

BOARD
8-1-11

STATE OF MICHIGAN
COUNTY OF BERRIEN
NILES CHARTER TOWNSHIP
ANIMAL ORDINANCE

DRAFT

An ordinance to protect the health, safety and general welfare of the persons and property within Niles Charter Township, Berrien County, Michigan, by regulating the possession of animals within the township; to provide penalties for the violation thereof and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP BOARD OF NILES CHARTER TOWNSHIP, BERRIEN COUNTY, MICHIGAN
ORDAINS:

SECTION 1: TITLE

This ordinance shall be known and cited as the "Niles Charter Township Animal Ordinance".

ARTICLE I. IN GENERAL

SECTION A: DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any vertebrate animal other than human beings, including but not limited to, cats and dogs.

At large means off the premises of the owner, harbinger, keeper, possessor, or person in charge of the dog, cat, or animal, and not under restraint by leash, controlled by a person of suitable age and size.

Cat means an animal of the species *Felix Catus*.

Dangerous animal means and includes:

- (1) Any mammal, amphibian, reptile, or bird which is of a species which, due to size, vicious nature, or other characteristics would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, or monkeys, foxes, elephants, alligators, crocodiles, and snakes which are poisonous, including all constrictors, or any other animal that otherwise presents a risk of serious physical harm or death to human beings as a result of their nature, and any other related species of those listed in this definition.
- (2) Any dog, cat, or animal which attacks or bites any person or animal without provocation is hereby defined as a "dangerous animal."

Dog means an animal of the species *Canis Familiaris*.

Kennel means any establishment wherein or whereon four or more animals are confined and kept for sale, boarding, breeding, training, or any other purpose.

Owner means a person having a property interest in an animal or, who keeps or harbors the animal or has the animal in his care or custody, or who permits the animal to remain on or about any premises occupied by the person.

SECTION B: NUMBER OF CATS PERMITTED; EXCEPTIONS.

(1) Whoever owns, harbors, possesses, or keeps more than ~~four~~ cats, six months old or older, upon his premises shall be guilty of a misdemeanor. For purposes of this section, where more than one owner or person shall reside at any one address or premises, it shall be unlawful for such owners or persons to have more than four cats in total at any such address or premises.

(2) The provisions of this section shall not apply to kennels operating in conformance with the terms and provisions of the Niles Charter Township Ordinances.

SECTION C: ANIMALS RUNNING AT LARGE.

An owner, harborer, keeper, possessor or person in charge of any animal which runs at large or is upon any highway, street, lane, alley, court, or other public place, or upon any private property or premises other than those of the person owning or having charge, care, custody, or control of such animal, within Niles Charter Township (unless such animal is restrained by a substantial chain or leash not exceeding six feet in length and is in the charge, care, custody, or control of a person with the ability to restrain it) is guilty of a misdemeanor.

SECTION D: INJURY TO PROPERTY.

An owner, harborer, keeper, possessor or person in charge of any animal which goes upon any sidewalk, parkway, or private lands or premises without the permission of the owner of the premises and bruises, breaks, tears up, crushes, or injures any lawn, flower bed, plant, shrub, tree, garden, any improvement to real property or any personal property in any manner whatsoever is guilty of a misdemeanor.

SECTION E: CONTROL AND REMOVAL OF ANIMAL EXCREMENT.

(1) An owner, harborer, keeper, possessor or person in charge of any animal which discharges its excrement upon any parking lot, public thoroughfare, sidewalk, street, highway, road, boulevard, school property, cemetery, passageway, bypass, play area, park, or any place where people congregate or walk, or upon any public property whatsoever, or upon any private property without the permission of the owner of such property, unless such person has in his immediate possession an appropriate device and uses such device for the transmission of such excrement immediately by a person to a suitable receptacle or location is guilty of a misdemeanor.

(2) It is a public nuisance for any person to violate the provisions of this section.

(3) This section shall not apply where the violation involves a dog which is used as a guide or leader dog for a blind person, a hearing dog for a deaf or audibly impaired person, or a service dog for a physically limited person.

