

TOWNSHIP OF TILDEN
ANIMAL CONTROL ORDINANCE
ORDINANCE NO. 3

ADOPTED: April 17, 1989

AN ORDINANCE REGULATING AND LICENSING THE KEEPING AND MANAGING OF DOGS IN THE TOWNSHIP OF TILDEN, AND PROVIDING FOR THE TAKING UP AND IMPOUNDMENT OF DOGS, AND DESTRUCTION OF DOGS IN CERTAIN CASES AND MAKING VIOLATIONS THEREOF PUNISHABLE BY FINE AND/OR IMPRISONMENT AND REPEAL OF ORDINANCE NO. 1 OF JUNE 5, 1974.

SECTION 1. DEFINITIONS

As used in this Ordinance, the following words and phrases shall have the following meaning:

- (a) "Township" shall mean the Township of Tilden.
- (b) "Township Board" shall mean the governing body of the Township of Tilden.
- (c) "Animal Shelter" shall mean any premises designated by the Township Board for the purpose of impounding and caring for animals held under authority of this Ordinance.
- (d) A dog shall be deemed to be under "Reasonable Control" when such dog is on the premises of its owner, is on a leash and controlled by a competent person and the dog is obedient to that person's commands, or on or within a vehicle being driven or parked on the streets.
- (e) "Own" shall mean to have a right of property in a dog; to feed or harbor a dog or to have a dog in one's care or possession; or to permit a dog to remain in or about any premises of a person for a period of two days or more.
- (f) "Restraint" shall mean an animal that is deemed to be under restraint if on the premises of its owner or if handled by a responsible person and on a leash under that person's reasonable control.
- (g) "Person" shall mean an individual, partnership, company or corporation.
- (h) "Vicious Dog" is defined as one which has bitten a person or domestic animal without provocation, or which, by its actions, gives indication that it is liable to bite any person or domestic animal without provocation.
- (i) "Reasonable Effort to Identify Owner" shall mean inquiry by the animal control officer as to ownership of an unlicensed dog with two (2) persons from different households in the area where the dog is found in violation of this Ordinance or the laws of the State of Michigan.

SECTION 2. LICENSING AND VACCINATION OF DOGS

Tilden Township hereby adopts the licensing and vaccination laws of the State of Michigan Dog Law which is followed by Marquette County. All Licensing and enforcement shall be by Marquette County, except in other violations of the following sections of this ordinance.

SECTION 3. ANIMAL CONTROL CENTER

- (a) The Township Supervisor may employ as many part-time deputies to assist the animal control officer in the taking of this census as are necessary to ensure the compilation of a hasty, complete and accurate census.

- (b) The animal control officer or deputies shall have the authority to enter upon the property of any person in the Township for the purpose of viewing all dogs owned or harbored by any person to obtain such census information.
- (c) It shall be unlawful for any person in the Township to in any way impede or hamper the efforts of the animal control officer or deputies in obtaining this census information. Any person in the Township who shall impede or hamper the census efforts of the animal control officer or deputies shall be subject to service of a summons and complaint for violation of this Ordinance as provided in Section 6 of this Ordinance.
- (d) The Township Board, in its discretion, may allocate funds for the construction of an animal control shelter, or may contract with a sister township or the county humane society to implement the impounding provisions of this Ordinance.

SECTION 4. MANAGEMENT AND RESTRAINT OF DOGS

It shall hereafter be unlawful for any person owning, possessing or having charge of any dog, six (6) months of age or over, to violate any of the following restrictions:

- (a) To allow such dog to stray beyond the premises of such owner unaccompanied by its owner or keeper or his agent, unless it shall be under reasonable control of the owner, keeper, or his agent.
- (b) To permit any female dog to go beyond the premises of its owner, when she is in heat, unless such dog is held properly in leash and under the reasonable control of a responsible person.
- (c) To permit any vicious dog to be uncaged or unconfined unless securely muzzled and held securely by a leash.
- (d) To own, harbor or keep any dog, either licensed or unlicensed, that, by the destruction of real or personal property of others, or trespassing on the property of others, becomes a nuisance in the vicinity where kept.
- (e) To fail or refuse to comply with the provisions of this Ordinance, which are specifically enumerated in all other sections of this Ordinance.

