

ORDINANCE NO: 685

AN ANIMAL CONTROL ORDINANCE CONTAINING A PENALTY PROVISION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF MADISONVILLE, TEXAS:

WHEREAS, it is deemed by the City Council of Madisonville, Texas, to be in the interest of health and safety to control animals within the City Limits.

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

GENERAL PROVISIONS

1.001 PURPOSE.

(A) The purpose of this chapter is to establish a city-wide program to identify and prohibit livestock, dangerous dogs, or wild animals in the city so as to preserve public health and safety, to control the running at large of dogs and cats and other animal nuisances, and to control and eradicate rabies in this city. This program shall be administered in accordance with the terms of this chapter.

(B) This is a chapter relating to the restraining, licensing, vaccination, confinement, disposition, and disposal of animals in the city and the prohibition of livestock, dangerous dogs, and wild animals. Authority for this chapter is derived from the **Rabies Control Act of 1981, Tex. Health and Safety Code, Ch. 826**, and the **statutory authority for state municipalities to regulate dangerous dogs and dangerous wild animals found in Tex. Health and Safety Code, Ch. 822**.

1.002 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future; the singular number include the plural, and the plural the singular; reference to the male gender includes the female and reference to any person or animal without specifying gender includes both male and female; the word **SHALL** is mandatory and not directory.

ACCIDENTAL BREEDING. Any unsupervised or unplanned breeding of any number of an owner's domestic animals.

ANIMAL. Every living creature, either male or female, domestic, nondomestic, livestock, or wild, except a member of the human race.

(1) **DOMESTIC ANIMAL.** All species of animals commonly accepted as domesticated by humans so as to live and breed in a tame condition, including but not limited to dogs and cats.

(2) **LIVESTOCK.** Animals commonly kept for use on a farm or ranch, or raised for human consumption or an equine animal, including, but not limited to, horses, mules, ponies, jennets, jacks, cattle, hogs, goats, sheep, chickens, ostriches, emus, or fowl.

(3) **WILD ANIMAL.** Any animals of a species that in their natural life are wild, including hybrids and animals which, as a result of their natural or wild condition, cannot be vaccinated effectively for rabies or which have the ability to seriously injure a human or other animal. These animals, however

domesticated, shall include, but are not limited, to:

- a) Alligators and crocodiles;
- b) Bears (*uridae*). All bears, including grizzly bears, brown bears, black bears, and the like;
- c) Cat family (*felidae*). All except the commonly accepted domesticated cats, and including cheetah, cougar, leopard, jaguar, lion, lynx, panther, ocelot, lion, tiger, serval, caracal, bobcat, and wildcat;
- d) Dog family (*canidae*). All except domesticated dogs, and including wolf, part wolf, fox, part fox, coyote, part coyote, and dingo;
- e) Porcupine (*erethizontidae*);
- f) Primate (*hominade*). All sub-human primates, including baboon, chimpanzee, orangutan,
- g) Raccoon (*prosynnidae*). All raccoons, including eastern raccoon, desert raccoon, and ring-tailed cat;
- h) Skunks;
- i) Venomous fish and piranha;
- j) Venomous snakes or lizards;
- k) Hyena;
- l) Weasel (*mustelidae*). All weasels, including martens, wolverines, ferrets, badgers, otters, ermine, mink, and mongoose, except that persons raising members of this family as a business for their pelts shall not be prohibited by this chapter; and
- m) Any hybrid of an animal listed above.

ANIMAL CONTROL OFFICER. The person who has been designated and authorized by the City Code Enforcement and/or Police Department to capture

and confine animals found in violation of this chapter, or his or her lawfully delegated deputy or representative.

ANIMAL SHELTER. The facility operating as the "Rita B. Huff Humane Society", "Brazos Valley Animal Shelter", or related agency where animals are held under the authority of this chapter or state law.

AT LARGE. Any animal that is off the premises of its owner's real property and not restrained by a competent person.

BITE. Any abrasion, scratch, puncture, tear, or piercing of skin actually or suspected of being caused by an animal.

BREED or BREEDING. The impregnation of a female animal by a male animal by which offspring are produced.

CAT. All domestic species or varieties of the felis catus, male or female.

