANCE

This Ordinance shall take effect upon publication in a newspaper circulating within Montcalm County, Michigan.

ADOPTION

Moved by Commissioner Lindeman, seconded by Commissioner Retzloff, the foregoing Ordinance be adopted.

YEAS: Ron Baker, Roger Caris, John Johansen, Tomas Lineman, John McCrackin, Carl Paepke, Ronald Retzloff, Marcia Walker

NAYS: Patrick Q. Carr

ABSENT: None

ORDINANCE DECLARED ADOPTED.

Patrick Q. Carr, Chairperson of the
Montcalm County Board of County Commissioners

CERTIFICATION

I hereby certify the foregoing Resolution as adopted by the County Board of County Commissioners of Montcalm County at a regular meeting held on January 28, 2013. I hereby further certify the said regular meeting was conducted and public notice of said regular meeting was given pursuant to and in full compliance with the Open Meetings Act, being Public Act 267, of the Public Acts of Michigan of 1976, and that minutes were kept and will be or have been made available as required by said Act.

Kristen Millard, County Clerk