

PUBLIC SAFETY COMMITTEE

08-067-0

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REPEALING ARTICLE V, CHAPTER 6, AND AMENDING SECTIONS 6-3, 6-4, 6-12, 6-27, 6-39, 6-82, 6-84, 6-85, 6-86, 6-87 AND 6-96 OF THE DULUTH CITY CODE, 1959, AS AMENDED, RELATING TO THE ANIMAL HUMANE BOARD.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Article V of Chapter 6 of the Duluth City Code, 1959, as amended, relating to the animal humane board is hereby repealed in its entirety.

Section 2. That Section 6-3 of the Duluth City Code, 1959, is amended to read as follows:

Sec. 6-3. Impoundment--authorized; redemption fee of certain dogs.

(a) Police officers and animal control officers shall have the authority to seize, take up and impound all animals:

(1) Which may be found running at large contrary to the provisions of this Chapter. It shall also be the duty of the animal control officers to see that animals required to be licensed are in fact so licensed;

(2) Which are found to be in an environment or subject to conditions which would, to a reasonable person, evidence that the animal's health, safety or well being is endangered due to adverse weather conditions or in other circumstances set forth in Article VI of this Chapter;

(3) Which constitute a nuisance under this Chapter;

(4) Which are found to be in circumstances, such as the animal exhibiting fresh wounds, scarring, or is observed in a fight, or other indications which, to a reasonable person, evidence that animal has been or will be used, trained or encouraged to fight with another animal, or the owner of such animal has in custody or possession any training apparatus, paraphernalia or drugs used to prepare such animal to be fought with another animal;

(b) Any person may seize, impound or restrain any animal which is found running at large in the city of Duluth and hold such animal for the animal control officer or deliver such animal to the city animal shelter;

(c) The animal control officer shall hold such animals until they are claimed by their owners or until disposed of in accordance with Section 6-4 of this Article. All unclaimed animals shall be held for not less than five business days before being disposed of by the animal control authority;

(d) Any animal impounded under the provisions of this Article shall be released only upon the payment of the expenses of taking and keeping the animal. If the animal is unlicensed, in addition to the impounding and boarding fee, the animal shall not be released without payment of the prescribed license fee. The city council shall set the amount of such license fee by resolution ~~with the recommendation of the animal humane board.~~

However, if it is the opinion of a licensed veterinarian that a critically injured or diseased animal will unnecessarily suffer, such animal may be humanely euthanized prior to the five day holding period even though attempts to locate or notify the owner have been unsuccessful. The owner shall be responsible for the cost of euthanization and/or the reasonable costs of the care and treatment;

(e) The animal control officer shall provide necessary and humane care for all animals impounded and the expenses thereof shall be paid by the owner or the person claiming the same.

Section 3. That Section 6-4 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-4. Disposal after five business days.

After the waiting period prescribed by Section 6-3, the animal

control authority may make provision for the humane euthanasia or adoption of such animals which remain unclaimed. Other animals for which the waiting period is not applicable may be disposed of immediately by the animal control authority. The city council may, from time to time, by resolution, set such fees for animal control services as may be necessary to defray the costs of operating the city animal shelter. Such fees may include, but are not limited to disposal fees, placement fees and service calls within and without the city. The city council shall set the amount of such fees by resolution ~~with the recommendation of the animal humane board~~. All such fees shall be collected by the animal control authority and shall be turned in to the city treasury.

Section 4. That Section 6-12 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-12. Fees.

(a) Any person owning or possessing a dog or cat shall pay a yearly license fee for each such dog or cat. The city council may, from time to time, by resolution, set such license fees. ~~All such fees shall be set by the council with the recommendation of the animal humane board;~~

(b) No license shall be required for dogs or cats brought into the city for the purpose of participating in any shows. Any properly identified service dog which aids persons who are totally or partially blind or deaf or have physical or sensory disabilities shall be issued a dog license at no charge upon providing proof of certification of training as a service dog.

