

Part 50

50.000 - ANIMAL CONTROL Ord. No. 32 Adopted: November 12, 1991¹¹

An Ordinance relating to and providing for animal control within the boundaries of Bay County; providing for the employment of a County Animal Control Officer and prescribing the duties, authority and responsibilities of that office; prescribing the licensing and vaccination of dogs and cats and the confinement of animals under certain circumstances; authorizing the establishment of a County animal shelter for the impoundment of dogs and other animals and their redemption; permitting the killing and seizing of dogs and other animals; providing special controls and penalties for keeping vicious animals; authorizing an annual census to be made of dogs and cats; enumerating certain violations and penalties therefor; prescribing the County Treasurer's duties with regard to animal control; authorizing certain fees and expenses and the receipt and disbursement of funds; and repealing other ordinances inconsistent herewith.

THE PEOPLE OF THE COUNTY OF BAY OF THE STATE OF MICHIGAN DO HEREBY
ORDAIN THE 2011 REVISED ANIMAL CONTROL ORDINANCE.

Footnotes:

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Cross reference— Wages for County projects, Pt. 1; unnecessary noise by animals or birds, § 62.003 et seq.

ARTICLE I

50.100 - PURPOSE, FINDINGS AND POLICY

The County of Bay deems that the ownership of an animal carries with it responsibilities to the County and its residents with regard to care and control of such animals. In interpretation and application, the provisions of this Ordinance shall be construed to impose a primary responsibility for compliance therewith on the owner of such animal. The County of Bay concludes it advisable to adopt a revised Animal Control Ordinance in the interest of protecting public health and safety, promoting the welfare of animals within Bay County and providing for the orderly and uniform administration of the provisions of Act 339 of the Public Acts of 1919 as amended. The Board of Commissioners finds that the presence of vicious animals, as defined herein, within Bay County creates an increased danger to public health and safety and to the welfare of other animals. The Board of Commissioners, in recognition of the reallocation of governmental functions brought about by Act 139 of the Public Acts of 1973, hereby assigns the Animal Control Division, under the direction of the Animal Control Officer, to the Department of Recreation and Administrative Services. It is the policy of the Board of Commissioners that this Ordinance shall be vigorously enforced, to the extent that financial means permit such enforcement, whenever the activities of animals and their owners within Bay County directly endanger human life and whenever animals subject to protection by state law or this Ordinance are cruelly or inhumanely treated.

(Amended: Ord. of 10-14-92; Res. No. 2005-58, 4-12-05; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE II

50.200 - DEFINITIONS

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

- (a) *Let or allow.* Act or omission by an owner that results in movement or activities by his or her animals beyond the area or power of the owner's care custody, or control of said animals.
- (b) *Animal.* Unless otherwise stated, the word "Animal" as used in this Ordinance shall mean dogs, cats, birds, fish, mammals, amphibians and reptiles.
- (c) *Animal Control Officer.* 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 and deputies employed by the County to act in the Animal Control Division.
- (d) *Animal shelter.* The Grounds and Buildings of the Bay County Animal Control Division.
- (e) *Board of Commissioners.* The Bay County Board of Commissioners.
- (f) *Cat.* Any member of the animal species *Felis Catus* four (4) months or more in age.
- (g) *County.* The County of Bay of the State of Michigan.
- (h) *Cruelty.* Cruelty includes neglect and mistreatment as well as inappropriate usage of animals (such as for fighting), and includes all those forms of cruelty set forth in MCL 750.49-50; and MCL 752.21; and in Article VIII of this Ordinance.
- (i) *Day.* Monday through Saturday excluding Sundays, Holidays and other days County offices are closed, with hours established by the County Executive.
- (j) *Dog.* Any member of the animal species *Canis Familiars* four (4) months or more in age.
- (k) *Hunting.* Allowing a dog to range freely within sight or sound of its owner while in the course of hunting legal game or an unprotected animal.
- (l) *Keeping.* Any person who provides food and shelter for any domesticated animal on other than a temporary basis.
- (m) *Kennel.* Any establishment, except a pet shop, animal shelter or pound licensed pursuant to Act 287 of the Public Acts of 1969, as amended, being MCL 287.331-340, wherein or whereon three (3) or more dogs are confined and kept for sale, boarding, breeding, training or sporting purposes, for remuneration, constructed so as to prevent the public or stray dogs from obtaining entrance thereto and gaining contact with dogs lodged therein. This definition shall not be deemed to apply to a litter of puppies with their mother and under four (4) months of age.
- (n) *Livestock.* 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 (excluding dogs and cats).
- (o) *Non-agricultural area.* Any area zoned by a city, village, township or other governmental body, agency or commission for purposes other than agricultural.
- (p) *Owner.* "Owner" and "persons owning premises," when applied to realty, shall include both the title owner of record and those lawfully occupying or in possession of any property or premises; "owner," when applied to the proprietorship of an animal, means every 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 premises owned or occupied by said person. For purposes of this Ordinance, the records of the Treasurer's Office showing the name of the owner to whom the license number was issued, and the license tag affixed to the collar or harness of the animal showing a corresponding number, shall be prima facie evidence of ownership of an animal.
- (q) *Person.* "Person" shall include individuals, corporations, societies, co-partnerships, associations and state and local officers or employees.