CERTIFICATE. A certificate issued at the time of the vaccination of the dog or cat, and bearing thereon the signature of the vaccinator, the registration number, the name, color, breed and sex of the dog or cat, the name and address of the owner, the date of the vaccination, or type of vaccine administered.

CITY. The City of Madisonville, Texas.

CODE ENFORCEMENT DEPARTMENT. The Code Enforcement Department for the City of Madisonville, Texas The **CODE ENFORCEMENT DEPARTMENT** is designated the animal control authority for the city.

COMPETENT PERSON. A human being that is capable of controlling and governing the animal in question and to whose commands the animal is obedient.

CONFINED or CONFINEMENT. Of an animal, shall mean 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.

CURRENTLY VACCINATED. Vaccinated and satisfying the following criteria:

- 1) The animal must have been at least four months of age at the time of vaccination;
- 2) At least 30 days have lapsed since initial vaccination;

- 3) Not more than 12 months have lapsed since the initial vaccination and a revaccination with either a one-year or three-year USDA-approved rabies vaccination; and
- 4) Rabies vaccination must be performed by a veterinarian who is licensed or legally permitted to practice veterinary medicine in the state.

DANGEROUS DOG.

- (1) A dog that makes an unprovoked attack on a human, which causes bodily injury and occurs in a place other than an enclosure in which the dog was kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own;
- 2) A dog that commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own, and those acts cause a person reasonably to believe that the dog will attack and cause bodily injury to that person; or
- 3) A dog that makes an unprovoked attack on a domestic animal, livestock, or domestic fowl which occurs when the attacking dog is at large. For purposes of this division (3) only, the Animal Control Officer or Municipal Court ("the Court") may take under consideration any or all of the following circumstances to determine whether or not the attacking dog is dangerous:
 - a) The seriousness and/or extent of the injury to the attacked animal or fowl;
 - b) Territorial issues associated with the location of the attack; and
 - c) Restraints of the attacking dog which were in place at the time of, or immediately prior to, the attack.

DOG. All domesticated members of the canine family, male or female.

EXPOSED TO RABIES. Any animal, whether it has been vaccinated for rabies or not, which has been bitten, been fighting with, or has consorted with an animal known or suspected to have rabies or showing objective symptoms of rabies.

HUMANE MANNER. The care of an animal to include adequate heat, space, ventilation, and sanitary shelter, wholesome food, and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

IMPOUND. The apprehending, catching, trapping, netting, tranquilizing, confining, or, if necessary, the destruction of any animal by the Animal Control Officer.

IMPOUNDING FACILITY. Any premises designated by the City Council for the purpose of impounding and caring for all animals found in violation of this chapter.

ISOLATION. Kept separated and protected from all other animals or humans.

LICENSING AUTHORITY. An individual, company, or organization, or its lawfully delegated designee, designated and authorized by the City Police and/or Code Enforcement Department to issue a certificate of vaccination in accordance with the provisions of **1.020** through **1.025**.

NUISANCE. Shall describe an animal if it damages private property other than the owner's; causes dangerous conditions; chases or molests; attacks or interferes with persons; or causes excessive barking creating a public nuisance.

OWNER. Any person who owns, harbors, shelters, keeps, controls, manages, possesses, or has part interest in any animal.

- 1) The occupant of any premises on which an animal remains for a period of seven days, or to which it customarily returns daily for a period of ten days, is presumed to be harboring, sheltering, or keeping the aforementioned animal within this definition.
- 2) If a minor owns an animal subject to the provisions of this chapter, the head of the household of which the minor owner is a member shall be deemed to be the owner of the animal for the purpose of this chapter and under this chapter shall be responsible as the owner, whether or not the household head is himself or herself a minor. If not, a member of a household, the minor owner shall himself or herself be directly subject to the provisions of this chapter.

PERSON. Any individual, partnership, firm, public or private corporation, association, trustee, or estate.

POLICE DEPARTMENT. The Police Department for the City of Madisonville, Texas.

QUARANTINE. Strict confinement of an animal specified in an order of the Animal Control Officer or a Court:

- 1) On the private premises of the animal's owner, the County Animal Shelter, or a facility approved by the City Code Enforcement Department; and
- 2) Under restraint by a closed cage or paddock, or in a manner approved by the Court or the City Code Enforcement Department.

