

**ORDINANCE NO. 02-09-2021**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MUNDAY, TEXAS, REVOKING PRIOR ORDINANCE ENTITLED "DOG AND CAT REGULATIONS" AND PROVIDING ADOPTING THE PROVISIONS OF THE NEW ORDINANCE ENTITLED "ANIMAL ORDINANCE" PROVIDING A SEVERABILITY CLAUSE; FOR THE REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Munday has determined that for the public health, safety and welfare of the citizens of Munday, the prior animal ordinance entitled "Dog and Cat Regulations" Ordinance No. 03132012, is hereby revoked and the new provisions adopted to clarify animal provisions to its citizens.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUNDAY, TEXAS:**

**Part 1. PURPOSE OF CHAPTER:**

The primary function and intent of this chapter is protection of the health, safety, and welfare of the people of the city by controlling the animal population and establishing uniform rules for animals within the city limits.

**SECTION 1: DEFINITIONS:**

As used in this article the following words and phrases shall have the meanings herein ascribed to them, unless the content of their usage clearly indicates another meaning:

*Animal* means any domestic or wild animal of a species that is susceptible to rabies, inclusive of livestock.

*Animal control officer* means a person who is employed by the city primarily to enforce laws relating to animal control, and is not a peace officer.

*Animal shelter* means any facility operated by a municipal agency or any other governmental entity for the purpose of impounding or caring for animals held under the authority of this ordinance or state law.

*Collar* means a band, chain, harness or other suitable device worn around the neck of an animal to which a current rabies vaccination-registration tag can be affixed.

*Confined animal and confinement of an animal* means confined within a building or home, or within a fenced yard or premises, so that the animal cannot escape from the building, house or fenced yard or premises without human assistance.

*Enclosure* means a house or a building, or a structure/pen.

*Kennel* means any building establishment, place or premises wherein any person engages in the boarding, breeding, buying, selling, letting for hire or training for a fee of any dog or cat or other animals, or wherein any person keeps, harbors, possesses or maintains more than four dogs or four cats or a combination of such animals with the total number exceed four over three months of age.

*Licensing authority* has the same meaning as regulatory authority.

*Muzzle* means a device worn on an animal in such a manner that will not cause injury to the animal or interfere with its vision or respiration, but will prevent it from biting any person or animal.

*Owner* means any person owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed, sheltered or allowed or permitted to remain on a person's property or property under control of the person for three or more days without the person notifying he office of the regulatory authority. If the owner or keeper of an animal is a minor, the parent or guardian of the minor shall be responsible for compliance with the specifications of this ordinance.

*Run at large, running at large and at large* mean any dog, cat or other animal, livestock or fowl, not under the direct physical control of its owner or keeper on the streets, sidewalks or other public places. It shall be presumed that any animal found running at large was permitted or allowed to do so by the owner or keeper thereof.

*Serious bodily injury* means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought treatment.

## SECTION 2. LICENSE AND/OR REGISTRATION OF DOGS AND CATS:

- (a) No person shall own, keep, possess or have control over any dog or cat within the city unless such person has a current city license for such dog or cat.
- (b) Any animal which is owned by a person who does not reside within the City is not allowed to license or register said animal. Any person harboring an animal within the City in violation of this provision will be subjected to a possible fine and/or having the animal removed by the animal control officer.

- (c) No dog or cat shall be registered unless it has a current vaccination. No animal license shall be issued unless there is exhibited to the licensing authority a certificate by a veterinarian showing that the animal to be licensed has been inoculated with a rabies vaccine; and such vaccination will not expire prior to issuance of the license.
- (d) A registration shall be renewed no later than the date of expiration of the current vaccination period for which it was issued.
- (e) A city license or registration shall **not** be required for:
- (1) Dogs and cats under the age of four months which are confined in a place owned or under the possession of the person having ownership, possession or control of the dog or cat within an enclosure which is sufficient to prevent escape there from;
  - (2) Dogs or cats owned by or in the possession or control of persons who are nonresidents of the city, traveling through the city, or temporarily sojourning therein for a period not exceeding 30 days;
  - (3) Dogs or cats brought into the city exclusively for the purpose of entry in any show or exhibition, and which are actually entered in and kept at such show or exhibit;
  - (4) Dogs or cats originally acquired by the person owning, keeping, or having possession thereof within the proceeding 30 days;
  - (5) Dogs or cats owned by or in custody or under control of persons who have been residents of the city for 30 days or less.

In any prosecution under this section, the burden shall be upon the defendant to establish as an affirmative defense that one of the exceptions set out in subparagraph (e)(1) through (e)(5), above is applicable.