- (r) *Police Officer, Peace Officer or Law Enforcement Officer.* 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, to make arrests and to enforce the law within a specific geographical jurisdiction, and includes game, fish and forest fire wardens, members of the State Police and Conservation Officers.
- (s) *Poultry.* All domestic fowl 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 MCL 317.71-84.
- (t) *Rabies suspect animal.* Any animal which has bitten a human, or any animal which has been in contact with or been bitten by a rabid animal, or any animal which shows symptoms suggestive of rabies.
- (u) *Run at large.* The unrestrained wandering or roaming of an animal other than a cat on public property or on the private property of other persons, or restrained wandering on a leash held by the owner if the leash is longer than six (6) feet.
- (v) *State.* The State of Michigan.
- (w) *Vicious animal.* Any animal:
 1. With a propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings;
 2. Which has previously attacked or bitten a human being or other domestic animal other than under the type of circumstances that would be justifiable;
 3. Which has behaved in such a manner that the owner thereof knows or should reasonably know that the animal is possessed of tendencies to attack or bite human beings or other domestic animals other than under the type of circumstances that would be justifiable.

The circumstances that would be justifiable in Subsections 2 and 3 immediately above, are those set forth in Section 1(a)(i—iv) of 1988 PA 426, being MCL 287.321.

(Amended: Ord. of 10-14-92; Res. No. 2004-05, 10-12-04; Res. No. 2005-58, 4-12-05; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE III

50.300 - ANIMAL CONTROL OFFICER DUTIES, AUTHORITY AND RESPONSIBILITIES

50.301 - Appointment; minimum requirements.

Sec. 1. An Animal Control Officer shall be appointed by the Bay County Executive and shall serve as the head of the Animal Control Division; provided, however, that said Animal Control Officer shall have and meet the minimum requirements contained in MCL 287.289b.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.302 - Salary.

Sec. 2. In lieu of all fees and other remuneration under the statutes of this state, the Animal Control Officer or his deputies, assistants and census takers shall be paid a salary or wages as established and determined by the Board of Commissioners.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.303 - Duties.

Sec. 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 animals being kept or harbored or found running at large any place within the county contrary to the provisions of this Ordinance or the statutes of the State. As to any cat found roaming or wandering on public property or private property other than that of its owner unrestrained, without its owner immediately and visibly present in such area and without an identifying license tag, the Animal Control Officer after reasonable investigation shall be vested with discretion to conclude that such cat is feral or abandoned by its owner and may thereafter seize and make disposition of said cat in like manner as other animals seized pursuant to this Article.
- (b) The Animal Control Officer shall be properly deputized as a peace or police officer for the purpose of this Ordinance and shall be legally authorized to have the power 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) The Animal Control Officer, subject to the limitations contained herein, shall destroy in a humane manner all impounded animals which are not claimed and released within four (4) days after being impounded. However, if a dog or a cat has a collar, license, or other evidence of ownership, the Animal Control Officer shall notify the owner in writing by first class mail of the impoundment. Disposition of the animal shall then not be made until after seven (7) days from the date of mailing the notice. The Animal Control Division shall maintain a record of when the animal was acquired and under what circumstances. This record shall also indicate the date of notice sent to the owner of an animal and any subsequent disposition. This section does not apply to animals which are sick or injured to the extent that the holding period would cause undue suffering, or to animals whose owners request immediate disposal. If in his judgment an animal is valuable or otherwise desirable for keeping, the Animal Control Officer may release said 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 provisions 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. Regulations regarding the sale 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 Bay County Health Department and the Board of Commissioners. Any animals voluntarily relinquished to the animal shelter by the owners thereof for disposition (not boarding), need not be kept for the minimum period of four (4) or seven (7) days before release or disposal of such animal by the Animal Control Officer.
- (d) The Animal Control Officer shall promptly investigate all animal bite cases involving human injury and shall search out and attempt to discover the animal involved and if such animal is found shall either impound or quarantine it for examination for disease in accordance with the applicable provisions of this Ordinance and the statutes of the State. He shall also be obliged to seize and impound any rabies-suspected animal.
- (e) The Animal Control Officer shall make efforts to determine the number of, and locate, all unlicensed dogs and cats, list such dogs and cats and then deliver said list to the Prosecuting Attorney for the necessary proceedings as provided by this Ordinance and 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 (excepting entry into buildings, unless in possession of a Search Warrant) for the purpose of inspecting those premises in order to determine if the owners of dogs or cats or animals there harbored, kept or possessed have complied with the provisions of this Ordinance and to apprehend and take with him any dogs or cats for whom no license has been procured in accordance with this Ordinance or for any other

violation hereof. The provisions of this subsection shall include, but not be limited to, investigation of or seizure for cruelty to animals.