RABIES. An acute viral disease of human and animal affecting the central nervous system and usually transmitted by an animal bite.

RESTRAINT. The animal shall be secured by a leash or lead, or confined within the real property limits of its owner by an enclosed fence or kennel.

SECURED ENCLOSURE. A fenced area that is:

- 1) Enclosed on all four sides;
- 2) Capable of preventing the entry of the general public, including children;
- 3) Capable of preventing the escape or release of an animal; and
- 4) In conformance with any requirements for enclosures established by the City Code Enforcement and/or Police Department.

THE ACT. Rabies Control Act of 1981, Tex. Health and Safety Code, Ch. 826.

VACCINATION. Properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture, which injection has been administered only by or under the direct supervision of a veterinarian who is licensed to practice in this State.

VETERINARIAN. A doctor of veterinary medicine who holds a valid license to practice his or her profession in the State.

VETERINARY ESTABLISHMENT. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

ZOONOTIC DISEASES. Those diseases that may be transmitted from animals to humans under normal condition.

1.003 RIGHT OF ENTRY OF ANIMAL CONTROL OFFICER.

The Animal Control Officer shall have the right at any reasonable time to inspect any animal to determine if the animal is licensed and vaccinated as required by the Act and this chapter. However, no entry shall be made into any

enclosed private property without first obtaining the consent of the owner of the property, or upon the issuance of a warrant in the manner authorized by law.

1.004 INTERFERENCE WITH ANIMAL CONTROL OFFICER.

(A) A person commits an offense if he or she interferes with, hinders, or molests the Animal Control Officer, or other party designated by the City Code Enforcement and/or Police Department for those purposes, in the performance of duties delegated hereunder, or seeks to release any animal taken and held in custody under the provisions of this chapter, except as herein provided.

(B) The Animal Control Officer shall have the right to pursue unrestrained animals onto any unenclosed private property without having first obtained the consent of the owner of the property. However, no entry shall be made into any enclosed private property without first having obtained the consent of the owner of the property, or upon issuance of a warrant in the manner authorized by law.

1.005 EFFECTIVE DATE

This chapter shall become effective upon its publication as provided by law.

RESTRAINT OF DOGS AND CATS

1.006 VACCINATIONS

A) No person(s) shall own, keep, or harbor any dog or cat over four months of age within the city, unless such is vaccinated against rabies. In addition, the dog or cat must then be vaccinated against rabies 12 months following the initial rabies vaccination with either a one-year or three-year USDA-approved rabies vaccination. Thereafter, allowing for an annual' or triennial vaccination interval depending upon the type of vaccine used (either one-year or three-year duration), for subsequent vaccinations. The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or a government operated or licensed animal shelter.

B) All dogs and cats shall be vaccinated against rabies by a licensed veterinarian in accordance with the latest *Compendium of Animal Rabies Vaccines and Recommendations for Immunization* published by the National Association of State Public Health Veterinarians.

C) A certificate of vaccination by a licensing authority shall be issued to the owner of each animal vaccinated on a form recommended by the compendium. Each owner shall also receive a durable vaccination tag provided by the veterinarian to be permanently attached to a collar or harness worn at all times when the animal is off the premises of the owner.

D) A person commits an offense if he or she fails or refuses to have each dog or cat, of which he or she is the owner, vaccinated against rabies in accordance with this chapter.

1.007 RESTRAINT AND CONTROL OF ANIMALS.

A) All animals shall be kept under restraint or within a secured enclosure, and no animal shall be permitted to run at large in the city. No owner shall fail to exercise proper care and control of his or her animals in order to prevent them from becoming a public nuisance, and the owner of every animal shall be held responsible for every action of the animal under provisions of this chapter and state law.

B) No dog shall be permitted to bark excessively so as to disturb the owner's neighbors or cause a public nuisance.

C) When any animal is found running at large and its ownership is verified by the Animal Control Officer or a city police officer, the officer may exercise the option of serving the owner with a violation citation in lieu of impounding the animal.