(4) As used in this section:

(a) *Audibly impaired* means audibly impaired as defined in section 1 of Public Act No. 82 of 1981 (MCL 752.61)

(b) *Blind person* means a blind person as defined in section 1 of Public Act No. 260 of 1978 (MCL 393.351).

(c) *Deaf person* means a deaf person as defined in section 1 of Public Act No. 82 of 1981 (MCL 752.61).

(d) *Physically limited* means physically limited as defined in section 1 of Public Act No. 1 of 1966 (MCL 125.1351).

SECTION F: CLEANLINESS OF YARDS, RUNS.

Yards and exercise animal runs shall be kept free of animal excrement, uneaten food, and maintained in a sanitary manner so as not to be a nuisance because of odor or attraction for insects and vermin. An owner who fails to comply with this section is guilty of a misdemeanor.

SECTION G: CRUELTY TO ANIMALS.

(1) No person shall willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse, or beat, strike, or abuse any animal, or by any act, omission or neglect, cause or inflict and unnecessary or unjustifiable pain, suffering, injury, or death to any animal whether the animal belongs to such person or to another, except that reasonable force may be employed to drive away dangerous or trespassing animals. An owner who fails to comply with this section is guilty of a misdemeanor.

(2) No person owning, harboring, keeping, possessing or in charge of any animal shall fail, refuse, or neglect to provide the animal with food, potable water, shade, or shelter, or cruelly or unnecessarily expose the animal in hot, stormy, cold, or inclement weather, or carry the animal in or upon any vehicle in a cruel or inhumane manner. An owner who fails to comply with this section is guilty of a misdemeanor.

(3) A person who willfully, maliciously, and without just cause or excuse kills, tortures, mutilates, maims, or disfigures an animal or who willfully and maliciously and without just cause or excuse administers poison to an animal, or exposes an animal to any poisonous substance, other than a substance that is used for therapeutic veterinary medical purposes, with the intent that the substance be taken or swallowed by the animal, is guilty of a misdemeanor.

(4) As part of a sentence for a violation of this section, the court may order the defendant to pay for the costs of the care, housing, and veterinary medical care for the animal.

SECTION H: ANIMAL FIGHTING

- (1) It shall be unlawful for any person in Niles Charter Township to conduct or attend any animal fight, including but not limited to, cock fighting or dog fighting events.
- (2) An owner who fails to comply with this section is guilty of a misdemeanor.

SECTION I: HARBORING A NOISY ANIMAL.

- (1) No person shall own, harbor, keep or possess any animal which by loud, frequent, or habitual barking, yelping, howling, growling, cackling, crying or any other noise causes an annoyance to the neighborhood. For the first violation of this subsection, the person shall be guilty of a municipal civil infraction. For all subsequent violations of this subsection, the person shall be guilty of a misdemeanor.
- (2) No person shall own, harbor, keep or possess any animal which habitually barks, howls, yelps, growls, cackles, cries, or makes any other noise to the great discomfort of the peace and quiet of the neighborhood, or in such manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities. Such animals are hereby declared to be a public nuisance.

ARTICLE II. DANGEROUS ANIMAL*

SECTION A. EXCEPTIONS.

- (1) No animal shall be deemed or declared to be a dangerous animal if the threat, wound, injury, or damage was caused by any person who, at the time, was:
 - (a) Assaulting the owner of the animal;
 - (b) Committing a willful trespass or tort upon the premises of the owner of the animal; or
 - (c) Provoking, abusing, or assaulting the animal or can be shown to have repeatedly provoked, tormented, or abused the animal at other times.
- (2) No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous animal.
- (3)... The section shall have no application to any animal owned by a federal, state, or local law enforcement agency.
- (4) No animal shall be found to be a dangerous animal solely because it is a particular breed.

SECTION B: DANGEROUS ANIMALS.

No person shall own, harbor, keep or possess any dangerous animal in Niles Charter Township. An owner who fails to comply with this section is guilty of a misdemeanor.