- (g) The Animal Control Officer shall have the duty to inspect any kennel, a license for which has been issued by the County or its authorized agents pursuant to this Ordinance and the statutes of the State, and shall have the duty to suspend said license if 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.
- (h) The Animal Control Officer shall have the duty to investigate complaints of animals alleged to be dangerous or vicious to persons or property and shall have the right to seize, take up and impound such animals pending disposition pursuant to this Ordinance.
- (i) The Animal Control Officer shall have the duty to investigate complaints of cruelty to animals and shall have the duty to seize, take up and impound any animal which has been subject to such cruelty; and thereafter said officer shall, when the evidence of such cruelty is compelling, seek a warrant charging the owner of said animals with a criminal violation.
- (j) The Animal Control Officer 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 not sell, give or make available in any manner any live or dead animals of any species or any animal body parts or organs to be used for research, demonstration, experimental or any other purposes by any person, firm, corporation or institution, except to the extent necessary to comply with the health laws and regulations concerning rabies and to educate regarding responsible humane animal care.
- (l) The Animal Control Officer shall have such other duties relating to the enforcement of this Ordinance as the Board of Commissioners or Bay County Executive may from time to time provide.

(Amended: Ord. of 10-14-92; Res. No. 2009-19, adopt. 2-3-09; Ord. No. 2011-125, adopt. 7-12-11)

50.304 - Enforcing of Ordinance.

Sec. 4. The Animal Control Officer in enforcing the provisions of this Ordinance and the statutes of the State pertaining to animals may make complaint to the Bay County Prosecuting Attorney and to the District Court in regard to any violations thereof.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.305 - Suspension or revocation of license; seizure of animals.

Sec. 5. All suspensions and revocations of license and all seizures for cruelty, viciousness or dangerousness as provided for herein shall be in accordance with this Ordinance and with such rules and regulations as are adopted from time to time by the Board of Commissioners.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.306 - Issuing dog licenses; book of receipt.

Sec. 6. The Animal Control Officer shall at all times carry a book of receipts, properly numbered in sequence for accounting purposes, for the issuing of dog and cat licenses as provided in this Ordinance and shall issue such dog and cat licenses in accordance herewith.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.307 - Fees and monies collected.

Sec. 7. 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 often if reasonably necessary, under the standard practices of the Treasurer's accounting system.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE IV

50.400 - LICENSING AND VACCINATION

50.401 - License requirements; exception.

Sec. 1. It shall be unlawful for any person:

- (a) To own any dog or cat four (4) months old or older, unless the dog or cat is licensed as hereinafter provided;
- (b) To own any dog or cat four (4) months old or older that does not at all times wear a collar with an identifying tag approved by the Director of the Michigan Department of Agriculture (see exception below), attached as hereinafter provided, except when engaged in lawful hunting or training activity accompanied by its owner; or
- (c) Except the owner, to remove any collar and license tag from a dog or cat;
- (d) To fail to vaccinate their dog or cat with a rabies vaccine approved by the United States Department of Agriculture.

Exception: An owner of a cat who for safety of the cat elects not to have the cat wear a collar is relieved of the obligation of attaching said cat's license to a collar. However, said owner shall, upon request of an animal control officer, produce and display the current year license tag and/or official documentation of such licensing of said cat. Such owner electing not to affix a license and collar to his cat assumes the risk that the Animal Control Officer, in fulfilling his duties under this Ordinance, will regard such cat as feral or abandoned and therefore subject to seizure and disposition in accordance with Article III.

(Amended: Res. No. 2004-05, 10-12-04; Ord. No. 2011-125, adopt. 7-12-11)

50.402 - License application.

Sec. 2. The owner of any dog or cat four (4) months old or older, except as provided in Section 3 of this Article, shall apply to the Animal Control Officer or Treasurer for a license for each dog or cat owned or kept by said owner by one of the following dates, at the owner's option: (1) by the last day of the month of the dog's or cat's current rabies vaccination each year; and (2) effective no later than 2009, by the last day of the month of the dog's or cat's current rabies vaccination, every third year. Such application shall state the breed, sex, age, color and markings of such dog or cat, and the name and address of the last previous owner. Such application for a license shall be accompanied by proof of vaccination of the dog or cat for rabies by a valid certificate of vaccination for rabies, with a vaccine licensed by the United States Department of Agriculture, signed by an accredited veterinarian. A license shall not be issued if the dog's or cat's current rabies vaccination will expire more than one (1) month before the date on which that license would expire. Dogs or cats attaining the age of four (4) months after February 28 shall have seven (7) days after attaining four (4) months in which to obtain a license. If a dog is licensed before it becomes

five (5) months old and is subsequently spayed or neutered before it becomes seven (7) months old, the owner of the dog may exchange the license for a license for a spayed or neutered dog and receive a refund for the difference in the cost of the licenses. The owner shall exchange the license before the dog becomes seven (7) months old.

(Amended: Ord. of 10-14-92; Res. No. 2004-05, 10-12-04; Ord. No. 2011-125, adopt. 7-12-11)

50.403 - Exemption from rabies vaccine requirement.