SECTION 5. ANIMAL CONTROL OFFICER DUTIES, RESTRICTIONS, AUTHORITY AND QUALIFICATIONS

The Township Board shall designate a person or persons to be known as "Animal Control Officer" of the Township, at such salary or fees as may be fixed by the Township Board, who shall serve at the pleasure of the Township Board. Such animal control officer shall have the powers and authority of a Township police officer in relation to his/her duties as herein prescribed.

It shall be the duty of the animal control officer to enforce the provisions of this Ordinance and the Dog Law of 1919 of the State of Michigan, as amended, and to perform, in addition, the following duties:

- (a) To impound any dog, licensed or unlicensed, found running at large, unaccompanied by its owner, keeper, or agent, or not under the reasonable control of some responsible person.
- (b) To impound and dispose of any dog not duly licensed as provided by this Ordinance, once a reasonable attempt to identify the owner is made and the owner cannot be identified.
- (c) To serve notice in writing upon the owner of any dog impounded under the provisions of this Ordinance, if such owner is known or can be identified by the license on the collar of said dog; and to make reasonable effort to identify the owner of the dog so impounded but unlicensed.

- (d) It shall be the duty of the animal control officer to dispose of or cause to be disposed of all unlicensed dogs whose owners cannot be identified which are impounded at the animal control shelter, and all licensed dogs impounded at the animal control shelter after notice has been served on the owner and which dogs are not claimed within seven (7) days after impoundment or notice is served on the licensed dog owner. If the unlicensed owner cannot be identified after reasonable efforts or the owner of a licensed dog does not claim the impounded dog after receiving notice, the dog shall be disposed of in a humane manner approved of by the State Department of Agriculture. If, however, the impounded dog is diseased or badly injured in the discretion of the animal control officer, it may be immediately disposed of.
- (e) It shall be the duty of the animal control officer to release all impounded dogs to their owner once the owner has complied with Section 9 of this Ordinance, even if a summons and complaint have been served on the owner pursuant to Section 6 of this Ordinance.
- (f) Only the Township animal control officer or a law enforcement officer may kill a dog determined to be molesting wildlife and not hunting as defined by the Dog Law of 1919 within Tilden Township.
- (g) Any person, including the Township animal control officer or any law enforcement officer, may kill any dog which is seen in the act of pursuing, worrying or wounding any livestock or poultry or domestic pet or attacking any person, and there shall be no liability on such person in damages or otherwise for such killing. Except as provided above, it shall be unlawful for any person other than the Township animal control officer or a law enforcement officer to kill or injure or attempt to kill or injure any dog which bears a license tag for the current year.
- (h) Nothing in this Ordinance shall be construed to prevent the owner of a licensed dog, displaying current license and rabies vaccination tags, from recovery, by action at law, from the Township animal control officer or any police officer or other person, for the value of any dog illegally killed by such persons.
- (i) The Township animal control officer or any law enforcement officer shall possess the authority to enter upon the property of any person in Tilden Township for the purpose of enforcing the provisions of this Ordinance; and any such entry upon the property of any person in the Township, excluding acts of gross negligence by such officers, shall in no way constitute trespass.
- (j) The Township Board shall adopt minimum employment standards relative to recruitment, selection, and appointment of animal control officer(s). The minimum standards shall include:
1. Requirements for physical, education, mental and moral fitness.
 2. A minimum course of study of not less than 100 instructional hours as prescribed by the State Department of Agriculture.
 3. Subdivision 2 shall not apply if the animal control officer is a police officer or served at least 3 years as an animal control officer.
- (k) Nothing contained in this Ordinance shall be construed limiting common law liability against the owner of a dog for damages committed by the owner's dog or dogs.

SECTION 6. COMPLAINT AND SUMMONS FOR VIOLATION OF ORDINANCE

Upon impounding any dog on a second or subsequent violation of this Ordinance, the animal control officer shall file a sworn complaint against the owner or keeper of said impounded dog, if the owner or keeper of said dog can be reasonably identified, with the 96th District Court of Marquette County, alleging facts showing a violation of this Ordinance or of the State Dog Law, and the Court shall forthwith issue a summons for the owner or keeper of said dog to appear at hearing and answer to the complaint. The summons may be served any place within the County, and shall be made returnable not less than two (2) nor more than six (6) days from the date therein and shall be served at least two (2) days before the time set for hearing and mentioned therein.