SECTION C: NOTICE OF KEEPING DANGEROUS ANIMALS.

Upon the written complaint of any person that another person owns or is keeping or harboring a dangerous animal in violation of this chapter in Niles Charter Township, the police department or their authorized deputy shall cause the matter to be investigated; and if after the investigation the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring any such dangerous animal in Niles Charter Township, they shall send written notice to the person requiring such person to safely remove the animal from Niles Charter Township within five days of the date of this notice. Notice as provided in this section shall not be required where such dangerous animal has previously cause serious physical harm or injury or death to any person or has escaped and is at large, in which case the police department shall cause the animal to be immediately seized and impounded, according to the provisions of section 10-34, or killed if seizure and impoundment are not possible without risk or serious physical harm or death to any person.

SECTION D. SEIZURE OR IMPOUNDING OF DANGEROUS ANIMALS.

(1) The police department or their authorized deputy shall forthwith cause to be seized and impounded any dangerous animal, where the person owning, keeping, or harboring such animal has failed to comply with the notice sent pursuant to Article II(C) above. Upon a seizure and impoundment, the animal shall be delivered to a place of confinement, which may be with any organization which is authorized by law to accept, own, keep or harbor such animals.

(2) If, during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, persons authorized by the police department may render the animal immobile by means of tranquilizers or other safe drugs, or if that is not safely possible, then the animal may be killed.

ARTICLE III. DOGS

SECTION A. NUMBER OF DOGS PERMITTED; EXCEPTIONS.

(1) Whoever owns, harbors, possesses or keeps more than four dogs, six months old or older, upon his premises shall be guilty of a misdemeanor. For purposes of this section, where more than one owner or person shall reside at any one address or premises, it shall be unlawful for such owners or persons to have more than four dogs in total at any such address or premises.

(2) The provisions of this section shall not apply to kennels operating in conformance with Article III(C).

SECTION B: LICENSE AND TAG REQUIRED.

All dogs over the age of six months within Niles Charter Township shall at all times be currently licensed in accordance with the requirements of the Dog Law of 1919 (MCL 287.261 et

seq.) and the county animal control ordinance. A license tag issued by the county shall be securely affixed to a collar, harness, or other device which shall be worn by the dog at all times unless the dog is within the confines of the residence of the owner or of a dog run or other secure enclosure on the owner's premises. An owner who fails to comply with this section is guilty of a misdemeanor.

SECTION C: KENNEL LICENSES.

The licensing of dog kennels shall be as provided in the Dog Law of 1919 (MCL 287.261 et seq.) No person shall operate a kennel without a valid kennel license and also must comply with the zoning ordinance.

SECTION D. IMMUNIZATION REQUIRED.

No dog shall be permitted within Niles Charter Township unless such dog has been immunized against rabies in a manner approved by the United States Department of Agriculture. An owner who fails to comply with this section is guilty of a misdemeanor.

SECTION E: EFFECTIVE DATE

This ordinance shall take effect thirty (30) days after publication following its adoption.

SECTION F: PUBLICATION

This ordinance is ordered to be given publication in the manner prescribed by law.

SECTION G: ADOPTION

This ordinance is hereby declared to have adopted by the Township Board of the Township of Niles, Berrien

County, Michigan, at a meeting held on _____, A. D., 2010. All ordinances or parts of

ordinances in conflict with any of the provisions of this ordinance are hereby repealed.

Moved by _____ and supported by _____

that the foregoing ordinance be adopted.

Ayes: _____

Nays: _____

CERTIFICATION

ANIMAL
~~Summit~~

I hereby certify that the foregoing is a true copy of an ordinance entitled "~~Summit~~ Ordinance", which ordinance was duly

adopted by the Township Board of Niles Charter Township, Berrien County, Michigan, on _____, A. D.,

2010, and which ordinance was published in the Niles Daily Star on _____, A. D., 2010.

Marge Durm-Hiatt
Township Clerk