D) In the event that an animal has been identified as belonging to an individual and reasonable effort has been made to contact the owner for purposes of confinement and/or issuance of citations, where no contact was made, the officer may issue a citation without the signature of the legal owner. A copy shall be mailed to the residence by U. S. certified mail, return receipt requested. The mailing of the notice as provided herein shall constitute notice to the legal owner for all purposes.

E) A person commits an offense if he or she fails or refuses to restrain any animal of which he or she is the owner, or if he or she permits the animal to cause a nuisance.

1.008 IMPOUNDMENT.

A) It shall be the duty of the Animal Control Officer to apprehend, confine, and impound all dogs and other animals as follows:

- 1) All dogs or other animals infected or suspected being infected with rabies and all animals exposed to an animal infected with rabies, including animals known to have been bitten by a rabid animal, whether the animal to be impounded is running at large, or on a leash, or whether it is confined to its owners premises;
- 2) Animals which have bitten a person or which have been exposed to rabies; and
- 3) Animals which are strays, at large, or unrestrained.

B) All animals picked up under this section shall be impounded by the Animal Control Officer in an animal shelter or other impounding facility and confined in a humane manner.

C) Immediately upon impounding any animal, the animal shelter shall make a complete registry of the animal, entering the breed, color, and sex of the animal, and the place and time of taking it into custody.

D) Also, immediately upon impounding any animal, the Animal Control Officer or animal shelter shall make every reasonable effort to notify the owner and inform the owner of the conditions whereby custody of the animal may be regained. Animals bearing license tags or identification shall be held five full days. Animals bearing no tags or identification shall be held three days. Animals not claimed by their owners within the above-specified times shall become the property of the city.

E) Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

F) When an owner makes a request to relinquish his or her animal to animal control, a fee for services requested will be required and followed as follows: \$30.00 per animal. The owner or custodian shall be determined by **1.002**. The owner shall be required to sign an "owner turn in" release identification card which releases the officer and the city from any and all responsibilities, either civil or criminal. By signing the "owner turn in" card, the owner shall surrender all claims to the animal.

1.009 REDEMPTION.

A) Any animal impounded may be redeemed by the owner thereof within three days if untagged and within five days if appropriately tagged upon payment of an impound fee to be determined by the City Council, and any and all fees collected by the animal shelter that impounded the animal. Payment of impoundment fees is not considered to be in lieu of any fine, penalty, license fees, veterinarian fees, or pound fees.

B) No animal required to be vaccinated under this chapter may be redeemed until the provisions for the vaccinations have been fulfilled.

C) Any person, other than a designated agent of the city, who transports any animal in accordance with the provisions of this chapter shall be responsible for any and all fees collected by the Humane Society or other designated shelter.

1.010 DISPOSAL OF QUARANTINED AND IMPOUNDED ANIMALS

A) The animal shelter or impounding facility is authorized to keep, return to owner, place for adoption with a reasonable party, or humanely dispose of or destroy, in such a manner as the Animal Control Officer deems necessary under the circumstances, any animal that the owner or custodian does not take possession of as provided in **1.009**.

B) It is expressly provided that, in case of diseased, sick, injured, or otherwise unhealthy animals impounded under these regulations, it shall be unnecessary to await the expiration of the impoundment or redemption period before disposing of the animals, provided the Animal Control Officer is notified and proper procedures for rabies control are enforced.

C) Any animal that is impounded for a third time will be taken to the animal shelter or impounding facility for adoption with a reasonable party other than original owner or humanely disposed or destroyed.

1.011 RELEASING OR DUMPING OF ANIMALS

A) No person shall dump, release, or abandon any animal on any property, whether public or private, within this city.

B) Any person who keeps, harbors, feeds, shelters, or otherwise allows any stray animal, or any animal which has been dumped, released, or abandoned, to remain on his or her property or allows or permits egress and/or ingress for seven or more days without notifying the Animal Control Officer shall hereby be deemed the owner of the animal.

C) A person commits an offense if he or she intentionally abandons an animal in his or her custody.