Sec. 3. No dog or cat shall be exempt from the rabies vaccine requirements as herein set forth unless a registered and practicing veterinarian of the State of Michigan certifies in writing that such rabies vaccine would be detrimental to the health of said dog or cat and thereafter the Prosecuting Attorney of Bay County approves the same in writing.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.404 - License fee.

Sec. 4. The license fee for dogs or cats shall be as follows:

- (a) For all intact dogs or cats of the age of four (4) months old or older on or before February 28, 2005, eighteen dollars (\$18.00) for one (1) year if this license is obtained on or before February 28, 2005 or prior to the annual license expiration date thereafter.
- (b) For all intact dogs or cats who attain the age of four (4) months after February 28 of any year, eighteen dollars (\$18.00), subject to Section 50.402.
- (c) For all altered dogs or cats, so certified by an accredited veterinarian, of the age of four (4) months old or older on or before February 28, 2005 or prior to the license expiration date of every year thereafter, six dollars (\$6.00) if this license is obtained timely.
- (d) For all dogs or cats which are not licensed within the time periods set forth in paragraphs (a) through (c) above, the licenses will be considered delinquent and late fees as approved by the Board of Commissioners may be assessed.
- (e) Fees for leader dogs, service dogs, or dogs in training as such are hereby waived.
- (f) For any dog or cat that is vicious as defined in Article II(w) and that is subject to Article IX, the license fees scheduled above (and as amended from time to time) shall be increased by fifty dollars (\$50.00).
- (g) The license fees as herein established may be changed by Motion or Resolution of the Board of Commissioners.
- (h) Current licenses issued by other Michigan counties and by other governmental agencies shall be honored in Bay County until the last day of the month of the dog's current rabies vaccination.

(Amended: Ord. of 10-14-92; Res. No. 2004-05, 10-12-04; Res. No. 2005-58, 4-12-05; Ord. No. 2011-125, adopt. 7-12-11)

50.405 - Transfer of license.

Sec. 5. No license or license tag issued for one dog or cat shall be transferable to another dog or cat. Whenever the ownership or possession of any dog or cat is permanently transferred from one person to another within the same county, the license of such dog or cat may be likewise transferred by the last registered owner upon proper notice in writing 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 or cat is temporarily transferred for the purpose of boarding, hunting game, breeding, trial or show.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.406 - Loss of license tag.

Sec. 6. If any license tag is lost, it shall be replaced without cost by the Bay County Treasurer upon application by the owner and upon production of a license receipt and a sworn statement of the facts regarding the loss of such tag.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.407 - Kennel license; rules; application of section.

Sec. 7. Any person who owns, keeps or operates a kennel shall on or before July 1 of the year following such ownership obtain a kennel license from the Treasurer and shall be subject to the following rules:

- (a) Any person who owns, keeps or operates a kennel may, in lieu of individual licenses required under this Ordinance, on or before March 31 of each year, apply to the Animal Control Officer for a kennel license entitling said person to own, keep or operate such kennel in accordance with the applicable statutes of the State, including Section 10 of Act 339, Public Acts of 1919, as amended, being MCL 287.270.
- (b) All kennels must be kept sanitary and provide adequate housing for and humane treatment to the dogs kept therein.
- (c) Issuance of a kennel license does not relieve or exempt the owner of the kennel from the requirement in Section 3 of this Article that all dogs of licensing age have a current rabies vaccination with a vaccine licensed by the United States Department of Agriculture evidenced by a valid certificate of vaccination for rabies, signed by a licensed veterinarian. (See Resolution 92-115.)
- (d) The Animal Control Officer shall not issue to any person a kennel license unless such person complies with this Ordinance and the laws of the State of Michigan, including but not limited to Michigan Department of Agriculture Regulation No. 129 governing dog kennels, PA 339 of 1919, being MCL 287.261-293; and obtains the written approval for the issuance of a kennel license from the appropriate township, village, and/or city zoning administrator.
- (e) The fees for said kennel license shall be fifteen dollars (\$15.00) for three (3) to five (5) dogs, twenty-five dollars (\$25.00) for six (6) to ten (10) dogs, forty dollars (\$40.00) for eleven (11) to fifteen (15) dogs, and twenty dollars (\$20.00) for each additional ten (10) dogs, unless changed from time to time by a resolution or motion of the Board of Commissioners.

This section shall not apply to a litter of puppies when with the mother of such litter, so long as said litter of puppies are less than four (4) months of age; nor shall it apply to a duly licensed pet shop. Failure to obtain such kennel license shall be punished as set forth in the penalty provisions of this Ordinance.

(Amended: Ord. of 10-14-92; Res. No. 2005-58, 4-12-05; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE V

50.500 - CONFINEMENT

50.501 - Animals kept as pets which bite persons, animals or livestock.

