

**Animal Control
Enforcement Ordinance
County of Benzie, State of Michigan**

ADOPTED: December 17, 1996
EFFECTIVE: February 17, 1997
REVISED: October 19, 2004
REVISED: January 1, 2009

**ANIMAL CONTROL
ENFORCEMENT ORDINANCE
COUNTY OF BENZIE, STATE OF MICHIGAN**

PREAMBLE

An Ordinance relating to and providing for animal control within the boundaries of Benzie County; providing for the employment of a County Animal Control Officer, describing the duties, authority, responsibility and method of removal from office; licensing and vaccination of dogs and cats; authorizing the establishment of a County Animal Shelter and the impoundment of dogs, cats and other animals under certain circumstances and the redemption of dogs, cats and other animals impounded; permitting the killing of vicious animals; prohibition of livestock and poultry in non-agricultural areas; enumerating certain violations, penalties therefore; preserving certain rights; prescribing the County Treasurer's duties with regard to Animal Control; fees and expenses and the receipt and disbursement of funds; construction; and repealing other Ordinances inconsistent herewith.

THE PEOPLE OF THE COUNTY OF BENZIE, MICHIGAN, DO ORDAIN THE 2004 ANIMAL
CONTROL ORDINANCE

**ARTICLE I
PURPOSE**

The Benzie County Board of Commissioners, deeming it advisable in the interest of protecting the public health, safety, convenience and welfare of its residents, and to provide for the orderly and uniform administration of the dog licensing provisions of the State of Michigan and in particular Public Act 339 of 1919, as amended, being Sections 287.261-287.293 of the Compiled Laws of 1948, and public Act 139 of 1973; and to create the position of Animal Control Officer and define his or her duties, authority and responsibilities; and to regulate and control the conduct, keeping and care of dogs, cats and certain other animals, livestock and poultry.

It is the policy of the Board of Commissioners that this Ordinance shall be enforced within the parameters of budgetary constraints, whenever the actions of animals and their owners directly endanger human life or limb and whenever animals subject to protection of this Ordinance of State law are cruelly or inhumanely treated.

**ARTICLE II
DEFINITIONS**

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

- A. Animal: Unless otherwise stated, the word "Animal" as used in this Ordinance shall mean dogs, cats, birds, fish, mammals, amphibians, and reptiles. "Intact" animals have neither been neutered by castration or spaying (ovariohysterectomy).
- B. Animal Control Officer: Any person employed by the County and the office of the Sheriff in accordance with Public Act 339 of 1919 "the dog law", for the purpose of enforcing this Ordinance or state statutes pertaining to dogs, cats or other animals as well as persons and deputies employed by the County and the office of Sheriff to act in the Animal Control Division.
- C. Animal Shelter: The grounds and building of the Benzie County Animal Control Division.

- D. Board of Commissioners: The Benzie County Board of Commissioners
- E. Cat: Any member of the animal species Felis Domesticus six (6) months or more in age that has been domesticated.
- F. County: The County of Benzie, the State of Michigan
- G. 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 MCLA 750.49-50; MCLA 752.21; and in Article VIII of this Ordinance.
- H. Day: Monday through Friday, 8:00 a.m. through 5:00 p.m. and excluding county approved holidays and days County Offices are closed.
- I. Dog: Any member of the animal species Canis Familiars six months or more in age.
- J. Feral Cat: Any cat not domesticated. Free roaming cats living and breeding entirely in the wild usually found in large groups
- 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 or non-domesticated animal other than on a temporary basis.
- M. Kenel: Any establishment, except a pet shop, animal shelter or pound, licensed pursuant to Act 287 of the Public Acts of 1969, as amended, being MCLA 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 six (6) months of age.
- N. Livestock: Horses, stallions, foals, gelding, mares, sheep, rams, lambs, Alpaca, Yaks, llama, buffalos, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, hogs, swine, ferrets, rabbits, chinchillas, except kept for reasons of fur, food or production and forbearing animals being raised in captivity (excluding dogs and cats).
- O. Non-Agricultural Area: Any area zoned by a city, village, township or other government body, agency or commission for purpose 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 or 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 premises owned or occupied by said person. For purposes of this Ordinance, the records of the Treasurer's Office show the name of the owner to whom the animal license number (tag) 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 individual, 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 arrest and to enforce the law within a specific geographical area, and