RABIES CONTROL

1.012 GENERALLY

A) When a dog or cat which has bitten a human has been identified, the owner shall be required to place the animal in quarantine as required by the **Rabies Control Act of 1981, being Tex. Health and Safety Code, §§ 826.001 et seq.**, and the amendments and rules of the State Board of Health in effect at that time. Expenses incurred by the quarantine of animals, either vaccinated or unvaccinated, shall be the sole responsibility of the owner or custodian.

B) When the owner requests the agent of the city to transport the bite animal for purposes of quarantine, the city shall receive a "transport fee" of \$25 to be paid by the owner.

C) No wild animal will be placed in quarantine. All wild animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a State Department of Health laboratory for rabies diagnosis or other testing as provided in the Act, by other statute or ordinance.

D) The body of any animal that has died of rabies shall not be disposed of, except as directed by the City Health Authority Director.

E) Any person having knowledge of an animal bite to a human will report the incident to the Animal Control Officer, Code Enforcement Officer, a city police officer, or the City Health Authority Director as soon as possible after the incident.

F) Every veterinarian or other person who is called to examine or professionally attend any animal in the city suspected of having rabies or other zoonotic diseases shall, within 24 hours thereafter, report to the City Health Authority Director the following facts:

- 1) A statement of the location of the diseased animal;
- 2) The name and address of the owner thereof; and
- 3) The type and character of the disease.

G) Disposition of domestic animals exposed to rabies shall be as follows:

- 1) Unvaccinated animals which have been bitten or directly exposed by physical contact with a rabid animal or its fresh tissues shall be:
 - a) Humanely killed; or
 - b) If sufficient justification for preserving the animal exists, the exposed animal should be immediately vaccinated against rabies, placed in confinement and strict isolation for six months and given a booster vaccination one month prior to release from isolation.
- 2) Vaccinated animals which have been bitten or otherwise significantly exposed to a rabid animal should be:
 - a) Humanely killed; or
 - b) If sufficient justification for preserving the animal exists, the exposed vaccinated animal should be given a booster rabies vaccination and placed in confinement and strict isolation for three months.
- 3) These provisions apply only to domestic animals for which an approved rabies vaccine is available.

LIVESTOCK

1.013 KEEPING OF LIVESTOCK PROHIBITED.

A) The keeping of any horses, mules, ponies, jacks, jennets, cattle, hogs, goats, sheep, chickens, ostriches, emus, or other fowl within the incorporated limits of the city is hereby declared to be a nuisance and it shall be unlawful for any person to keep or have horses, mules, ponies, jacks, jennets, cattle, hogs, goats, sheep, chickens, or fowl at any place within the city, subject to the exceptions provided herein.

B) Livestock and fowl running at large are prohibited.

C) *Student exception to the keeping of livestock or fowl within the city, and fence and space allocations for livestock and fowl.* Students enrolled in a 4-H Future Farmers of America project may maintain livestock or fowl within the city, provided they are city residents who are members of the immediate household; they have registered with the City Secretary a letter from their 4-H

adult leader or the teacher of Future Farmers of America class, certifying their project; and no neighbor within 200 feet of the animal's pen files a written complaint with the City Secretary. This exception to this chapter shall be available to a student only during the duration of his or her project. The following requirements and space allocations for each animal or fowl shall be satisfied.