(f) Records:

At the time of issuance of each dog or cat license hereunder, the licensing authority shall furnish a numbered license tag which shall be worn by the animal to evidence the issuance of the city license hereunder. The license tag shall be valid for so long as the animal's license remains valid. The city shall maintain a record of all licenses issued under this article, which shall show the name and address of each person issued a license, the number of the license tag furnished, a description of the dog or cat for which the license is issued, the date of issuance, the fee paid, the place of issuance, the type of rabies vaccine administered and the date of inoculation.

### SECTION 3. TAG TO BE WORN

- (a) The owner of a dog or a cat shall cause his or her dog or cat to wear, at all times, a secure collar or harness, to which that dog or cat's city registration shall, at all times, be securely attached.
- (b) It is a defense to prosecution hereunder that the dog or cat was confined within a building or other totally enclosed structure under the ownership, possession or control of the person having possession of the animal at the time that the animal was not wearing a license tag.

### SECTION 4. FEES:

The following fees and licensing terms shall be applicable for licenses for dogs and cats and the fee is only a one-time registration fee:

- (1) If the cat or dog has been sterilized, then the owner shall obtain a sterilized pet license for each animal at a fee of \$10.00 for the license, with a processing fee of \$2.00.
- (2) If a dog or cat has not been sterilized, then the owner shall obtain an unsterilized pet license for the animal at a fee of \$10.00, with a processing fee of \$2.00.
- (3) Senior citizens 60 years or older with sterilized dogs or cats shall obtain an unsterilized pet license for each such dog or cat for the fee of \$5.00 for the initial license and the regular payment of the renewal processing fee of \$2.00.
- (4) Persons who use certified assistance, hearing or seeing dogs, police, fire, or use with livestock may, upon application, obtain a pet license without paying for any fee.

#### Replacement Tags:

In the event of loss or destruction of a license tag, replacement tags shall be available from the director for the payment of a \$2.00 fee, upon satisfactory proof that the dog or cat in question was properly licensed.

#### Counterfeiting or destruction of the license or tags:

The following acts are declared unlawful:

- (1) The counterfeiting of dog or cat licenses or tags.
- (2) The willful and malicious destruction of dog or cat license tags.

## SECTION 5. MAXIMUM NUMBER OF DOGS OR CATS:

Dogs and cats generally. It shall be unlawful for any person to keep, harbor, possess, maintain or allow to be kept, harbored, possessed or maintained more than four dogs or cats or any combination of such animals, with the total number not exceeding four over three months old, upon or within any premises owned, occupied or under the control of such person within the city, except where specifically exempted in this ordinance.

## SECTION 6. RUNNING AT LARGE:

- (a) **Prohibited:** It shall be unlawful for any person owning or having in his possession any dog to allow such to be at large without the owner or person in charge thereof having direct physical control over such dog. An owner or person having in his possession a dog may allow the dog to be at large on property that does not provide the animal with access to a sidewalk or street.
- (b) **Animals trespassing on private property.** Any animal found outside an enclosure trespassing or running at large upon any private property may be taken up by an animal control officer.
- (c) Any animal found running at large on the streets, sidewalks or other public or private spaces, and not under direct physical control of its owner or keeper, may be captured and picked up by the animal control officer or his designee and impounded.

## SECTION 7. IMPOUNDMENT, GENERALLY

- (a) **Authorized.** It shall be the duty of the animal control officers to take up and take charge of all dogs found to be running at large within the city, and to take such dogs to the animal control center or other suitable place.
- (b) **Holding Period.** Any animal seized and impounded at the city shelter shall be held for a minimum of 120 hours from the date of impoundment unless claimed by the owner or an authorized representative of the owner.
- (c) **Records, notification of owner.** As soon as possible after an animal has been delivered to city shelter, a record of the animal will be recorded. In case the animal bears a city license tag, the animal control officer or his designee shall notify the owner of the dog by telephone or by mail at the address on record. The mailing of notice shall be deemed sufficient notice under this section if it is mailed to the owner at the address shown in the city's records for such license.

