

Town of Duluth

Ordinance 101096

Responsibilities and Prohibitions Against Owners of Animals

The Board of Supervisors of the Town of Duluth makes the following Ordinance.

I. Background and Purpose of This Ordinance

History and Scope. For a number of years the Town of Duluth has had an ordinance regulating the keeping of animals in the Greenwood Beach platted area. That ordinance, among other things, allows the Town's peace officers to deal with animals that run at large, threaten property, or threaten persons in the platted areas of Greenwood Beach, places some restrictions on the keeping of animals there, and provides fines for violations.

The Town has never had an ordinance regulating animals outside of the Greenwood Beach platted area. The town has always believed that it does not have the financial resources or personnel to enforce animal control regulations in the township outside Greenwood Beach.

Due apparently to increasing population density in the township, problems with animals outside Greenwood Beach are becoming more and more common. The Town wants to be of some aid to its citizens in dealing with those problems, but has financial and personnel limitations that prevent it from extending the types of regulations present in Greenwood Beach to the township as a whole. The Town also wants a uniform ordinance throughout the township rather than separate ordinances for Greenwood Beach and the area outside Greenwood Beach.

Financial and Personnel Limitations. The Town of Duluth does not have the financial resources or personnel to control animals throughout the township. The Town does not in any practical sense have the resources to establish a pound within the township, cannot realistically afford to pay its peace officers (or others) to perform the role of dog-catchers or animal control officers, does not have the money to equip officers (or others) with appropriate vehicles or gear for transporting animals to pounds, and therefore as a practical matter is unable to for fiscal reasons to undertake the control and regulation of animals throughout the township.

Purpose of Ordinance. Because of these limitations, the purpose of this ordinance is *not* to control or regulate the keeping of animals throughout the township. Nothing in this ordinance should be read or interpreted as conferring upon the Town the power or the duty to control, confine, corral, or otherwise take up or seize any animal.

The Town Government should not be asked to control or regulate animals—controlling animals emphatically remains the duty and obligation of owners. This ordinance is aimed not at requiring the Town to perform owners' duties but instead at giving the Town power to fine owners who neglect their duties.

II. Scope and Definitions

Scope and Repealer. This ordinance applies throughout the Town of Duluth. The separate ordinance entitled "Greenwood Beach Dog Restraint Ordinance" (November 12, 1992) is hereby repealed.

Definitions. For the purposes of this ordinance, the following words have the following definitions: "Animal" means (1) any animal other than a human being that (2) has an "animal owner" as defined herein. It includes, but is not limited to, domestic animals, livestock, and pets. It means any mammal other than a human being, as well as any amphibian, reptile, snake or bird.

“Animal Owner” means (1) any owner of any animal, (2) any person keeping or harboring any animal owned by another, and (3) any person keeping or harboring any animal even if the animal is unowned, wiled, or the animal’s owner is not known.

“Board” means the Board of Supervisors for the Town of Duluth.

“Clerk” means the Clerk for the Town of Duluth.

“Peace Officer” means a peace officer for the Town of Duluth.

“Person” means any natural person as well as any legal entity such as a partnership or corporation.

“Public Road or Cartway” includes the public road’s easement or the public cartway’s easement.

“Run at Large” means any animal that is off its owner’s property (or on public property such as a road easement) and is not being restrained or kept under control by someone capable of restraining or controlling it. This ordinance recognizes that an animal need not necessarily be leashed or tied to be controlled – some animals might be properly controlled by obeying vocal or other commands of the owner. An animal must, however, be controlled when off its owner’s premises or upon a public road or cartway.

“Town” means the Town of Duluth.

“Township” means the geographic area encompassed by the Town of Duluth.

“Travel on any public road or cartway” means vehicular and pedestrian travel, and also includes bicycling, jogging, use of all-terrain vehicles, in-line skating or skiing, snowmobiling, or any other type of conveyance or means of passage for any lawful purpose upon public roads or cartways.

Unless the context clearly indicates the contrary, the use of the singular includes the plural—for example, “animal” may be read to mean “animals” unless the context clearly indicates that it should not be interpreted that way.

III. Prohibited Conduct

The Town of Duluth hereby prohibits the following within the township:

1. No animal shall run at large. Any animal owner who intentionally or by neglect permits an animal to run at large shall be in violation of this ordinance.
2. No animal shall interfere with, obstruct, or render dangerous lawful travel on any public road or cartway. This prohibition includes but is not limited to animals that “chase” vehicles. Any animal owner who intentionally or by neglect permits an animal to do so shall be in violation of this ordinance.
3. No unrestrained animal shall threaten, chase, charge, pursue, snap at, bite, butt, kick, scratch, leap upon, attack or otherwise molest any person or other animal if the person or other animal are off the animal owner’s premises, and have not provoked the animal. Any animal owner who intentionally or by neglect permits an animal to do so shall be in violation of this ordinance.