- 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 MCLA 317.71-84. ..
- T. Pound Master: Chief, Animal Control Services: Dog Warden: Dog Catcher: The terms "Pound Master," "Chief, Animal Control Services," "Dog Warden," and synonymous with "Animal Control Officer" and shall include the deputies of such person.
- U. Rabies Suspect Animal: Any animal, which has bitten a human or any animal, which has been in contact with, or bitten by a rabid animal or any animal, which shows clinical signs or behavior suggestive of rabies.
- V. Run at Large: The unrestrained wandering or roaming of an animal on public property or on the private property of other persons or restraining the animal to within six (6) feet of the owner.
- W. State: The State of Michigan.
- X. Vicious Animal: Any animal:
 1. Which has propensity, tendency or disposition to attack to cause injury or to otherwise endanger the safety of a human being or other domestic animal;
 2. Which has previously attacked or bitten a human being or other domestic animal;
 3. Which has behaved in such a manner that the owner therefore 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 circumstances that would be justifiable. The circumstances that would be justifiable, as herein, are set forth in Section 1 (a) (I-IV) of Public Act 426 of 1988, being MCLA 12.545 (21).
- Y. Wild Animals: Any animal that is not typically domesticated or found on farms or in residential homes, but are typically found in the wild, zoos, circuses, wildlife sanctuaries, or nature preserves. This includes, but is not limited to, such animals, crossbreeds or hybrids thereof: antelopes, armadillos, baboons, badgers, bears, beavers, bison, bobcats, chimpanzees, chipmunks, civet cats, coatimundi, cougars, coyotes, deer, elk, feral cats, fishers, foxes, goats, gophers, hares, jaguars, kangaroos, lemurs, lions, lynx, monkeys, moose, muskrats, nutria, ocelots, otters, peccaries, porcupines, prairie dogs, wild rabbits, raccoons, rhinoceroses, ringtail cats, sheep, skunks, squirrels, tigers, weasels, wolverines, wolves, woodchucks, and zebras. Recognized domestic species and some species of deer excepted. Wild birds, in addition to the songbird's variety, include crows, doves, grouse, hawks, eagles, jungle fowl, macaws, ostriches, rheas, emus, cassowaries, owls, partridges, pheasant, parrots, quail, shore birds, waterfowl, and wild turkeys.

**ARTICLE III
ANIMAL CONTROL OFFICER
DUTIES, AUTHORITY AND RESPONSIBILITIES**

Section 1. An Animal Control Officer may be determined by the County Board of Commissioners and shall serve as Administrator of the Animal Control Office under the direction of the County Administrator.

Section 2. In lieu of all fees and other remuneration under the statutes of this State, the Animal Control Officer, his/her deputies or assistants, except censes takers, may be paid a salary as established and determined by appropriate resolution of the Board of Commissioners, and/or applicable labor agreements.

Section 3. The Animal Control Officer may fulfill the following duties:

- A. Promptly seize, take up, and place in the animal shelter all dogs, cats or other animals, livestock, or poultry found running at large or being kept or harbored any place within the County contrary to the provisions of this Ordinance or the statutes of the State.
- B. Either have had a minimum course of study of not less than one hundred (100) instructional hours as prescribed by the Michigan Department of Agriculture or be deputized as a peace or police officer. Upon meeting either of these requirements, the Animal Control Officer and his/her deputies shall be legally authorized to have the power and it shall be his/her duty and that of his/her deputies to issue appearance tickets, citations to those persons owning, keeping or harboring animals contrary to the provisions of this Ordinance or the statutes of the State.
- C. It shall be the duty of the Animal Control Officer, his/her deputies or assistants, to destroy in a humane manner, all impounded dogs, cats or other animals lacking a collar, license or other evidence of ownership after (4) days, however if the animals has a collar, license, or other evidence of ownership, the shelter may notify the owner after seven (7) days from date of impoundment. If however, in the Animal Control Officer's his/her deputy's or assistant's judgment, said dog or other animal is valuable or otherwise desirable for keeping, the Animal Control Officer, his/her deputies or assistants, may release said dog or other 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, or dispose of said dog or other animal at the expiration of the holding period required in a manner approved by the Board of Commissioners or the Law and Courts Committee or any successor committee thereof.