Section 5. That Section 6-27 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-27. Impoundment of dogs, cats and ferrets without valid

rabies vaccination tags.

Any dog, cat or ferret found off the owner's premises and not wearing a valid rabies vaccination tag may be impounded. All impounded dogs, cats or ferrets shall be given proper care and maintenance. Impoundment of all animals shall be in accordance with the provisions of this Chapter. Each dog, cat or ferret impounded pursuant to this Section shall be kept at least five days after the impoundment thereof, unless conditionally reclaimed by its owner as herein provided. Any dog, cat or ferret which is impounded pursuant to this Section may be conditionally reclaimed by its owner by payment of the fees prescribed in this Chapter and by compliance with the rabies vaccination requirements of this Chapter within 72 hours of release. Upon claiming any dog, cat or ferret which has not previously been vaccinated, the owner shall make a cash deposit with the animal control authority, which shall be refunded upon the owner filing proof that the dog, cat or ferret has been vaccinated within 72 hours of release; otherwise the cash deposit shall be forfeited to the city. The city council may, from time to time, by resolution, set the amount of the cash deposit. ~~All cash deposit amounts shall be set by the city council with the recommendation of the animal humane board.~~

If the owner of a dog, cat or ferret impounded because of the absence of a valid rabies vaccination tag claims that his or her animal has been vaccinated, such owner may reclaim his or her dog, cat or ferret upon production of proof of vaccination, payment of all impounding fees and acquisition of a valid rabies vaccination tag. If a dog, cat or ferret impounded pursuant to this Section is unclaimed by its owner at the end of five days, such animal may be disposed of in accordance with provisions of Section 6-4 of the this

Chapter.

Section 6. That Section 6-39 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-39. Maximum number of animals.

(a) No more than three dogs of over the age of four months shall be kept, harbored or maintained within any individual dwelling unit or on any lot or other parcel of property in the city without a maximum dog exception license. The number of dogs permitted above may be increased by obtaining such license issued by the city clerk's office. Such license shall specify any restrictions, limitations, conditions or prohibitions which the animal control authority deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health or safety. Such license may be modified from time to time or revoked by the animal control authority for failure to conform to such restrictions, limitations or prohibitions. Such modification or revocation shall be effective from and after ten days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such dogs;

(b) No more than three cats of over the age of four months shall be kept, harbored or maintained within any individual dwelling unit or on any lot or other parcel of property in the city without such license. The number of cats permitted above may be increased by obtaining a permit issued by the city clerk's office. Such license shall specify any restrictions, limitations, conditions or prohibitions which the animal control authority deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect

the public health or safety. Such license may be modified from time to time or revoked by the animal control authority for failure to conform to such restrictions, limitations or prohibitions. Such modification or revocation shall be effective from and after ten days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such cats;

(c) License application. Maximum dog and/or cat exception licenses shall be issued on a yearly basis. Each license shall be in effect beginning on the first day of January and expiring on the last day of December of that calendar year. All such licenses issued after the first day of January and before the last day of December shall expire on the last day of December of that same calendar year. The city council may, from time to time, by resolution, set such license fees. ~~All such fees shall be set by the council with the recommendation of the animal humane board;~~

(d) Any owner denied a maximum dog and/or cat exception license or having such license revoked may appeal the animal control authority's decision to the ~~animal humane board~~ administrative lieutenant of the Duluth police department. The ~~animal humane board~~ administrative lieutenant will review the decision and ~~may call for a hearing to~~ determine the validity of such license denial and determine what, if any, other course of action to take;

(e) Any owner aggrieved by a decision of the ~~animal humane board~~ administrative lieutenant may appeal to the city council by filing written notice of said appeal to the city clerk within 15 days after the ~~animal humane board's~~ administrative lieutenant's decision is rendered.

Section 7. That Section 6-82 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-82. License fees.