- 1) **Horses, mules, jacks, jennets, ponies, or other animals of like kind.** There shall be a minimum enclosed space of 3,000 square feet for each horse, mule, jack, jennet, pony, or other animal of like kind kept within the city limits. The 3,000 square feet shall be in addition to the area on which a residence or business structure is located. The shed used for protection against the elements may be located on this plot. Every additional horse, mule, jack, jennet, pony, or other animal of like kind that is kept on the same lot must be given an additional 2,000 square feet per animal. The lot must be enclosed with a suitable safe fence.
- 2) **Cows and hogs.** There shall be a minimum enclosed space of 4,000 square feet for each cow or hog kept within the city limits. The 4,000 square feet for each cow shall be in addition to the area on which a residence or business structure is located. The shed for protection against the elements or used for milking purposes may be located on this plot. Any additional cow or hog must be given 4,000 square feet per animal. The lot must be enclosed with a suitable safe fence.
- 3) **Goats and sheep.** Each goat or sheep kept in the city limits shall be allowed a minimum enclosed space of 1,200 square feet for stable and lot. The 1,200 square feet shall be in addition to the area on which a residence or business structure is located. Any additional goat or sheep kept on the same lot shall be granted an additional 1,200 square feet per animal. The lot must be enclosed with a suitable safe fence.
- 4) **Chickens and other fowl.** Any fowl lot maintained in the city limits must be large enough to provide a minimum of four square feet per fowl. The chicken or fowl house will be allowed to be a part of this area. Suitable wire shall be used as the fence material for chickens and other fowl. The house must be of the construction as will allow for ease in cleaning and airing.
- 5) **Location of lots, pens, and coops; cleanliness.** The lot in which a horse, mule, jack, jennet, pony or other animal of the like kind, cow, hog, goat, or sheep kept under provisions of this section shall not be located nearer than 20 feet to the nearest adjoining residence or eating/dining establishment or sleeping facility. Rabbit hutches shall not be located nearer than 20 feet to the adjoining residence. All animals, fowl, and rabbit shelters or buildings will be thoroughly cleaned at least once per week and will be maintained in a clean, sanitary condition at all times.

DANGEROUS DOGS

1.014 KNOWLEDGE OF DANGEROUS DOGS.

For purposes of this chapter, a person learns he or she is the owner of a dangerous dog

- A) The owner knows of an attack described in **1.002**;
- B) The owner is notified by the Animal Control Officer, Code Enforcement Officer, or the City Police Department that the animal is a dangerous dog
- C) The owner is notified by the Municipal Court or another county or municipal jurisdiction that the dog is a dangerous dog or
- D) The owner is notified by the Court that, after appeal, the Court has upheld the Animal Control Officer's determination that the animal is a dangerous dog.

1.015 DANGEROUS DOG REPORT.

- A) The Animal Control Officer, Code Enforcement Officer, or City Police Department may receive a report concerning a dangerous dog. The report and supporting witness statements shall be in writing and sworn to on a form prescribed by the Code Enforcement and/or Police Department.
- B) The Animal Control Officer, Code Enforcement Officer, or Police Department shall investigate all reports filed under this subchapter and may issue sworn complaints based on the investigation or observation.

1.016 DANGEROUS DOG DETERMINATION.

- A) ***Municipal Court.***
 - 1) The Municipal Court ("the Court") may determine that a dog is a dangerous dog in compliance with **Tex. Health and Safety Code, § 822.0422**. The Animal Control Officer, Code Enforcement Officer, or a city police officer may file a sworn complaint describing a dangerous dog incident with the Court. The sworn complaint shall present probable cause that the dog described in the complaint committed an attack described in **1.002**.
 - 2) The Animal Control Officer shall furnish written notice to the owner of the dog, as identified in the complaint, to inform the owner that a dangerous dog report has been filed with the Court. The notice to the owner shall require the owner to deliver the dog immediately to the Animal Control Officer upon receiving the notice, provided that the Animal Control Officer may, in his or her discretion, accept proof that the animal is impounded with a licensed veterinarian at a veterinarian establishment. The notice

to the owner shall have attached to it a copy of this chapter. The notice to the owner shall also contain a statement that the owner will be notified by the Court of the date and time for the hearing.

- 3) If the owner fails to deliver the dog as required, the Court shall order the Animal Control Officer to seize the dog and shall issue a warrant authorizing the seizure. The Animal Control Officer shall seize the dog and shall provide for the impoundment of the dog in a secure and humane manner at the owner's expense until the Court orders the disposition of the dog. The Court shall determine, after notice and hearing as provided in **1.017** whether the dog is a dangerous dog.
- B) **Animal Control Officer.**
- 1) The Animal Control Officer may determine that a Dog is a dangerous Dog after investigation of a dangerous dog incident. The Animal Control Officer shall furnish written notice to the owner of the Dog as identified in the complaint to inform the owner that a dangerous Dog report has been received. The owner will have five calendar days from the date the owner is notified to provide the Code Enforcement and/or Police Department information regarding the report. The Animal Control Officer may consider additional information from other sources in the course of the investigation.
 - 2) If, after investigating a dangerous Dog report, the Animal Control Officer finds that the animal is a dangerous dog. The Animal Control Officer shall immediately provide for the impoundment of the dog in a secure and humane manner; and provide notice to the owner of that fact. The notice to the owner shall also contain a statement that the owner has a right to appeal to the municipal Court and shall have attached to it a copy of this chapter.
 - 3) Notice to the owner shall be mailed certified mail, return receipt requested, to the owner's last known mailing address, or delivered in person by the Animal Control Officer, Code Enforcement Officer, or a city police officer. If the notice is mailed to the owner and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered. If the notice is given by mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be delivered three days after the date it is placed in a mail receptacle of the United States Postal Service. Notice that is delivered in person is deemed received on the date of in-hand delivery or on the date that the notice is left firmly affixed on or near the front door of each building on the property at the owner's address.