Upon hearing, if the Court shall find the owner or keeper guilty of the offense charged, the Court shall impose such penalties as provided by Sections 7, 8, and 9 of this Ordinance together with court costs.

SECTION 7. HEARING ON CAUSE FOR IMPOUNDMENT OR DESTRUCTION

On sworn complaint by either the animal control officer or any other person to the 96th District Court of Marquette County that any one or more of the following facts exists, such court shall issue a summons to show cause why such dog should not be impounded or destroyed, if:

- (a) Any dog, licensed or unlicensed, which is habitually permitted to run at large and is unaccompanied by its owner, or is engaged in lawful hunting but is not under the reasonable control of its owner.
- (b) Any dog at any time, licensed or unlicensed, which has destroyed property or habitually causes damage by trespassing on the property of persons other than its owner.
- (c) Any dog, licensed or unlicensed, which has attacked or bitten any person.
- (d) Any dog showing vicious habits or molesting a person when lawfully on the public right of way.
- (e) Any dog, by loud, frequent or habitual barking, yelping or howling is causing or has caused a serious and continuing annoyance to any of the residents of the Township by way of disrupting their peace and tranquility.
- (f) Any dog, licensed or unlicensed, which has attacked and killed, injured or wounded any other dog, domestic pet, livestock or poultry.

After a hearing, the District Court magistrate or the District Court may either order the dog killed or confined to the premises of the owner. If the owner disobeys the order, the owner may be punished under Section 6 of the Ordinance. Costs shall be charged against the owner of the dog and made payable to the Township for expenses incurred to enforce this provision of the Ordinance.

SECTION 8. PENALTIES

Any person or persons who shall violate any of the provisions of this Ordinance shall, under conviction after hearing a voluntary entry of a guilty or nolle contender plea, be punished by a fine of no less than Ten (\$10.00) Dollars but not exceeding One Hundred (\$100.00) Dollars or by imprisonment in the County Jail not to exceed Ninety (90) days and/or by a fine and imprisonment in the discretion of the District Court magistrate or District Court.

SECTION 9. IMPOUNDING AND BOARDING FEES

Any dog seized or impounded by the animal control officer shall be released to the owner thereof upon fulfillment of all of the following conditions:

- (a) First Offense: owner shall receive a verbal warning; second offense, payment of an impounding fee in the amount of Fifteen (\$15.00) Dollars; third offense, payment of an impounding fee in the amount of Thirty (\$30.00) Dollars; fourth and subsequent offenses, payment of an impounding fee in the amount of Sixty (\$60.00) Dollars; and
- (b) Payment for the boarding of such dog in the animal control shelter at a cost of Five (\$5.00) Dollars per day or in such amount as the Township Board may be contractually bound to pay a sister township or the county humane society, and such fee may from time to time be increased by the Township Board as impounding expenses increase; and
- (c) Either exhibiting a current valid license, or in the case of an unlicensed dog, purchasing and exhibiting a current valid license before the release of the dog; and
- (d) Exhibiting a proper certificate from a veterinarian that such dog is currently immunized for rabies during the license period, or, in the case of an unimmunized dog so impounded, the owner shall forthwith have the dog so immunized within twenty-four (24) hours of its release, with proof of such immunization being supplied to the animal control officer within the same period of time.
- (e) Impounding and boarding fees as above provided for shall be collected by the animal control officer, unless a District Court proceeding is pending, or Township treasurer at the Township Hall during regular business hours. The animal control officer shall place in the hands of the Township treasurer all such fees collected, which treasurer shall keep accurate record of all such fees which, in turn, shall be utilized by the Township to ensure continuous enforcement of the Ordinance.

SECTION 10. CONTROL OF RABIES

Any person who shall have in his possession any dog which has contracted rabies, or which has been exposed or subjected to the same, or which is suspected of having rabies, or which has bitten any person, shall, upon demand of the animal control officer of the Township, County or State, produce and surrender up such dog to the said officer, or be held for observation as hereinafter provided, or confine the same to the owner's premises at the discretion and direction of such officer. It shall be the duty of any person owning or harboring a dog which has been attacked or bitten by another dog or other animal showing the symptoms of rabies, to immediately notify the animal control officer, police officer, constable or health officer of the injury to their dog and the name of the person who has the dog or animal which caused the injury in their possession. The failure to do so shall be cause for complaint to the 96th District Court as provided in Section 6 of this Ordinance.

