

ORDINANCE NO. 01-02

ANIMAL CONTROL ORDINANCE OF MONTMORENCY COUNTY

Section 101 - TITLE

This ordinance shall be known as the "Animal Control Ordinance of Montmorency County".

Section 102 - PURPOSE

The purpose of this Ordinance is to promote the public health, safety, convenience, comfort and general welfare of Montmorency County through the proper control and care of animals and the protection of livestock and poultry from damage by animals; providing for the licensing of dogs, regulating the keeping of animals, and authorizing destruction of animals in certain cases; providing for the determination and payment of damages done by animals to livestock and poultry and imposing powers and duties on county officers and employees.

Section 103 - ENABLING AUTHORITY

This ordinance is adopted pursuant to Act 339 of the Public Acts of 1919, Act 349 of the Public Acts of 1972 and Act 287 of the Public Acts of 1969.

Section 104 - DEFINITIONS

The words and phrases defined in this section, when used in this Ordinance shall, for the purposes of this Ordinance, have the meanings respectively ascribed to them, except in those cases where the context clearly indicates a different meaning otherwise:

- 1) Agency: shall include the department to which the Animal Control Agency is assigned by the Board of Commissioners, the Animal Control Officer, the Montmorency County Sheriff and their duly authorized representatives, to enforce the provisions of this Ordinance or any other law enforcement officer as defined herein.
- 2) Animal: means all animals, excluding wildlife, with one (1) or more vertebrates other than a human being. Animal includes but is not limited to dogs, cats and fowl.
- 3) Hunting: means allowing an animal to range freely within sight or sound of its owner while in the course of hunting legal game or unprotected animals.
- 4) Kennel: means any establishment wherein or whereon dogs are kept for the purpose of breeding, sale or sporting purposes. A kennel shall be construed as an establishment wherein or whereon three (3) or more dogs are confined and kept for sale, breeding or training purposes, for remuneration.
- 5) Law Enforcement Officer: means any person employed or elected by the people of the State, or by any municipality, county, or township, whose duty it is to preserve the peace or to make arrests or to enforce the law, and includes conservation officers and members of the state police.

- 6) Livestock: means horses, stallions, colts, geldings, mares, sheep, rams, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, swine, deer, elk, buffalo, and fur-bearing animals being raised in captivity.
- 7) Owner: means any person having a right of property in an animal, and every person who keeps or harbors the animal or has it in his/her care, and every person who permits the animal to remain on or about any premises occupied by him.
- 8) Poultry: means all domestic fowl, ornamental birds, ostrich, emu, and game birds possessed or being raised or reared on private lands.
- 9) Reasonable Control: An animal shall be deemed under "reasonable control" when said animal is with the owner or some member of the owner's family, or some other person with the permission of the owner. An animal shall be deemed not under "reasonable control" when it commits damage to the person or property of another other than the owner, except in the defense of the owner, his/her family, or his/her property. An animal shall be deemed not under "reasonable control" when, in the case of a female animal while in heat, is off the premises of the owner, unless confined in the process of being transported to or from such premises.
- 10) Running at Large: The words "running at large" shall constitute the status of any animal off the premises of the owner; provided however, that an animal under "reasonable control" shall not be considered to be "running at large" (Example: Animals with their owners close at hand as in herding or hunting.)

Section 105 – Licensing and Control of Dogs

It shall be unlawful for any person to own any dog four (4) months or older unless the dog is licensed as hereinafter provided, or to own any dog four (4) months old or older that does not at all times wear a collar with a tag approved by the Director of Agriculture, attached as hereinafter provided, except when engaged in a lawful hunting accompanied by its owner or custodian; or for any owner of any female dog to allow said female dog to go beyond the premises of such owner when she is in heat, unless the female dog is held properly in leash; or for any person except the owner or authorized agent, to remove any license tag from the dog; or for any owner to allow any dog, except working dogs such as leader dogs, guard dogs, farm dogs, hunting dogs, and other such dogs when accompanied by their owner or this authorized agent, while actively engaged in activities for which such dogs are trained, to stray unless held properly in leash.

Section 106 – Application for Dog License

Before March 1 of each year, the owner of any dog four (4) months old or over shall apply for a dog license to the County Treasurer or Township Treasurer where the owner resides for each dog owned by him or her. Such application shall state the breed, sex, age, color and markings of such dog, and the name and address of the last previous owner, if applicable. Such application for a license shall be accompanied by proof of vaccination of the dog for rabies by a valid certificate of vaccination of rabies, with a vaccine licensed by the United State Department of Agriculture, signed by an accredited veterinarian. All dog licenses expire on December 31st of each year.