## SECTION 8. DISPOSITION OF IMPOUNDED ANIMALS.

- (a) *Redemption by owner.* The person entitled to the possession of any animal delivered to the animal shelter shall be entitled to have the animal delivered to him at the animal shelter upon presentation of satisfactory evidence of ownership, proof of compliance with any other applicable ordinance or statute governing the release of an animal to such owner, and payment of the following charges and fees as applicable, provided such animal is not infected or reasonably believed to be infected with rabies or any other infectious or contagious disease:
- (b) Except as otherwise provided in this chapter, the following fees shall be charged for the impoundment of an animal in the animal shelter:
- a. For animals other than dogs and cats and for sterilized dogs and cats:
    1. \$25.00 for the first impoundment of the animal;
    2. \$50.00 for the second impoundment of the same animal; and
    3. \$75.00 for the third and each subsequent impoundment of the same animal
  - b. For unsterilized dogs or cats:
    1. \$50.00 for the first impoundment of the animal; a \$20.00 refund may be obtained upon proof of sterilization (mandatory for cats) within 30 days;
    2. \$75.00 for the second impoundment of the same animal; a \$20.00 refund may be obtained upon proof of mandatory sterilization (dogs and cats) within 30 days; and
    3. \$100.00 for the third and each subsequent impoundment; a \$20.00 refund may be obtained upon proof of mandatory sterilization (dog and cats) within 30 days.
  - c. The owner must claim the animal within 120 hours after its impoundment.
  - d. The fees specified above for unsterilized dogs or cats shall apply unless the officer is able to determine by external examination that the animal has been sterilized or the owner presents a certificate from a veterinarian establishing the animal has been sterilized. However, no impoundment fee shall be charged for dogs, cats or other small animals delivered to the animal control center because the owner of the animal has been arrested and is in custody of the state.
- (d) Unclaimed animals.
- (1) Any animal not claimed by the owner within 120 hours and deemed to be of good health and not to constitute a threat to the public or animal health and safety of the city may be placed up for adoption, if a facility is available.

- (2) Any animal left unclaimed for longer than 120 hours may be humanely euthanized at the discretion of the health officer.

#### SECTION 9. DANGEROUS, VICIOUS OR MISCHIEVOUS ANIMALS:

- (a) Dangerous or vicious tendencies defined. The following shall be deemed animals with dangerous or vicious tendencies:
- (1) Any animal that inflicts serious bodily injury or death to a person, or bites a person on public or private property;
  - (2) Any animal that has killed a domestic animal without provocation while off the owner's property;
  - (3) Any animal which chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack such that the person reasonably believes that the animal will cause physical injury to that person; or
  - (4) Any individual animal with a known, propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of persons or domestic animals.
- (b) Declaration of dangerous or vicious animal
- a. An animal shall be automatically declared to be a dangerous or vicious animal under subsections (a)(1) through (3) of this section if the owner is convicted of under this section.
  - b. The animal control officer or designee may find and declare an animal to be a dangerous or vicious animal if the official has cause to believe that an animal is dangerous or vicious under subsection (a)(1).
- (c) Notification to owner of designation or dangers or vicious animal. The animal control officer or designee will notify the owner of the animal of its designation as a dangerous or vicious animal and of the requirements for the owners of a dangerous or vicious animal as stated in Section 7(c).
- (d) The municipal court shall issue an order to the animal control officer to seize and impound an animal designated as a dangerous or vicious animal, pending a determination hearing. No animal impounded under this section will be returned to the owner until all obligations required by the Municipal Judge have been met.
- (e) Appeals. If an animal is declared to be a dangerous or vicious animal under this section, the notice shall inform the owner of the animal that a determination hearing may be requested to contest the declaration. The request for a hearing must be in writing and must be received by the City Secretary at the 121 E. Main, Munday, Texas within 10 days of the date of the declaration. Failure to

appeal the declaration within the ten-day period shall result in the court's declaration as final. The request for reconsideration of the determination that a dog is dangerous may be heard by the city council at a duly posted council meeting.

- (f) Decision to destroy. Any dangerous or vicious animal which, in the determination of the municipal court, constitutes a clear and present danger to the public safety such that the continued presence of the animal in the city places one or more members of the public in danger of serious bodily injury shall be ordered destroyed.
- (g) Defenses to the declaration of dangerous or vicious animal. It is a defense to the determination of an animal as dangerous or vicious and to the prosecution of the owner or an animal previously declared to be dangerous or vicious if:
  - a. The person was teasing, tormenting, abusing or assaulting the animal or was observed or reported to have teased, tormented, abused or assaulted the animal;
  - b. The person was committing or attempting to commit a crime;
  - c. The animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault;
  - d. The animal was injured and responding to pain; or
  - e. The animal was protecting her puppies, itself or its kennel mates.
- (h) Registration of dangerous or vicious animals; required notifications.
  - (a) The owner of an animal declared to be dangerous or vicious under this section shall, within ten days of attaining compliance with the requirements as ordered by the Municipal Judge or Council shall register the animal with the City.
  - (b) The owner shall notify the animal control officer as soon as possible, but under any circumstances within 24 hours, if a dangerous or vicious animal is loose, stolen, or attached another animal or has attacked a person, or had died.
  - (c) The animal control officer may, with consent from the Municipal Court Judge, allow or disallow the relocation, giving or selling of a dangerous or vicious animal. Approval to give, sell or relocate a dangerous or vicious animal shall be in writing.
  - (d) If owner is granted approval to relocate, sell or give away such animal, the owner shall provide the animal control officer with the name, address, and telephone number of the new owner or new location. The new owner must sign a sworn statement that he will comply with all the requirements of the prior owner's regulations.