Such regulations regarding the adoptions or surrenders of animals from the shelter and all 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 by the Animal Control Officer, his/her deputies or assistants shall dispose of, in a manner approved by the Benzie County Health Department and Board of Commissioners, and in accordance with Michigan Public Act 239 of 1982 and amended in "Bodies of Dead Animals". Any animals voluntarily turned into the animal shelter by the owners thereof for disposition need not be kept for the minimum period set forth herein release or disposal of such animal is made by the Animal Control Officer, his/her deputies or assistants, as provided herein.

- D. The Animal Control Officer, his/her deputies or assistants, shall promptly investigate all animal bite cases by a rabies suspect animal involving human exposure and shall search out and attempt to discover the animal involved and shall either impound or require its owner to quarantine the animal for examination for disease in accordance with applicable provisions of this Ordinance and/or the statutes of the State. In the event the owner of a quarantined animal is unable to maintain the quarantine during the required period, the owner shall deliver said animal to the animal shelter or upon notice to the Animal Control Officer, his/her deputies or assistants, to the designated veterinarian clinic for impoundment. Failure of an owner to maintain quarantine or to deliver a quarantined animal for impoundment shall constitute a misdemeanor punishable as set forth in Article XIII of this Ordinance. The Animal Control Officer, his/her deputies or assistants, shall also be obliged to seize and impound any rabies suspect animal.
- E. The Animal Control Officer, his/her deputies assistants, shall assume the duty (provided in Section 316 of Act 339 of the Public Acts of 1919, being in Section

- F. The Animal Control Officer, his/her deputies or assistants, are hereby authorized and empowered in accordance with the provisions of this Ordinance to enter upon private premises for the purpose of inspecting same for the purpose of determining whether the owner's harboring, keeping or possessing said dogs, cats or other animals, have complied with the appropriate provisions of this Ordinance, and to apprehend and take him/her any dogs, cats or other animals for whom no license has been procured in accordance with this Subsection shall specifically include, but not be limited to, investigation of or seizure for cruelty to animals.
- G. The Animal Control Officer, his /her deputies or assistants, shall have the right to inspect any kennel, a license for which has been issued by the Animal Control Officer, his/her deputies or assistants, pursuant to this Ordinance and the statutes of the State and shall have the duty to suspend said license if, in their opinion, 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, his/her deputies or assistants, shall have the right to investigate complaints of dogs, cats or other animals alleged to be vicious and/or dangerous to persons or property and shall have the right to seize, take up and impound such animals.
- I. The Animal Control Officer, his/her deputies or assistants, shall have the right to investigate complaints of cruelty to dogs, cats or other animals, livestock or poultry and shall have the right to seize, take up and impound any dog, cat or other animal, livestock or poultry which has been subject to such cruelty, alleged or convicted.
- J. The Animal Control Officer will share the updated records from the Treasurers Office of licensed animals (see Article XIII) and along with local veterinary offices, the treasurer's office and the Animal Control Office allowed to sell dog licenses according to Public Acts 339.
- K. The Animal Control Officer shall have such other duties relating to the enforcement of the Ordinance as the Board of Commissioners may from time to time provide.

Section 4. It shall be the further duties of the Animal Control Officer, his/her deputies or assistants, to enforce the provisions of this Ordinance and the statutes of the State pertaining to dogs, cats and other animals and he/she may make complaint to the appropriate district court or other appropriate court in regard to any violation thereof.

Section 5. The Animal Control Officer, his/her deputies or assistants, shall dispose of any animal, livestock or poultry seized, taken up and/or impounded as provided for herein; in accordance with the provisions of this Ordinance and/or the statutes of the State.

Section 6. All suspension and/or revocations of licenses and all seizures for cruelty or dangerousness as provided for herein, shall be in accordance with Ordinance rules and regulations.

Section 8. The Animal Control Officer, his/her deputies or assistants, are further authorized and shall at all times carry a book of receipts, properly numbered in sequence for accounting purposes, for the issuing of such dog licenses in accordance herewith.

Section 9. All fees and monies collected by the Animal Control Officer, his/her deputies or assistants, 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.