Section 117 – Contract With Other Persons Or Units Of Government

The Montmorency County Board of Commissioners has authorized the Montmorency County Sheriff to negotiate contracts with other corporations, persons, or organizations, including cities, villages and townships, humane societies, medical research centers for the care, maintenance, destruction and disposal of all dogs seized by the Animal Control Agency; provided however, that no such contract shall become valid and binding on the County or the Agency until it has been approved by the Montmorency County Board of Commissioners.

Section 118 – Damage to Livestock Or Poultry

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 may complain to the Animal Control Officer.

Such complaint shall be in writing, on forms furnished by the Agency, signed by the person making it, and shall state when, where, what and how such damage was done, if known, by whose dog. The Animal Control Officer shall examine where the alleged damage was sustained and the livestock or poultry injured or killed; and make diligent inquiry in relation to such claim, and if possible, a determination of whom was the owner of such dog by which the damage was done. If, during the course of said investigation, it shall appear who is the owner of the dog doing the damage, the Agency is hereby authorized to request the District Court to immediately issue a summons against the owner commanding him or her to appear and show cause why the dog should not be destroyed. Any owner or keeper of such dog doing the damage shall be liable to the County in a civil action for all damages and costs paid by the County on any such claims as hereinafter provided.

Section 119 – Liability

Any owner or keeper of animals shall be liable to the county in a civil action for all damages and costs paid by the county on any claim based on the owning or keeping of said animal.

Section 120 – False Claims

Any person presenting a false claim, knowing it to be false, or receiving any money of a false claim under this Ordinance, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to the penalties at discretion of the court.

Section 121 – Noise

No person shall keep or harbor any animal, which by loud, frequent or habitual barking, howling, growling, yelping, baying, or other noise shall cause serious annoyance to the neighborhood or to people passing to and from upon village streets and highways, or shall disturb the public peace, or shall constitute a nuisance or menace to the health, safety and welfare of the public.

Any person becoming the owner of a dog after March 1st of a dog four (4) months old or older, which has not already been licensed, or any person owning a dog which becomes four (4) months old any time after March 1st shall apply for and secure a license for such dog.

Section 107 – License Fees

A: Dog License Fees: The Board of Commissioners shall by resolution of a majority of its members establish a schedule of license fees to cover the necessary expenses of administering this ordinance.

B: Late Fees: If the application for a dog license is made after March 1st a fee of double the original license fee shall be charged. All late fees shall be paid to the Montmorency County Treasurer.

C: Kennel License: The Board of Commissioners shall by resolution of a majority of its members establish a schedule of license fees to cover the necessary expenses of administering this ordinance.

D: Kennel License Late Fee: A fee of double the original license fee shall be charged for each previously licensed kennel whose kennel license is applied for after June 1. With each kennel license, the County Treasurer shall issue a number of metal tags to the number of dogs authorized to be kept in the kennel.

Section 108 – Issuance of Licenses

Dog licenses shall be issued by the Township or County Treasurer December 1st through the last day of February each year. The County Treasurer shall issue dog licenses from March 1st through November 30th each year.

Section 109 – Foreign Licenses

In the case of a dog, which has been duly licensed in another county, city, or village in the State of Michigan, or by lawful authority of any State in the United State of America, if application is made by the owner or person harboring such dog within thirty (30) days after taking up his residence in the County, and at least sixty (60) days prior to the expiration of this foreign license and furnish proper evidence that the dog has been immunized against rabies, the regular fee shall be charged for each dog regardless of sex. The County Treasurer shall retain and file such foreign license and return it to the owner thereof on demand if the owner at any time desires the return of such license in exchange for the Montmorency County license.

Section 110 – Transfer of License

No license or license tag issued for one dog shall be transferable to another dog. Whenever the ownership or possession of any dog is permanently transferred from one person to another within Montmorency County, the license of such dog may be likewise transferred, upon notice given to the County Treasurer who shall note such transfer on the county records. This ordinance does not require the procurement of a new license, or the transfer of a license already secured, when the possession of a dog is temporarily transferred, for the purpose of boarding, hunting game, breeding, trial, or show in the State of Michigan.

Section 111 – Kennels

A) Construction: A kennel shall be constructed as to prevent the public or any stray dogs from obtaining entrance thereto and gaining contact with dogs lodged in the kennel.