SECTION 11. KENNEL LICENSE, ISSUANCE FOR FEE, METAL TAGS, INSPECTION CERTIFICATE, CONTENTS, CERTAIN COUNTIES EXCEPTED

For the purposes of this act, a kennel shall be construed as an establishment wherein or whereon three (3) or more dogs are confined and kept for sale, boarding, breeding or training purposes, for remuneration, and such kennel facility shall be so constructed as to prevent the public or stray dogs from obtaining entrance thereto and gaining contact with dogs lodged in said kennel. Any person who keeps or operates a kennel may, in lieu of individual license required under this act, apply to the Township

Treasurer for a kennel license entitling him to keep or operate such kennel. Proof of vaccination of dogs against rabies shall not be required with such application. Such license shall be issued by the Township Treasurer, on a form prepared and supplied by the Director of the Department of Agriculture and shall entitle the licensee to keep any number of dogs six (6) months old or over not at any time exceeding a certain number to be specified in the license. The fee to be paid for each kennel license shall be Ten (\$10.00) Dollars for ten (10) dogs or less, and Twenty-five (\$25.00) Dollars for more than ten 10 (10) dogs. A fee of double the original license fee shall be charged for each previously licensed kennel whose kennel license is applied for after June 1st. With each kennel license, the Township Treasurer shall issue a number of metal tags equal to the number of dogs authorized to be kept in the kennel. All such tags shall bear the name of the County issuing it, the number of the kennel license, and shall be readily distinguishable from the individual license tags for the same year.

SECTION 12. DAMAGE TO LIVESTOCK OR POULTRY BY DOGS; REMEDY; COMPLAINT PROCEEDINGS; LIABILITY FOR DAMAGES AND COSTS; AND REPORT OF TOWNSHIP SUPERVISOR

Pursuant to MCL 270.280, whenever any person sustains any loss or damage to any livestock or poultry by dogs, or whenever any livestock of any person is necessarily destroyed because of having been bitten by a dog, such person or his agent or attorney, may complain to the Township Supervisor or appointed trustee of the Township within which the damage occurred. The complaint shall be in writing, signed by the person making it, and shall state when, where, what and how much damage was done, and, if known, by whose dog or dogs. The Township Supervisor or Township Trustee appointed by the Township Board shall at once examine the place where the alleged damage was sustained and the livestock or poultry injured or killed if practicable. He shall also examine under oath, or affirmation, any witness called before him.

After making diligent inquiry in relation to the claim, the Township Supervisor or appointed trustee shall determine whether any damage has been sustained and the amount thereof, and, if possible, who was the owner of the dog or dogs by which the damage was done. Any owner or keeper of the dog or dogs shall be liable to the county in a civil action for all damages and costs paid by the county on any claims as hereinafter provided.

If after making the examination required above, the Township Supervisor or other person designated by the Township Board has determined that damage has been sustained by the complainant, the Township Supervisor or other person designated by the Township Board upon payment to him or her of his or her costs up to that time by the complainant, shall deliver a report of the examination and all papers relating to the case to the county board of commissioners of the county in which the loss was sustained. The report shall be filed in the office of the county board of commissioners. If the complainant has not paid the costs, the Township Supervisor or other person designated by the Township Board shall state that fact in report and the amount of the unpaid costs. Said complaint damages may then be paid pursuant to MCL 287.283, 287.284.

SECTION 13. SEVERABILITY

The several sections of this Ordinance shall be deemed severable, and should any section, clause, or provision thereof be declared unconstitutional or contrary to the laws of the State of Michigan, and therefore voided by any court of competent jurisdiction, same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part or section so declared to be unconstitutional or invalid.

SECTION 14. POLICE EFFECT

This Ordinance is declared to be necessary for the protection of the public health, safety, welfare and peace of the people of the Township of Tilden, and is intended to be enforced in conjunction with the provisions of the State Dog Law, which provisions are not contained herein, but shall be considered to be supplementary hereto.

SECTION 15. EFFECTIVE DATE

This Ordinance shall not take effect until thirty (30) days after its newspaper publication. A true copy of this Ordinance can be inspected at the Tilden Township Hall during regular business hours. Copies of this Ordinance may be obtained for a reasonable fee.

SECTION 16. REPEALER

Once this Animal Control Ordinance takes effect as above stated, Ordinance No. 1 of June 5, 1974 shall be repealed and superseded in its entirety.