ARTICLE IV LICENSING AND VACCINATION

Section 1. It shall be unlawful for any person to own a dog six (6) months old or over, unless the dog is licensed as hereinafter provided, or to own any six (6) months old or over that does not at all times wear a collar with a tag approved by the Director of the Michigan Department of Agriculture, attached, as hereinafter provided, or for any owner of any female dog to permit the 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, to remove any collar and/or license tag from a dog; or for any owner to allow any dog, except working dogs such as leader dogs, farm dogs, hunting dogs, and other dogs, when accompanied by their owner, while actively engaged in activities for which such dogs are trained, to stray unless properly in leash.

Section 2. On or before March 1 of each year, the owner of any dog six (6) months old or over, except as provided in Section 4 of this Article, shall apply to the county, township or city treasurer or his/her authorized agent, where the owner resides, for a license for each dog owned or kept by him/her. Such application shall state the breed, sex, age, color and markings of such dog and the name and address of the owner. Such application for a license shall be accompanied by proof of vaccination of the dog for rabies by valid certificate of vaccination for rabies, with vaccine licensed by the United States Department of Agriculture, signed by an accredited veterinarian,. Owner of dogs attaining the age of six (6) months after March 1 shall have seven (7) days in which to obtain a license.

Section 3. No dog shall be exempt from the rabies vaccination requirements as herein set forth.

Section 4. The license fee for all dogs for the following categories shall be set forth in the Benzie County Fee Schedule, which Schedule shall be established and periodically updated by the Benzie County Board of Commissioners.

- A. For dogs reaching the age of six (6) months after March 1, the owner thereof shall obtain a license within seven days of the date in which the dog reaches six (6) months of age.
- B. 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, is not subject to any fee for licensing. as provided in MCLA 287.291.
- C. The dog license fees may be changed from time to time on or before November 1st of each year and for subsequent years by the rules and regulations pertaining to same as established by the Board of Commissioners.
- D. Current dog licenses issued by other counties within Michigan, and any other governmental agencies shall be honored in Benzie County until the following March 1st.

Section 5. No license or licenses 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 the same county, the license of such dog may be likewise transferred, upon proper notice, by the registered owner, given to the Treasurer who shall note such transfer on his/her records. This Ordinance does not require the procurement of new license, or the transfer of a license already secured where the possession of a dog is temporarily transferred for the purpose of boarding, hunting game, breeding, trial, or show.

Section 6. If the dog license tag is lost, it shall be replaced by the Animal Control Officer, upon application by the owner of the dog, and upon production of such license and a sworn statement of the fact regarding the loss of such tag. The cost of said replacement tag shall be set forth in the current Benzie County Fee Schedule.

Section 7. Any person who owns, keeps or operates a kennel may, in lieu of individual licenses required under this Ordinance and under the laws of the State of Michigan, apply to the Animal Control Officer for a kennel license entitling him/her to own, keep or operate such a kennel in accordance with the laws of the State, and the fee for same shall be in accordance with the laws of the State or as established by the rules and regulations for licensing fees by the Board of Commissioners.

Section 8. Any person owning a kennel shall, on or before June 1st of the following year of such ownership, obtain a kennel license from the Animal Control Officer if the person qualifies under Act 339, Public Acts of 1919, as amended. The fee to be paid shall be set forth in the Benzie County Fee Schedule.

ARTICLE V CONFINEMENT

Section 1. Any dog, cat, or animal kept as a pet that shall bite a person domestic animal or livestock shall be securely confined by the owner thereof inside an appropriate building or enclosure, for a minimum period of ten (10) consecutive days following the biting of such person, domestic animal, or livestock. In the event that the owner of such animal is unable to, or fails to securely confine the animal for such a period of time, the Animal Control Officer, his/her deputies or assistants, may take possession and custody of such animal and confine it at the animal shelter until expiration of said ten (10) day period and upon satisfactory evidence that said animal is not suffering from rabies. The owner of such animal kept at the animal shelter shall bear the cost of thereof.

Failure of the owner of such animal to keep, maintain and confine the animal for the required time period, or failure to release custody of said animal to the Animal Control Officer, his/her deputies or assistants, or failure to release said animal for confinement in a veterinarian clinic, shall be in violation of this Ordinance and subject to the penalties set forth in Article XII. Any dog or other animal running loose after biting a person, domestic animal or livestock, and whose owner cannot be determined, shall be confined for a period of ten (10) consecutive days at the animal shelter in accordance with the provisions of the Section, and thereafter disposed of in accordance with the provision of this Ordinance, or such regulations as are in effect at the shelter.