Sec. 1. Any animal kept as a pet that shall bite a person, animal or livestock shall be securely confined by the owner thereof inside an appropriate building or enclosure for a minimum period of ten (10) days following the biting of such person, animal or livestock. In the event that the owner of such animal shall fail to securely confine the animal for such period of time, then in that event, the Animal Control Officer, his deputies and assistants, may take possession and custody of said animal, confine him at the Animal Shelter until the expiration of said ten (10) day period and upon satisfactory evidence that said animal is not suffering from rabies may release the animal. Said animal shall be kept at the Animal Shelter at the expense of the owner thereof in the event that said owner fails to securely confine said animal. Any animal (including cats) running loose after biting a person, animal or livestock, and whose owner cannot be determined, shall, if located, be confined for the required ten (10) days at the Animal Shelter or other suitable location. However, the Animal Control Officer, his deputies and assistants, may humanely destroy the animal upon the recommendation of the victim's medical doctor and a veterinarian; a sample specimen shall be sent immediately to the Michigan Department of Public Virology Laboratory. Nothing contained herein shall require the Animal Control Officer to accept rodents or lagomorphs, either dead or alive, for shipment to the Michigan Department of Public Health Virology Lab.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.502 - Animals not kept as pets which bite persons, animals or livestock.

Sec. 2. Any other animal not kept as a pet, including wild animals, which shall bite a human, animal, or livestock, if located and capable of being seized, shall be sent immediately to the Michigan Department of Public Health Virology Lab, Lansing, Michigan or similar lab by the Animal Control Officer.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE VI

50.600 - ANIMAL SHELTER AND IMPOUNDMENT

50.601 - Dogs found running at large; impoundment.

Sec. 1. All dogs found running at large and not under the control of their owners may be seized by the Animal Control Officer or any peace officer, impounded and thereafter be sold or disposed of in accordance with Article III of this Ordinance.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.602 - Citation of owners of dogs found running at large.

Sec. 2. If the Animal Control Officer or other peace officer comes upon a non-vicious or non-dangerous dog running at large whose ownership is known and the owner is available, said officer need not seize and impound such animal, but rather may cite the owner of such animal to appear in court to answer charges of violation of this Ordinance.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.603 - Cats found running at large.

Sec. 3. Cats seized and impounded by the Animal Control Officer pursuant to this Ordinance shall be treated in the same manner as dogs pursuant to Section 1 above.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.604 - Notification of owner.

Sec. 4. Immediately upon impounding an animal, the Animal Control Officer shall use reasonable efforts to notify the owner of such animal so impounded and inform such owner of the conditions whereby custody of such animal may be regained pursuant to the regulations for the operation of the animal shelter.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.605 - Redeeming animals.

Sec. 5. An owner may claim and obtain release of an animal 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 paying the required fees required by the Board of Commissioners and posted at the animal shelter.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE VII

50.700 - KILLING AND SEIZING OF DOGS AND OTHER ANIMALS

50.701 - Killing dogs.

Sec. 1. Any person, including a law enforcement officer, may kill any dog he or she sees in the act of pursuing, worrying or wounding any livestock or poultry or attacking persons, and there shall be no liability on such person in damages or otherwise for such killing. Any dog that enters any field or enclosure outside of a city which is owned or leased by any person producing livestock or poultry, said dog not being accompanied by its owner or the owner's agent, shall constitute a trespass and the owner of said dog shall be liable in damages. In no event shall the provisions of this section exonerate a person from compliance with the criminal laws of this state including, but not limited to, the safe discharge of firearms.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.702 - Seizing dogs.

Sec. 2. It shall be unlawful for any person to seize any dog running at large in violation of this Ordinance for the purpose of turning said dog or other animal over to the Animal Control Officer.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE VIII

50.800 - ENUMERATION OF CERTAIN VIOLATIONS; CRUELTY; AND PROCEDURES

50.801 - Violations pertaining to owners.

Sec. 1. It shall be unlawful for an owner to let or allow his animal to do any of the following:

- (a) By loud, frequent and persistent barking, howling, yelping, crying or any other disturbing sounds or behaviors to create a nuisance in the neighborhood in which said animal is kept, possessed or harbored;
- (b) For dogs to run at large; provided, however, that working dogs such as leader dogs, farm dogs, hunting dogs, and other trained dogs actively engaged in their trained activities accompanied by their owners need not be leashed when under the reasonable control of their owners;
- (c) To let or allow any female dog or cat to go beyond the premises of such owner when she is in heat, unless the female is held properly in leash;
- (d) To be within the confines of any public park when such park, by appropriate signs or notices, prohibits all animals, pets or a specific animal, except a dog assisting its owner who is an individual with a disability;
- (e) To destroy property, real or personal, or to trespass in a manner that causes actual damage to the property of persons other than the owner including, but not limited to, the repetitive depositing of feces or urine on said property;
- (f) To menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal;
- (g) To attack or bite a domestic animal;
- (h) To show vicious tendencies or molest passers-by or neighbors when such persons are lawfully on the public highways or rights-of-way or on their own property; or
- (i) To attack or bite a person.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.802 - Poultry or livestock running at large prohibited.