IV. Procedure for Enforcement

Step One—Complaint to Peace Officer and Attempt at Informal Resolution. Any person in the township may complain to a peace officer that conduct prohibited by this ordinance is occurring. Upon any such complaint, the police officer shall investigate the complaint and attempt to informally mediate and resolve the situation, such as by securing the animal owner’s promise to take a course of action and the complainant’s agreement that the course of action appears appropriate and proper.

Step Two—Written Complaint to the Clerk. If in the officer’s judgment the complaint cannot be informally resolved, the officer shall (1) give the complainant a copy of this ordinance and (2) inform the complainant that the complainant may, if so desired, give a written complaint to the Clerk.

The written complaint shall be signed by the complainant, and shall describe (1) the animal involved, (2) the date, time, and place of the incident or incidents believed to be in violation of this ordinance, (3) a description of the incident or incidents believed to be in violation of this ordinance, (4) any witnesses to the incident or incidences, (5) the name and address of the animal's owner, and (6) a statement that the complainant has spoken with the peace officer but has not been able to resolve the situation satisfactorily.

The Town shall take no action until a written complaint containing this information and signed by the complainant is given or mailed to the Clerk.

Step Three—Notice of Hearing. If the clerk receives such a written complaint, the clerk shall notify the board of the complaint and provide copies of the complaint to each board member. The board shall then set a date, time, and place for a hearing upon the complaint. The hearing is subject to the Open Meeting Law.

When the clerk learns of the date, time, and place for a hearing, the clerk shall send a written notice to the complainant and the animal owner, in substantially the following form:

PLEASE TAKE NOTICE that on the ___ day of _____, 199___, at ___ o'clock __.m., at the Town Hall [or list other location] a hearing will be conducted by the Board of Supervisors of the Town of Duluth to determine whether, in accordance with the attached complaint, the person named in the complaint was in violation of an ordinance of the Town of Duluth prohibiting certain conduct by owners of animals within the township. A copy of the ordinance is attached.

PLEASE TAKE FURTHER NOTICE that if it is determined that the person named in the complaint violated the ordinance, future violations may result in the person being subject to fines and penalties.

You are expected to present at the hearing any witnesses, documents, or other items upon which you rely. Failure to appear may result in the board finding against you.

The Clerk shall attach a copy of the complaint and this ordinance to the notice.

Step Four—the Hearing. The board will conduct the hearing upon the complaint as an open meeting. The board may control the hearing and the means of procedure, and may limit testimony or evidence that it feels is cumulative, repetitive, or a waste of time. The board may enforce order and expel those who will not restrain themselves. The board may require testimony under oath. Formal rules of evidence shall not apply. Parties may be represented by attorneys. The board may tape-record the proceeding or have minutes of the proceeding kept. The burden of persuading that board that a violation has occurred shall be upon the complainant, by a preponderance of the evidence. In other words, if the complainant persuades the board that it is likely that a violation occurred, the board shall find against the person named in the complaint, but if the board believes it unlikely that a violation occurred or simply cannot determine whether a violation likely did or likely did not occur the board shall find against the complaint.

If a board member or members are not available to attend the hearing, a board member may appoint a designee to sit at the hearing and decide any issues, as long as the designee is not interested in the outcome of the hearing. If any board member is interested in the outcome of the hearing, the board member shall have the remaining board members appoint a disinterested designee.

Step Five—The Decision. Upon conclusion of the hearing the board shall render its decision as to whether a violation of the ordinance did or did not occur. The board shall act by majority vote in so

doing. The board shall notify in writing both the complainant and the person named in the complaint as to whether a violation was or was not found. No penalty or fine is imposed as a result of this decision, even if multiple violations were determined to have existed.

Step Six—Further Violations After a Decision. If the Board determines that a violation occurred, any similar violation occurring after the decision involving the animal owner will be a second violation of this ordinance, and will subject the animal owner to the fines described below.

V. Fines and Penalties

The following are the fines and penalties for violation of this ordinance:

1. For a first violation, no fine – see paragraph IV
2. For a second violation, \$100.00
3. For a third or subsequent violation, \$250.00
4. For any subsequent violation, \$500.00

The Town may recover its court costs, disbursements, and attorney fees if otherwise allowed by law in connection with any prosecution under this ordinance.

VI. Effective Date

This ordinance shall be in force and effect on and after the 10th day of October, 1996, and shall apply to any violation occurring on or after that date. The Greenwood Beach Dog Restraint Ordinance is repealed as of October 10, 1996.

Richard A Bakke
Chair, Board of Supervisors
Town of Duluth

I, Ann Cox, hereby attest that
This ordinance was adopted at the
Town Board Meeting held on the 10th
Day of October, 1996.

Ann Cox
Clerk, Town of Duluth