

STATE OF MICHIGAN
COUNTY OF BERRIEN
NILES CHARTER TOWNSHIP
ANIMAL ORDINANCE

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 Control 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. Any section of this Ordinance that is found in direct conflict with MCL 287.321 shall be considered void. However, all other sections shall survive and be fully enforceable. It is expressly intended that the provisions of this Ordinance shall work in harmony with and shall parallel the provisions of MCL 287.321.

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

At large means off the premises of the owner, harborer, 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 , due to its large size, vicious nature, or other characteristics would constitute a danger to human life, physical well-being of persons, or property, or otherwise presents a risk of serious physical harm or death to human being or another animal.
- (2) Any dog, cat, or animal that 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 is a commercial establishment, including a private home, wherein or whereon four or more animals are confined and kept for sale, boarding, breeding, training, or any other commercial 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.

Bite shall mean that the animal puts its mouth to the skin of a human being or other animal in such a way as to break the skin, whether bleeding occurs or not.

Animal Control Appeal Committee shall mean and consist of a representative from law enforcement for the Township, the Township Supervisor and three (3) individuals appointed by the Township Board.

SECTION B: 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 significantly breaks, tears up, crushes, or injures any lawn, landscaping, tree, garden, any improvement to real property, or any personal property is guilty of a misdemeanor.

SECTION C: 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, 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 civil infraction.

(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, a service dog for a physically limited person or a police or rescue dog.

(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 Public Act No. 1 of 1966 (MCL 125. 1351).

SECTION D: 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 civil infraction.

SECTION E: CRUELTY TO ANIMALS

(1) No person shall willfully or maliciously inflict unnecessary or needless cruelty, torture, abuse; or beat, strike, or abuse an animal by any act of omission or neglect, cause or inflict any 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) A person who violates this section, may have their animal seized and impounded. 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 among other sentencing provisions and consequences.

SECTION F: 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.

ARTICLE II. DANGEROUS ANIMALS

SECTION A. EXCEPTIONS.

- (1) No animal shall be considered to be a dangerous animal pursuant to this Ordinance 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 pen, its offspring, its owner or owner's property, shall be considered a dangerous animal.
- (3) This section shall have no application to any animal owned by a federal, state, or local law enforcement agency.
- (4) No dog 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 a 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 a law enforcement officer or private citizen that a person owns or is keeping or harboring a dangerous animal in violation of this Ordinance, the law enforcement officials of the Township shall cause the complaint to be investigated. If after the investigation, the facts indicate that the person named in the complaint is in fact the owner of, or is keeping or harboring a dangerous animal in Niles Charter Township, the law enforcement officer shall notify the Township Supervisor as soon as possible. The Township Supervisor shall, within 24 hours, cause a written notice to be sent via certified U.S. mail to the person named in the complaint. The notice shall inform the owner or possessor of the animal to remove the animal from the township within 10 days of the date of mailing the notice. Removal shall be to a place of confinement, which shall be any organization which is authorized by law to accept,

own, keep or harbor such animals. A copy of said notice shall also be provided to the reporting law enforcement officer.

If upon receipt, the owner or possessor of the animal wishes to appeal the notice to remove the animal, he or she shall contact the Township Supervisor in writing to request an appeal. The Township Supervisor or his/her designee shall, as soon as practicable, convene the animal control appeal committee to hear the individual's appeal. The animal control appeals committee may overturn the decision that the animal is a dangerous animal or it may affirm the decision that the animal is a dangerous animal. Upon affirmation that the animal is a dangerous animal, the owner or harborer shall have 72 hours to remove the animal from the Township. Removal shall be to a place of confinement, which shall be any organization which is authorized by law to accept, own, keep or harbor such animals. If the animal is not removed from the Township, it shall be subject the terms of Section D. below.

Notice as provided in this section shall not be required where such dangerous animal has previously caused serious physical harm or injury or death to any person or a dangerous animal that has escaped and is at large, in which case the law enforcement officials for the Township shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk or serious physical harm or death to any person or other animal.

SECTION D: SEIZURE OR IMPOUNDING OF DANGEROUS ANIMALS

(1) The Township law enforcement agency or its authorized designee 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 shall be any organization which is authorized by law to accept, own, keep or harbor such animals. The owner shall be liable for confinement fees associated with the impoundment and confinement of their animal at the rate of \$25 for the first 24 hours and \$5 for every day thereafter. After a period of 21 days, if the owner has not removed his or her animal from confinement, the animal shall be considered abandoned and disposed of according to State Statute or the applicable, not contradictory, policies of the facility. In any event, the owner remains liable for the impoundment and confinement fee.

(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, the seizing official may render the animal immobile by means of tranquilizers or other safe drugs, or if that is not possible, then the animal may be killed.

ARTICLE III. DOGS

SECTION A: 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. An owner who fails to comply with this section is guilty of a misdemeanor.

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 other secure enclosure on the owner's premises. An owner who fails to comply with the requirement to affix a tag is guilty of a civil infraction.

SECTION B: 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 applicable zoning ordinances.

SECTION C: IMMUNIZATION REQUIRED

No dog over the age of four months 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. The owner of a dog who has been immunized shall retain proof of immunization by a licensed veterinarian and will provide access to rabies vaccination proof when asked to do so by a law enforcement official. An owner who fails to comply with this section is guilty of a misdemeanor.

SECTION D: EFFECTIVE DATE

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

SECTION E: PUBLICATION

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

SECTION F: ADOPTION

This ordinance is hereby declared to have been adopted by the Township Board of Niles Charter Township, Berrien County, Michigan at a meeting held on _____, A.D. 2011. 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

I hereby certify that the foregoing is a true copy of an ordinance entitled "Animal Ordinance", which ordinance was duly adopted by the Township Board of Niles Charter Township, Berrien County, Michigan on _____, A.D. 2011, and which ordinance was published in the Niles Daily Star on _____, A.D. 2011.

Marge Durm-Hiatt
Township Clerk