Sec. 2. It shall be unlawful for any owner of poultry or livestock to allow or permit said animals to run at large upon public highways or rights-of-way or on the private property of others.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.803 - Violations pertaining to persons generally.

Sec. 3. It shall be unlawful for any person:

- (a) To remove a collar or tag from any animal without the permission of its owner;
- (b) To decoy or entice any animal out of its enclosure or off the property of its owner;
- (c) To seize, molest or tease any animal while held or led by any person or while on the property of its owner;
- (d) To neglect or cruelly treat any animal under said person's care, custody or control by:
 - i) Failing to provide adequate shelter, food and potable water on a regular basis which causes the animal to suffer exposure, thirst and hunger;
 - ii) Confining an animal in a fashion that a substantial portion of the animal's living area is contaminated with excreta which the animal directly contacts or above or below which the animal must live;
 - iii) Confining an animal in a fashion that the animal does not have a dry area on which to exercise and rest;
 - iv) Confining an animal in enclosed quarters without sufficient fresh air or ventilation and light;

- v) Repeatedly allowing an animal who is tied or chained to become entangled so that the animal has less than five (5) feet of lead;
 - vi) Caging or chaining an animal continuously in an area insufficient for the animal to obtain adequate exercise;
 - vii) Placing an animal on a porch or roof at a height of greater than five (5) feet without a protective restraining barrier or without chaining so that the length of lead does not reach any of the edges of the elevated area; or
 - viii) Restraining an animal so that the weight of the animal's tie does not allow the animal to comfortably raise his or her head or move.
- (e) To fail to inquire as to the necessity for medical care when an animal is in obvious pain or distress (examples: In a state of emaciation; unable to rise and walk; unable to urinate or defecate; crying out in pain; unable to eat or drink; suffering from unattended broken bones; painful or difficult breathing; wounds; burns; convulsions; passing blood in urine, feces, and/or vomit; infested with maggots; severe skin disease);
 - (f) To let or allow an ill, diseased, aged, maimed, or injured animal to suffer unnecessary pain by neglecting to do the following: Provide medical treatment; put the animal out of its misery by euthanasia; or give the animal to another person who can provide the proper and necessary care for the animal;
 - (g) To put any dead animal or part of the carcass of any dead animal, into any lake, river, creek, pond, road, street, alley, lane, lot, field, meadow or common, except the same and every part thereof be buried at least four (4) feet underground; or the owner or owners of the animal to knowingly permit the same to remain in any of the aforesaid places, to the detriment of public health;
 - (h) To overdrive, overload, drive when overloaded, overwork, torture, torment, cruelly beat, mutilate, or cruelly kill, or cause or procure to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, cruelly beaten, mutilated, or cruelly killed, any animal;
 - (i) To abandon an animal in the care, custody or control of said person;
 - (j) To transport or confine an animal in a cruel manner;
 - (k) To intentionally injure or poison an animal;
 - (l) To kill an animal belonging to another without legal authority or the owner's effective consent;
 - (m) To cause or allow an animal to fight with another animal;
 - (n) Who is an owner of an animal that is deceased to knowingly allow the carcass to be left unattended and not properly disposed of for more than seventy-two (72) hours after death of the animal; or
 - (o) To let or allow an animal under his or her care, custody, or control to attack or bite a person.

(Amended: Ord. of 10-14-92; Res. No. 2005-58, 4-12-05; Ord. No. 2011-125, adopt. 7-12-11)

50.804 - Appearance ticket, citation, summons; complaint; warrant and arrest.

Sec. 4. In the event of any of the above violations or a violation of any other provision of this Ordinance or of the laws of the State, the Animal Control Officer or any peace officer may issue an appearance ticket, citation or summons to the owner of said animal, summoning the owner to appear before the district court to answer charges made of violation of this Ordinance or laws of this State. The Animal Control Officer or any peace officer may sign a complaint before said court for violation of the provisions of this Ordinance or the laws of the State, proceed to obtain the issuance of a warrant and cause the arrest of the person against whom said violation is charged in order to bring said person before

the Court to answer the charge. The Court, upon conviction thereof, may impose penalties in accordance with the penalty provision of this Ordinance and the law of the State.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.805 - Records constituting prima facie evidence of ownership.

Sec. 5. In all prosecutions for violation of this Ordinance or State law pertaining to animals, the records of the Treasurer, showing the name of the owner and the license number which was issued, and the license tag affixed to the collar or harness of the animal showing a corresponding number, or lack thereof, shall be prima facie evidence of ownership of any animal and of issuance, or non-issuance respectively, of an animal license or tag.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.806 - Order to show cause for killing or confining a dog.

Sec. 6. The provisions of Section 26a of Act No. 339 of the Public Acts of 1919, as amended, being MCL 287.286a; are available under this Ordinance and shall be utilized by the Animal Control Officer whenever the actions of any dog bring that dog within the provisions of that statute.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.807 - Enumeration of some violations does not constitute all violations.