B) Kennel Licenses: Any person who keeps or operates a kennel may, in lieu of individual licenses required under this ordinance, apply to the County Treasurer for a kennel license entitling him or her to keep or operate a kennel. Proof of vaccination of dogs against rabies shall not be required with the application. The license shall be issued by the County Treasurer, or any city, township or village as authorized by PA 1919, No. 339, Section 10 b, 1966. The licensee shall be entitled to keep any number of dogs four (4) months old or over not exceeding a certain number to be specified in the license.

C) Kennel License Posting: Each kennel license shall be posted in a conspicuous place on the premises where the kennel is maintained.

D) Rules Governing Kennel Dogs: The licensee of a kennel shall, at all times, keep one of such tags attached to a collar on each dog four (4) months old or over kept by him under a kennel license. No dog bearing a kennel tag shall be permitted to stray or be taken anywhere outside the limits of the kennel without a leash. This section does not prohibit the taking of such dogs out of the kennel temporarily for the purpose of hunting, breeding, trial or show.

E) An applicant for a kennel license is solely responsible for compliance with local zoning ordinances.

Section 112 – License Tags

A) The County or Township Treasurer shall issue to a dog license applicant a license and tag that shall be not more than one and one-half (1 ½) inches in length and have impressed upon them the calendar year for which they are issued and shall bear the name "Michigan – County of Montmorency".

B) Every person owning or harboring a dog shall be responsible for affixing the dog license tag to a substantial collar to be furnished by the owner. The collar with the tag attached, shall at all times be kept on the dog for which the license is issued, except when such dog is engaged in lawful hunting accompanied by its owner or custodian.

C) No person shall remove any license tag from any dog without the consent of the owner of said dog, nor shall any person attach a tag on the collar of any dog other than the dog for which the tag was issued.

If any dog tag is lost, it shall be replaced by the County Treasurer for a fee of One Dollar (\$1.00), upon application by the owner of the dog and upon production of such license and a sworn statement of the facts regarding the loss of such tag.

Section 113 – Seizure of Dogs

The Agency shall provide and maintain a pound and it shall be the duty of the Animal Control Officer or any other person authorized by the Agency, to promptly seize, take up and place in said pound, all dogs that may be found running at large contrary to the provisions of this Ordinance, and all dogs in Montmorency County which are being kept or harbored any place within Montmorency County contrary to the provisions of this Ordinance.

Section 114 – Pound Fees

Any dog seized or impounded by the Agency, shall be released upon the following conditions:

- A) Payment of a pickup fee for such seized or impounded dog, said fee to be set by resolution by a majority of the members of the Montmorency County Board of Commissioners.
- B) Payment of the cost of boarding said dog, said costs to be set by resolution by a majority of the members of the Montmorency County Board of Commissioners.
- C) The showing of a County dog license, or if none has been applied for, the making of an application for a dog license.

Section 115– Record of Impounded Dogs

The Agency, upon receiving any dog shall make a complete registry entering the breed, color, and sex of such dog and state whether licensed. If licensed the Agency shall enter the name and address of the owner and the number of the license tag. If the dog is seized upon complaint to the Agency, the name of the person making the complaint shall also be recorded.

Section 116 – Disposition of Impounded Dogs

The Agency shall perform the following duties:

- A) They shall impound dogs without a dog license tag for a period of three (3) business days following seizure thereof, unless such dogs are claimed and released within said period or are disposed of as hereinafter provided in this section, he or she shall dispose of the same in a humane manner.
- B) They shall impound dogs with a collar and license tag for a period of seven (7) business days following seizure thereof, they shall give notice of such impoundment by first class mail to the address appearing on the license application, within forty-eight (48) hours from the time of seizure and unless such dogs are not claimed and released within said seven day period or are disposed of as hereinafter provided in this section, they shall dispose of the same in a humane manner.
- C) If in his or her judgment any impounded dog is valuable or otherwise desirable of keeping, the Animal Control Officer may dispose of said dog to any person who will undertake remove said dog from the County or keep and harbor said dog within the County in accordance with the provisions of this Ordinance. Where two (2) or more persons desire a particular dog the dog shall be adopted to the first applicant for adoption.
- D) Notwithstanding any other provisions of this Ordinance, the Animal Control Officer or Agency may dispose of any animal covered by this Ordinance without regard to period of time impounded; provided the Agency has obtained a duly executed “release form” signed by the animal’s owner or other authorized individual.