Section 2. Any other animal not kept as a pet, including wild animals and bats, which shall bite a human or domestic animal and expose it to rabies; shall if located, be managed in accordance with the current compendious of animal rabies prevention and control.

Section 3. Every dog and other animal shall at all times be confined upon the premises of its owner except when said dog or other animal is otherwise under reasonable control of the owner.

Section 4. Leashes. Any animal owned by any person in the County of Benzie shall be on a leash in any public area including but not limited to villages, trails, and beaches where are permitted.

Section 5. It is the responsibility of any dog owner to not permit a dog to defecate in a public area unless defecation is removed immediately by owner.

ARTICLE VI ANIMAL SHELTER AND IMPOUNDMENT

Section 1. All dogs found running at large, and not under control of their owners, shall be seized by the Animal Control Officer, his/her deputies, assistants or by any peace officer, and impounded at the animal shelter, and thereafter be sold or disposed of in accordance with Article III of this Ordinance.

Section 2. When non-vicious or non-dangerous dogs are found running at large and its ownership is known to the Animal Control, his/her deputies, assistants or other peace officer, such dog need not be impounded, but the Animal Control Officer, his/her deputies or assistants or other officer may, at their discretion, cite the owner of such dog to appear in court to answer charges of violation of this Ordinance.

Section 3. Immediately upon impounding a dog or other animal, the Animal Control Officer, his/her deputies or assistants, shall make every reasonable effort to notify the owner of such dog or other animal so impounded, and inform such owner of the conditions whereby custody of such dog or other animal may be regained pursuant to the regulations for the operation of the animal shelter.

Section 4. An owner may redeem a dog from the animal shelter by executing a sworn statement of ownership, furnishing a license, tag and current rabies vaccination as required by this Ordinance and state law, and paying the fees set forth in the Benzie County Fee Schedule.

**ARTICLE VII
KILLING AND SEIZING OF DOGS, CATS
AND OTHER ANIMALS**

Section 1. The Animal Control Officer, his/her deputies, assistants or any peace officer, may kill any dog, cat or other animal which he/she sees in the act of pursuing, threatening, wounding, attacking or about to attack any livestock, poultry or persons, and there shall be no liability on such officer, deputy or assistant in damages or otherwise, for such killing. Any dog, cat that enters any field or enclosure, which is owned by or leased by any person producing livestock or poultry, unaccompanied by its owner or its owner's agent shall be liable for damages. Except as provided in this Section, it shall be unlawful for any person, other than a law enforcement officer, to kill, injure, or attempt to kill or injure any dog, or cat which bears a license tag for the current year. In no event shall the provisions of this Section exonerate a person from compliance with the criminal laws of this State, including, by way of an example, the safe discharge of firearms.

**ARTICLE VIII
PROHIBITION OF LIVESTOCK OR POULTRY IN
NON-AGRICULTURAL AREAS**

Section 1. Except when possessed in limited quantities as household pets or educational projects, such as 4-H, livestock, or poultry shall not be possessed or kept for breeding purposes in a non-agricultural area.

**ARTICLE IX
ENUMERATION OF CERTAIN VIOLATIONS
AND PROCEDURE THEREFOR**

Section 1. The owner of any dog shall be deemed in violation of this Ordinance and subject to the penalties set forth in Article XIII if:

- A. The owner's dog, regardless of age, and whether licensed or unlicensed, wearing a collar or not wearing a collar, runs at large, provided however, that a dog engaged in hunting, or certain other events such as field trials, sport competitions etc., need not be leashed when under the reasonable control of its owner.

- B. The owner's dog, regardless of age, and whether licensed or unlicensed, wearing a collar or not wearing a collar within the confines of any public park or recreation area, when such park, by appropriate designation at its entrance, prohibits dogs. An exception to the ordinance would be a 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 which is accompanied by its owner.
- C. The owner's dog at any time, whether licensed or unlicensed, destroys property real or personal, or damages property of persons other than the owner.
- D. The owner's dog, cat or other animal at anytime, whether licensed or unlicensed, attacks or bites a person or domestic animal.
- E. The owner's dog shows vicious habits and molests passers-by when such persons are lawfully on the public highway or right-of-way, on their own property or on other property to which the person has legal access.
- F. The owner's dog which by loud, frequent, and persistent barking, howling or yelping or other disturbing sounds or behaviors, is a nuisance or violation of privacy, in the neighborhood in which said dog is kept, possessed or harbored.