Sec. 7. The enumeration of certain violations in this Article does not constitute all violations of this Ordinance for which penalties are provided by this Ordinance.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE IX

50.900 - SPECIAL PROVISIONS REGARDING VICIOUS ANIMALS

50.901 - Standards for keeping vicious animals.

Sec. 1. The keeping of vicious animals shall be subject to the following standards:

- (a) *Leash and Muzzle.* No person shall permit a vicious animal to go outside of its kennel, pen or the owner's residence unless such animal is securely leashed with a leash no longer than four (4) feet in length. No person shall permit such an animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such animals may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all such animals on a leash outside of the animal's kennel, pen or the owner's residence must be muzzled by a muzzling device sufficient to prevent the animal from biting persons or other animals.
- (b) *Confinement.* All vicious animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in paragraph (a) above. Such pen, kennel or structure must have secure sides and a secure top attached to its sides. A fenced-in yard by itself is insufficient to meet this standard. All structures used to confine such animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of

the pen or the sides of the pen must be embedded inground to a depth of no less than two (2) feet. All structures erected to house such animals must comply with all zoning and building regulations of the City or Township where located. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. The house or shelter for said animal shall be totally enclosed within the confinement structure.

- (c) *Confinement Indoors.* No vicious animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure where window screens or screen doors are the only obstacle preventing the animal from exiting the structure.
- (d) *Signs.* All owners, keepers or harborers of vicious animals within the County of Bay shall within ten (10) days of the effective date of this Ordinance display in a prominent place on their premises a sign, easily readable by the public from adjoining public roads or streets, using such words as "Beware of Dog" or other appropriate warning language. In addition, a similar sign must be posted on the kennel or pen of such animal.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.902 - Identification and reporting requirements.

Sec. 2.

- (a) *Insurance.* All owners, keepers or harborers of vicious animals must within ten (10) days of the effective date of this Ordinance provide proof to the County of Bay at its Animal Control Division at the Animal Shelter of liability insurance in an amount of five hundred thousand dollars (\$500,000.00) for each occurrence for bodily injury to or death of any person or persons which may result from ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be effective unless ten (10) days written notice is first given to the Animal Control Officer at his business address.
- (b) *Identification photographs.* All owners, keepers or harborers of vicious animals must within ten (10) days of the effective date of this Ordinance provide the Animal Control Officer two (2) color photographs of the registered animal clearly showing the color and approximate size of the animal.
- (c) *Reporting requirements.* All owners, keepers or harborers of vicious animals must within three (3) days of the following incidents report the same in writing to the Animal Control Officer:
 - 1) The removal from the County or death of a vicious animal.
 - 2) The birth of offspring of a vicious animal.
 - 3) The new address of a vicious animal should the owner move within the County limits.
 - 4) The animal is on the loose, has been stolen or has attacked a person.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.903 - Reserved.

Editor's note— Ord. No. 2011-125, adopted July 12, 2011, repealed § 50.903, entitled "Rebuttable presumption as to pit bulls", which derived from: Ord. No. 32, adopted Nov. 12, 1991; and an Ordinance adopted Oct. 14, 1992.

50.904 - Failure to comply.

Sec. 4. If the owner, keeper or harbinger of a vicious animal resident within the County of Bay fails to comply with the requirements and conditions set forth in this Article and this entire Ordinance, the failure to comply shall be punishable as a misdemeanor in accordance with Article X, Section 50.1001(3), and said animal shall be subject to immediate seizure and impoundment and further disposition in accordance with this Ordinance, including the procedures set forth in Article VIII, Section 6.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE X

50.1000 - PENALTY

50.1001 - Civil infractions; misdemeanors.

Sec. 1. Violation of Article IV, Section 50.401 is punishable as a civil infraction with the Courts assessing fines in an amount up to Five Hundred Dollars (\$500.00), plus court costs.

Sec. 2. Violations of Article VIII, Section 50.801(a), (b), (c), and (d), 802, and 803(a), (b) and (c), are punishable as civil infractions with the Courts assessing fines in an amount up to Five Hundred Dollars (\$500.00), plus court costs. Two or more violations of Article VIII, Section 50.801(a), may be punishable as a misdemeanor and upon conviction thereof, shall be punishable by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than Five Hundred Dollars (\$500.00), together with court costs, or by both such fine and imprisonment.

Sec. 3. Violations of Article VIII, Section 50.801 (e), (f), (g), (h), (i), and Section 50.803(d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), or (o), and Article IX, Sections 50.901 and 50.902, are punishable as misdemeanors and upon conviction thereof, shall be punishable by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than Five Hundred Dollars (\$500.00), together with court costs, or by both such fine and imprisonment. The Court shall impose a fine of at least Two Hundred Dollars (\$200.00) upon a conviction of any violation of Article VIII, Section 3, subsections (d), (e), (f), (h), (i), (j), (k), or (o).

A violation of this Ordinance as to each animal in the care, custody or control of a person constitutes a separate offense, each such separate offense being subject to the penalties provided in this Ordinance.