Persons operating or maintaining pet shops, grooming shops, breeding kennels, boarding kennels, or animal shelters or veterinary hospitals, when such facilities are maintained under professional supervision, shall, in addition to other licenses required by this Section, pay a license fee. The city council may, from time to time, by resolution, set such license fees. ~~All such license fees shall be set by the council with the recommendation of the animal humane board~~ for persons maintaining or operating the following:

- (a) Kennels keeping two to five dogs or cats;
- (b) Kennels keeping six to 11 dogs or cats;
- (c) Kennels keeping 12 or more dogs or cats;
- (d) Veterinary hospitals;
- (e) A pet shop business;
- (f) A commercial grooming shop business;
- (g) A nuisance wildlife removal business.

All such kennel fees shall apply only to dogs or cats over the age of four months. The city animal shelter is exempt from the provisions of this Section.

Section 8. That Section 6-84 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-84. Issuance of licenses.

~~The animal humane board shall investigate every licensees application for license within the city and, after such investigation, shall make a report of its findings. The investigation shall include a review of the inspection report of the animal control officer and other city officers. Within 45 days after an application for a license has been submitted to the board for its consideration, the board shall, in writing, make and file its~~

~~report. If the board finds that the applicant has reasonable facilities and will operate the facilities in accordance with all applicable laws and that no other good cause exists for the denial of a license, it shall direct the city clerk to issue said license. Items listed in Section 6-86(b) shall, without limitation, constitute good cause for the denial of a license.~~

Prior to the issuance of any first time license thereof under this Article, the animal control authority shall conduct an inspection of the licensee to determine compliance with this Article. Prior to the issuance of any license renewal thereof under this Article, the animal control authority may conduct an inspection of the licensee to determine compliance with this Article. The animal control authority, for all application of license and renewal of license, shall make a written report of such investigation to the ~~animal humane board~~ office of the city clerk. A license shall not be issued or renewed without full compliance with the terms of this Article. License issued under this Article shall expire one year from the date of issuance, unless earlier suspended or revoked as provided in this Article. Each license issued under this Article shall be prominently displayed at all times in the establishment for which it is issued. A licensee shall be responsible for all actions and conduct of any employee or agent of the licensee and any violation of this Article by an employee or agent shall be deemed to be the actions and conduct of the licensee.

Section 9. That Section 6-85 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-85. Complaints and questions as to licenses, laws, etc.

Whenever there shall be filed with the city clerk or with the city council any complaint or question relating to the issuance or

granting of licenses or any problem relating to control or enforcement of this Article or any other regulations of the city relating to the licensees, such complaints or questions shall be referred immediately to the ~~animal humane board and the board shall, at its next regular meeting or as soon thereafter as may be, investigate such complaints or give consideration to such questions and report its findings in writing to the city council. Such report and findings shall be filed with the city clerk as a public document.~~ administrative lieutenant of the Duluth police department to investigate such complaints.

Section 10. That Section 6-86 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-86. Suspension and revocation of licenses.

(a) When it comes to the attention of the animal ~~humane board~~ control authority that any licensee licensed pursuant to this Chapter may have violated the provisions of this Chapter or any other law relating to its operation, or that such licensee may be engaging in other conduct that may constitute good cause for the suspension or revocation of its license, the animal ~~humane board may call for a hearing~~ control authority will review to determine the validity of the allegations and to determine what, if any, disciplinary measures shall be ~~recommended to the city council for their implementation~~ taken against the licensee;

(b) Any licensee having such license suspended or revoked may appeal the animal control authority's decision to the administrative lieutenant of the Duluth Police Department. Any review hearing called pursuant to the provisions of this Section shall be held ~~before the animal humane board and shall be held~~ pursuant to the procedural and evidentiary provisions of Minnesota