Section 2. An owner of livestock or poultry shall be in violation of this Ordinance and subject to the penalties set forth in Article XII and Act 328 of the Public Acts of 1976, being Section 433.11, et seq of the Compiled Laws of 1948 if the owners livestock or poultry runs at large upon premises of another or upon any public street, land, alley or other public ground in the County unless otherwise specifically allowed.

Section 3. A person shall be in violation of this Ordinance and subject to the penalties set forth in Article XIII if he/she removes a collar or tag from any dog, cat or other animal without the permission of its owner, or decoys or entices any dog, cat or other animal out of an enclosure, or off the property of its owner, or seizes, molests or teases any dog, cat or other animal while held or led by any person, or while on the property of its owner.

Section 4. A person shall be in violation of this Ordinance to neglect or cruelly treat any animal under said person's care, custody or control by, but not limited to:

- A. Failing to provide adequate shelter, food and potable water, on a regular basis, which causes the animal to suffer exposure, thirst or hunger;
- B. Confining an animal in a fashion that a substantial portion of animal's living area is contaminated with excreta which the animal directly contacts, of above or below which the animal must live;
- C. Confining an animal in a fashion that the animal does not have a dry area on which to exercise and rest;
- D. Confining an animal in enclosed quarters without sufficient fresh air or ventilation and light;
- E. Repeatedly allowing an animal who is tied or chained to become entangled so that the animal had less than five (5) feet of lead;
- F. Caging or chaining an animal continuously in an area insufficient for the animal to obtain adequate exercise;
- G. 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;

- H. 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;
- I. By failing to inquire as to the necessity for medical care when an animal is in obvious pain or distress (example: 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, or severe skin disease);
- J. By permitting or allowing an ill, diseased, aged, maimed or injured animal to suffer unnecessary pain by neglecting to: 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;
- K. By putting 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 such place to the detriment of public health;
- L. By overdriving, overloading, driving when overloaded, overworking, torturing, tormenting, cruelly beating, mutilating, cruelly killing, or cause or procure to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, cruelly beaten, mutilated or cruelly killed, any animal;
- M. By abandoning an animal in the care, custody or control of said person:
- N. By transporting or confining an animal in a cruel manner;
- O. By intentionally injuring or poisoning an animal;
- P. By killing an animal belonging to another, without legal authority, or the owner's effective consent;
- Q. By causing or allowing an animal to fight with another animal; or
- R. By being an owner of a deceased animal, 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.

Section 5. In the event of any of such violation or of a violation of another provision of this Ordinance, or of the laws of the State, the Animal Control Officer, his/her deputies, assistants or other peace officer, may issue an appearance ticket citation or summons to the owner of said dog, cat, animal, livestock or poultry, summoning them to appear before a district court or other appropriate court in the County to answer the charges made in violation of this Ordinance. The said Animal Control Officer, his/her deputies, assistants or other peace officer, may sign a complaint before said Court for violation of the provisions of this Ordinance, proceed to begin the issuance of a warrant and make arrest of the person to whom said violations are charged, and bring them before the Court to answer the charges. The court may in such case in its discretion, upon a finding of guilty, assess the penalties in accordance with the penalty provision of this Ordinance.

Section 6. In the event of any such violation, or of a violation of any other provision of this Ordinance, or of the laws of the State, the Animal Control Officer, his/her deputies, assistants or other peace officer or any other person, may proceed to obtain authorization of the Prosecuting Attorney and make complaint before a district court or other appropriate court within the County, and obtain the issuance of a summons similar to that provided in Act 339 of the Public Acts of 1919, being Section 287.280 of the Compiled Laws of 1948, as amended, to show cause why such dog, animal, livestock or poultry should not be

euthanized. Upon such hearing: the judge may either order the dog, cat, animal, livestock or poultry euthanized; may order such dog, cat, animal, livestock or poultry confined to the premises of the owner; may make such other order regarding the dog, cat animal, livestock or poultry as it deems proper and necessary under the circumstances, in addition to any of the penalties enumerated herein. This Section shall in no way affect the provisions of Article III, Section 3 of the Ordinance.