- (i) *Requirements for owners of dangerous or vicious animals.* An owner of an animal declared to be a dangerous or vicious animal under this section must comply with the following within the time period as provided by the Municipal Court Judge but no later than 30 days of such final determination. Compliance with these requirements will be determined by the animal control officer:
- a. The animal must be registered in accordance with this section. Photographs of the animal shall be taken and remain on file with the animal control officer.
  - b. The owner of the animal shall be required to show proof of notification letters sent via certified mail (return receipt), advising all persons that reside at addresses within 200 feet of the animal;
  - c. The animal must be kept in a secure enclosure;
  - d. The owner must present to the city animal control officer a certificate of public liability insurance in the amount of \$100,000.00 to cover any damages caused or which may be caused by the animal. The insurance shall be for a 12-month period and shall not be cancelled unless the animal is no longer kept by the owner.
  - e. The animal must be properly restrained with a leash when taken outside of the premises and shall be restricted from any public park.
  - f. The owner shall post a sign on his premises warning that there is a dangerous and vicious animal on the property.
  - g. The animal must be spayed or neutered if ordered by the judge.

If the owner of an animal declared to be dangerous or vicious is unable or unwilling to comply with the ownership requirements listed in this section, the animal shall be euthanized as provided herein.

If the owner, after initial compliance with said rules, violates any of the rules as stated in this subsection, the license shall be revoked immediately. A hearing on the new violations may be requested, however, if determined by the municipal court judge, the animal could be euthanized.

- (j) *Dangerous dogs running at large prohibited.* It shall be unlawful for any person owning or having in his possession a dog of dangerous or fierce tendencies to allow that dog to be at large. For purposes of this subsection, a dog of dangerous or fierce tendencies shall be defined as one who has previously attacked or bitten a person. A person who violates this subsection shall, upon conviction, be assessed a fine of not less than \$500.00 or more than \$2,000.00. Each day that any violation of this subsection continues shall constitute and be punishable as a separate offense.

## SECTION 10. RESTRAINT REQUIREMENTS FOR DOGS ON PRIVATE PROPERTY

- (A) Except as provided in Subsection (B), a person may not restrain a dog with a chain or tether unless the person is holding the chain or tether.
- (B) The prohibition of Subsection (A) does not apply to a temporary restraint.
- (1) during a lawful animal event, veterinary treatment, grooming, training or lawful enforcement activity; or
  - (2) that is required to protect the safety or welfare of a person or the dog, if the dog's owner or handler remains with the dog throughout the period of restraint.
- (C) A person restraining a dog with a chain or tether shall attach the chain or tether to a properly fitting neck collar or harness worn by the dog. A person may not wrap a chain or tether directly around a dog's neck. A person may not restrain a dog with a chain or tether that weighs more than 1/18 of the dog's body weight. A chain or tether used to restrain a dog must, by design and placement, be unlikely to become entangled.
- (D) A person may not restrain a dog in a manner that does not allow the dog to have access to necessary shelter and water.
- (E) A person may not restrain a dog in a manner that allows the dog to move outside the person's property.

### **Part 2: Severability.**

If any section, sub-section, clause, phrase or portion of this Ordinance shall be held unconstitutional or invalid by a court of competent jurisdiction, such section, sub-section, sentence, clause, phrase or portion shall be deemed to be a separate, distinct and independent provision and such invalidity shall not affect the validity of the remaining portions.

### **Part 3: Repeal**

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

**Part 4: Publication**

The City Secretary is hereby authorized and directed to cause publication of the descriptive caption hereof together with the civil and criminal penalty provisions for violation thereof.

**Part 5: Effective Date.**

This ordinance shall be in force and effect from and after its publication as required by law.

PASSED AND APPROVED on this the 7 day of February, 2021.

**CITY OF MUNDAY, TEXAS**

  
\_\_\_\_\_  
Robert Bowen, Mayor

ATTEST:

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Bianca Harrimon, City Secretary