Section 122 – Vicious Acts

No person shall own, keep or harbor any animal, licensed or unlicensed, which has attacked, bitten or scratched any other person, except in defense of his or her owner, family members or property of such owner, or which exhibits a vicious nature and habitually molests passersby when lawfully on the public highway, regardless if said animal is on the public highway.

Section 123 – Chasing Cars

No person shall own, keep or harbor an animal, which chases cars, causing dangerous driving conditions on the public highways of this county.

Section 124 – Stealing or Secreting Animals

No person shall steal, confine or secrete any animal, licensed or unlicensed, unless legally authorized to do so, unless such confinement is justifiable in the protection of person, property, game or wildlife.

Section 125 – Rabies

If an animal is believed to have rabies or has been bitten by an animal suspected of having rabies, such animal shall be confined by a leash, chain or pen on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two (2) weeks. The owner shall notify the Animal Control Officer of the fact that his or her animal has been exposed to rabies and at his or her discretion, the Animal Control Officer is empowered to have such animal removed from the owner's premises to a veterinary hospital and there placed under observation for a period of two (2) weeks at the expense of the owner. It shall be unlawful for any person knowing or suspecting an animal has rabies to allow such animal to be taken off his or her premises or away from his or her neighborhood without the written permission of the Animal Control Officer. Every owner of other person, upon ascertaining an animal is rabid, shall immediately have the animal disposed of or removed by the Animal Control Officer to a safe place.

Section 126 – Enforcement and Administration

The provisions of this Ordinance, and the rules and regulations adopted pursuant to this Ordinance, shall be administered and enforced, primarily by the Animal Control Agency. The Animal Control Agency shall issue a citation, summons or appearance ticket for a violation of this Ordinance.

Section 127 – Rules And Regulations

The Animal Control Agency is authorized to make rules and regulations governing the administration and enforcement of this Ordinance, which rules and regulations shall not be effective until approved by the Montmorency County Board of Commissioners and copies of which rules and regulations shall be made available for distribution to all interested parties.

Section 128 – Finances

All expenses in the construction, repair, maintenance, and operation of the dog pound, and in the administration and enforcement of this Ordinance, shall be paid from the County General Fund. All fees, charges, penalties, fines, receipts and revenues created or provided by this Ordinance, shall be paid into said General Fund.

Section 129 – Trespass

No person shall own or harbor any animal which disturbs the neighborhood with habitual trespass on the property of others.

Section 130 – Other Animals And Fowl

All the provisions of this Ordinance shall apply to, but not be limited to fowl, and all animals not otherwise protected by law.

Section 131 – Penalties

Any person who shall violate or fail to comply with any of the provisions of this Ordinance, or any of the rules and regulations adopted in pursuance hereof, or who shall hamper, impede or interfere with the performance of the duties of the Animal Control Agency and its officers under the provisions of this Ordinance, shall be responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine determined in accordance with the following schedule:

	<u>Minimum</u>	<u>Maximum</u>
1 st Violation	\$50.00	\$500.00
2 nd Violation	\$100.00	\$500.00
3 rd Violation	\$300.00	\$500.00

Additionally, the violator shall pay costs, which may include all direct or indirect expenses to which the County has been put in connection with the violation. In no case, however, shall costs of less than \$50.00 or more than \$500.00 be ordered. A violator of this Ordinance shall be subject to such additional sanctions, remedies and judicial orders as authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

Section 132 – Severability

Provisions of this Ordinance are hereby declared to be severable, and if any clause, sentence, word, section or provisions are contrary to State law, and/or is declared void or unenforceable for any reason by any court of competent jurisdiction, the remaining portions of this Ordinance shall remain in full force and effect.

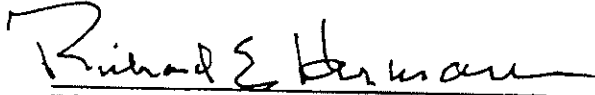
Section 133 – Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 134 – Effective Date

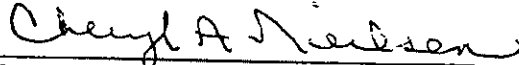
This Ordinance shall take affect sixty (60) days after adoption by the Montmorency County Board of Commissioners and publication as required by law.

Adopted: 7/25/01



Richard E. Hermanson, Chairman
Montmorency County Board of
Commissioners

I, Cheryl A. Neilsen, County Clerk, do hereby certify that the foregoing ordinance was introduced and adopted by the Montmorency County Board of Commissioners at their regular meeting held on 7/25/01 by an unanimous vote of the members present.



Cheryl A. Neilsen, Montmorency County
Clerk