Section 7. Costs shall be assessed against the owner of the dog, cat, animal, livestock or poultry, and collected by the Court from the person complained against, upon a finding of guilty. The provisions of this paragraph, shall be in the alternative to the provisions for violations set forth in the preceding paragraph and the Animal Control Officer, his/her deputies, assistants or other peace officer may, in their discretion, proceed under either section hereof.

ARTICLE X SPECIAL PROVISIONS REGARDING VICIOUS ANIMALS

Section 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 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, a muzzling device sufficient to prevent the animal from biting persons must muzzle all such animals on a leash outside of the animal's kennel, pen or the owner's residence, or other animals and the animal must have the claws trimmed, to a length, or if necessary removed where they are not dangerous.
- B. Confinement. All vicious animals except for wolf hybrids in Section 4 below 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 the 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 sided of the pen, must be embedded in ground to a depth of no less than two (2) feet. All structures erected to house such animals must comply with all zoning structures and building regulations of the city, village, or township where located. All such structures must be adequately lighted, 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 obstacles preventing the animal from exiting the structure.
- D. Signs. All owners, keepers or harborers of vicious animals within the County of Benzie 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.

Section 2. Insurance, Identification Photographs, and Reporting Requirements:

- 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 Benzie, at the animal shelter, of liability insurance in an amount of no less than 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) consecutive days written notice is first given to the Animal Control Officer, his/her deputy or assistants, 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, his/her deputy or assistant, two 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;
 - 5. The acquisition of a vicious animal;
 - 6. The possession of a vicious animal, even though possessed prior to adoption of this Ordinance.

Section 3. Wolf Hybrids.

- A. There shall be a rebuttable presumption that Wolf Hybrids, or any offspring resulting from the mating of a domestic dog and a wolf or coyote or their subsequent offspring which includes, but is not limited to, an animal which at any time has been or is permitted, registered, licensed, advertised or otherwise described or represented as a hybrid canine by its owner or former owner, are vicious animals for purposes of this Article. It shall be unlawful for any wolf Hybrid to run at large in Benzie County.
- B. For the purpose of this Section, a wolf hybrid shall be deemed to be running at large while outside of any pen or enclosure as provided in Subsection C of this section; provided, however, any owner or custodian of a wolf hybrid may be allowed to remove a wolf hybrid from a pen or enclosure for purpose of transportation to another pen or enclosure or for purposes of obtaining medical attention. In no event shall any wolf hybrid be allowed to be set free on any property within Benzie County whether or not the wolf hybrid is under its owner's or custodian's immediate control.
- C. It shall be unlawful to own or possess a wolf hybrid unless such wolf hybrid is kept and maintained in a pen or enclosure constructed as follows:
 - 1. The pen or enclosure shall contain at least one thousand, six hundred (1,600) square feet of space.
 - 2. Any fencing used in the construction of the pen or enclosure shall be at least eight (8) feet in height with an additional overhang of fencing or barbed wire angling a minimum of three (3) feet into the pen or enclosure; or with the top of the pen or enclosure securely attached to the sides to ensure containment.
 - 3. To prevent digging out along the fence, concrete footings at least one (1) foot wide and one (1) foot deep shall be installed along the perimeter of the pen or enclosure.
 - 4. The pen or enclosure shall be surrounded by chain link fence at least four (4) feet in height and no closer than six (6) feet to the pen or enclosure.

5. Any fencing used in the construction of the pen or enclosure shall be eleven-gauge wire or its equivalent.

Section 4. Failure to comply. If the owner, keeper or harbinger of a vicious animal residing within the County of Benzie fails to comply with the requirements and conditions set forth in this Article and this entire Ordinance, 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.

ARTICLE XI SPECIAL PROVISIONS REGARDING EXOTIC OR WILD ANIMALS

Section 1. Prohibited exotic animals; Wild animals listed in Section X of Article II, definitions above may not be possessed, bred, exchanged, bought, sold or attempted to buy or sell in Benzie County under any conditions or circumstances, except as provided herein.

Section 2. Exceptions; Notwithstanding the above provisions, it shall not be a violation of this Ordinance for a person, persons, and corporation or business entity in lawful possession of an animal to travel through Benzie County on a public highway for a destination out of the County. Zoological Parks and Aquariums, accredited wildlife sanctuaries, nature preserves, circuses and bona fide scientific medial or educational research facilities, are also an exception.