In all situations where penalties are provided for any act or omission, they shall be held to apply to each and every such act or omission. When any such act or omission is of a continuing character, each and every day's continuance of such act or omission constitutes a separate offense which may be separately charged and punished according to the provisions of this Ordinance.

(Amended: Ord. of 10-14-92; Res. No. 2005-58, 4-12-05; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE XI

50.1100 - PRESERVATION OF CERTAIN RIGHTS

50.1101 - Recovery in action at law.

Sec. 1. Nothing in this Ordinance shall be construed to prevent the owner of a licensed dog or cat from recovery in an action at law from any peace officer or any other person, except as herein provided.

Sec. 2. Nothing in this Ordinance shall be construed as limiting the common law liability of the owner of an animal for damages committed by said animal.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE XII

50.1200 - TREASURER'S RECORDS AND DUTIES; EVIDENCE

50.1201 - Comparison of records.

Sec. 1. On June 15 of each year the Treasurer shall make a comparison of his records of the dogs and cats actually licensed in the county with the report of the Animal Control Officer to determine and locate all unlicensed dogs and cats.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.1202 - Unlicensed dogs and cats declared public nuisance.

Sec. 2. On and after June 15 of each year, every unlicensed dog and cat subject to license under provisions of this Ordinance or the statutes of this State is hereby declared to be a public nuisance and the Treasurer shall immediately thereafter list all such unlicensed dogs and cats, as shown by the returns in his office of the supervisors and assessors, 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 MCL 287.277, as amended.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.1203 - Record of licenses.

Sec. 3. The Treasurer shall keep a record of all dog and cat licenses and all kennel licenses issued during the year in each city and township in the county. Such records shall contain the name and address of the person to whom each license is issued. In the case of all individual licenses the record shall also state the breed, sex, age, color and markings of the dog or cat; 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.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE XIII

50.1300 - FEES AND EXPENSES; DOG AND CAT CENSUS

50.1301 - Remuneration for issuing and recording dog or cat licenses.

Sec. 1. Every township and city treasurer of Bay County shall receive the sum of fifty cents (\$0.50) for each dog or cat license issued. 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. Subject to the requirements of this Ordinance, the Treasurer may grant licenses through duly authorized agents, and through acceptance of electronic applications and payment.

(Amended: Ord. of 10-14-92; Res. No. 2004-05, 10-12-04; Ord. No. 2011-125, adopt. 7-12-11)

50.1302 - Annual dog and cat census.

Sec. 2. It shall be the duty of the Animal Control Officer annually to make a census of the number of dogs and cats owned by all persons in the County. The Animal Control Officer is hereby empowered to employ whatever personnel he reasonably believes necessary to conduct this census within the budget limitations provided by the Board of Commissioners; such personnel shall receive for their services the amount as shall be set from time to time by the Board of Commissioners.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.1303 - Delegation of duties and obligations.

Sec. 3. The duties and obligations herein imposed upon the respective designated officials may be delegated when permitted by law to some other appropriate person or persons by each of said officials with like force and effect.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.1304 - Changing fees and expenses.

Sec. 4. The fees and expenses as established by this Ordinance may be changed from time to time by Resolution or Motion of the Board of Commissioners.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE XIV

50.1400 - RULES OF CONSTRUCTION; SEVERABILITY

50.1401 - Words defined; headings.

Sec. 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 includes the feminine and neuter. Words or terms not defined herein shall be interpreted in accordance with their common meaning. Headings are inserted for convenience and shall not limit or increase the scope of any article or section of this Ordinance.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.1402 - Ordinance supplemental to state regulations.

Sec. 2. The provisions of this Ordinance are minimum standards supplemental to the rules and regulations duly enacted by the Michigan Departments of Health and Agriculture and to the laws of the State of Michigan.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

50.1403 - Severability.

Sec. 3. If any part of this Ordinance shall be held unconstitutional or void, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE XV

50.1500 - REPEAL; SAVINGS CLAUSE

All Ordinances or parts of ordinances inconsistent herewith are hereby repealed, and specifically Ordinance #18 of the County of Bay is hereby repealed; however, any and all actions, civil or criminal, arising out of any Ordinance repealed hereby which are pending in a court of this State or otherwise vested on the effective date of this Ordinance shall not abate and shall be saved and may proceed to conclusion pursuant to such repealed ordinances.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)

ARTICLE XVI

50.1600 - ADOPTION, PUBLICATION AND EFFECTIVE DATE OF ORDINANCE

This Ordinance shall not be adopted or amended unless a majority of the Commissioners elected and serving shall vote in the affirmative on its adoption. The Clerk of the Board of Commissioners shall then engross this Ordinance including any duly ordained amendments. The Chairperson of the County Board of Commissioners shall sign the same, which shall then be certified by the Clerk before it is considered adopted. This Ordinance shall then take effect when notice of the adoption is published in a newspaper of general circulation in the County of Bay. The County Clerk shall certify such publication.

(Amended: Ord. of 10-14-92; Ord. No. 2011-125, adopt. 7-12-11)