Statutes, sections 14.57 to 14.69 and rules promulgated thereunder. At such review hearing, the ~~board~~ administrative lieutenant shall hear all relevant evidence and arguments from all parties. After due deliberation, the ~~board~~ administrative lieutenant shall determine the validity of the allegations and what, if any, corrective or punitive measures will be recommended to the city council. At the completion of the review hearing ~~and deliberations~~, the ~~board~~ administrative lieutenant shall direct the city clerk to prepare a report to the city council which shall consist of the ~~board's~~ findings of fact, conclusions and recommendation to the city council. The report shall be filed with the city council and served personally or by first class mail upon the parties to the review hearing. ~~The council shall also receive a copy of the transcript of the board's hearing and any exhibits introduced as evidence.~~ The city council shall not render a decision on the matter until at least ten days after it has received the report of the ~~animal humane board~~ administrative lieutenant. During this ten day period, either party to the review hearing may present written exceptions to the report of the ~~animal humane board~~ administrative lieutenant or make arrangements to be placed on the agenda of the city council to present oral argument to the city council concerning the matter. The city council's decision on the matter shall be in the form of a written resolution which shall contain findings of fact and conclusions on all material issues and shall set forth any punitive action taken against the licensee. The bond of the licensee may be declared forfeited to the city by the city council for violation of the terms of this Article. A copy of the resolution shall be served upon the licensee personally or by first class mail;

(c) ~~(b)~~ Without limiting other grounds for suspension or

revocation, the following shall be deemed to be good cause for suspension or revocation of a license:

(1) Violation of any law relating to its operation, including, but not limited to, state, federal and local laws and animal cruelty;

(2) The licensee has failed to pay license fees or city or state sales tax or that property taxes on the building have not been paid;

(3) The licensee has failed to file or maintain any insurance or bond required by law;

(4) Refusal to cooperate with the ~~board~~, police, department of public health or the city animal control officer in any investigation;

(5) The filing of a license application containing information or statements known by the applicant to be false;

(6) The licensee has engaged in fraudulent conduct or misrepresentation in connection with the handling, sale or disposition of animals or in representations to the ~~board~~, animal control officer, police or department of public health;

~~(c) The city council may request that the animal humane board conduct a hearing concerning the licensee's operation licensed pursuant to this Chapter. The board shall conduct any hearings so requested.~~

Section 11. That Section 6-87 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-87. Duties of licensee.

It shall be the duty of each licensee of a licensed breeding kennel, boarding kennel, pet shop, grooming shop, nuisance wildlife removal business, animal shelters (whether public or private, profit

or nonprofit) and veterinary hospital to operate and maintain such facility, as well as all of its pens, cages, runways and all the premises upon which it is situated, or which constitute a part of its operational area, in a clean and sanitary manner; to provide adequate light and ventilation; to dispose of urine and fecal material through an approved sewer system; to screen or otherwise fly-proof the isolation wards; to rat-proof all buildings and structures; to keep the premises vermin free; and to conduct its operations in such a manner that no public nuisance will be created or noisome odors arise therefrom. ~~The Animal control authority or designee, police officers, members of the animal humane board~~ and members of the public health department shall be given free access to pet shops, grooming shops, kennels, nuisance wildlife removal businesses, animal shelters and veterinary hospitals and to its operational areas, or premises, for the purpose of ascertaining compliance or noncompliance with and enforcing this Section.

Section 12. That Section 6-96 of the Duluth City Code, 1959, as amended, is amended to read as follows:

Sec. 6-96. Concealing of dangerous animals.

No person shall harbor, hide or conceal an animal which has been declared dangerous by the ~~animal humane board~~ court, law enforcement officer, the animal control authority or by the animal control officer, which has been ordered into custody for euthanasia or other disposition.

Section 13. That this ordinance shall take effect 30 days after its passage and publication.

Approved:

Approved for presentation to council:

\_\_\_\_\_  
Department Director

\_\_\_\_\_  
Chief Administrative Officer

Approved as to form:

\_\_\_\_\_  
Attorney

ATTY/ADMIN      CS:tmf      9/2/2008

STATEMENT OF PURPOSE: This ordinance repeals the animal humane board which is codified as Chapter 6, Article V, of the Duluth Legislative Code.