Section 3. Non-predatory and/or non-dangerous animals; only certain wild animals, which are traditionally non-predatory and/or non-dangerous, may be possessed in Benzie County. These include but are not necessarily limited to, non-poisonous snakes, quails, pheasants, peacocks, raccoons, skunks, squirrels, wild turkey and deer but may only be possessed in the following conditions are met:

- A. That the animals possessed are possessed under the proper state and federal permits and/or licenses.
- B. That the animals possessed are registered with the Benzie County Animal Control Officer's office.
- C. That the animals possessed are properly caged, penned, housed or secured so as not to leave the property upon which they are possessed.
- D. That the animals possessed do not become excessively noisy, excessively odorous, or in any way disruptive to the character of the area in which they are possessed.

Section 4. Nuisance per Se. Any continuing violation or a repeated violation of this Ordinance shall constitute a nuisance Per Se and may be abated by an action in Circuit Court separately or in addition to criminal proceedings.

Section 5. Feral cats are considered wildlife. Animal Control will assist in trapping feral cat colonies only if the time and resources allow. Anyone feeding or providing shelter for feral cats must claim ownership of them and identify them via a collar. Feral cats that are trapped will be assessed by the ACO and veterinarian and will be handled accordingly, which may include euthanasia.

ARTICLE XII PENALTY

Any person, firm or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a Civil Infraction and shall be punished by fine of not more the five hundred dollars (\$500.00).

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 in the 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 continuing character, each 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.

ARTICLE XIII TREASURER'S RECORDS AND DUTIES; EVIDENCE

Section 1. After March 1st of each year, the Treasurer shall make a comparison of his/her records of the dogs actually licensed in each city or township of the County with a report of the supervisors of said townships or assessors of said cities or the Animal Control Officer to determine and locate all unlicensed dogs.

Section 2. On and after June 15th of each year, every unlicensed dog, subject to license under the provisions of this Ordinance of the statutes of the State, is hereby declared to be a public nuisance and the Treasurer shall immediately thereafter list all such unlicensed dogs as shown by the returns in his/her office of township supervisor, city assessor, or Animal Control Officer 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 Section 287.277 of the Compiled Laws of 1948, (MSA 12.527), as amended.

Section 3. The Treasurer shall keep a record of all dog licenses and 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 individual licenses, the record shall also state the breed, sex, age, color and markings of the dog licensed; 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/she shall also keep an accurate record of all license fee collected by him/her or paid over to him/her by any city, township treasurer, or Animal Control Officer his/her deputy or assistant.

Section 4. In all prosecutions for violation of this Ordinance, the records of the Treasurer's Office, or lack of same, showing the name of the owner and the license number to whom it was issued and the license tag affixed to the collar or harness of the dog showing a corresponding number shall be prima facie evidence of ownership or non-issuance of a dog license or tag.

ARTICLE XIV RULES OF CONSTRUCTION; SEVERABILITY

Section 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 shall include the feminine and neuter. The word "shall" is always mandatory and not merely directive. Words or terms not defined herein shall be interpreted in the manner of their common meaning. Headings shall be deemed for convenience and shall not limit the scope of any article or section of this Ordinance.

Section 2. The regulations of this code are minimum standards supplemental to the rules and regulations duly enacted by the Michigan Department of Health and to the laws of the State of Michigan relating to public health. Where any of the provisions of any other local or state ordinances or regulations apply, the more restrictive of any or all ordinances or regulations shall prevail.

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

ARTICLE XV RECEIPTS AND DISBURSEMENT OF FUNDS

All fees and monies collected under the provisions of this Ordinance shall be transferred to the general fund of Benzie County, Michigan, in accordance with the standard practices of the Treasurer and the monies paid out in accordance with this Ordinance shall be drawn upon the general fund of Benzie County, Michigan.

ARTICLE XVI

All ordinances or part of ordinances inconsistent herewith are hereby repealed.

**ARTICLE XVII
EFFECTIVE DATE OF ORDINANCE**

This Ordinance shall take effect sixty (60) days after the date of adoption or thirty (30) days after revision.

**ARTICLE XVIII
CERTIFICATION**

I, Dawn Olney, County Clerk, and Clerk to the Benzie County Board of Commissioners, hereby certify that this Animal Control Ordinance was duly adopted by the Benzie County Board of Commissioners at a regular meeting of said at which a quorum was present, held this 18th day of November, 2008.

Dawn Olney, Benzie County Clerk