- 4) An owner, not later than ten calendar days after the date the owner is notified that an animal owned by him or her is a dangerous dog, may appeal the determination of the Animal Control Officer to the Municipal Court. An owner may appeal the decision of the Municipal Court to a county court at Law, in the same manner as an appeal of cases from the Municipal Court.

1.017 HEARING.

A) After the Court receives a sworn complaint of an incident involving a dangerous dog under **1.016** the Court shall set a time for a hearing to determine whether the dog is a dangerous dog. The hearing must be held not later than ten calendar days after the date on which the dog is seized or delivered.

B) The Court shall give written notice of the time and place of the hearing to:

- 1) The owner of the dog or the person from who the dog was seized;
- 2) The person who made the report; and
- 3) The Animal Control Officer.

C) Any interested party, including the City Attorney, is entitled to present evidence at the hearing. The owner of the dog or the owner's attorney, is entitled to present evidence to show that the dog is not dangerous.

D) If the Court finds that the dog is a dangerous dog as defined in **1.002**:

- 1) The Court shall order that the dog be destroyed in a humane manner if there is evidence that the dog is reasonably certain to commit an unprovoked attack in the future; or
- 2) If the Court does not find that the dog is reasonably certain to commit an unprovoked attack in the future, the Court shall order that the dog be permanently removed from the city.

E) An owner or the person who made the report may appeal the decision of the Municipal Court to a county court at law in the manner provided for the appeal of cases from the Municipal Court.

1.018 REQUIREMENTS FOR OWNERS OF DANGEROUS DOGS.

A) Dogs which have been determined to be dangerous dogs by the City Animal Control Officer or

The Municipal Court, or any other county or municipal jurisdiction, shall be prohibited in the city. After a person learns that he or she is the owner of a dangerous Dog, the owner shall immediately:

- (1) Deliver the animal to the Animal Control Officer, Code Enforcement Officer, or the Police Department upon learning that the dog is a dangerous Dog, if the animal is not already impounded;
- (2) Permanently remove the dog from the city and shall notify, not later than the fourteenth day after the date of the removal, the Code Enforcement and/or Police Department, the dog's new address and new owner if applicable; or
- (3) Arrange for the humane destruction of the animal by a licensed veterinarian if the Court orders the destruction of the dog.
- B) The Court may issue a warrant to seize the subject dog at any time the Court finds that probable cause of violation or noncompliance exists, including any time otherwise allowed for voluntary compliance. If, on application of the Animal Control Officer, the Court finds, after notice and hearing as provided by **1.017**, that the owner of a dangerous dog has failed to comply with division **(A)** above, the Court shall order the Animal Control Officer to seize the dog and shall issue a warrant authorizing the seizure.
- C) The Court shall order the Animal Control Officer to humanely destroy the dangerous dog if the owner has not timely complied with division **(A)** above and no perfected appeal is pending.
- D) If the owner of a dangerous dog sells or gives the dog to another person, the owner shall notify the other person at the time of the sale or gift that the animal has been identified as a dangerous dog.
- E) When the Code Enforcement and/or Police Department is informed that a dangerous dog has been moved to another jurisdiction, it should notify the animal control authority for the jurisdiction of this information.

1.019 OFFENSES

- A) A person commits an offense if the person is the owner of a dog that has been determined by the Court or the Animal Control Officer to be a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's secured enclosure which causes bodily injury to the other person.
- B) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on a domestic animal or domestic fowl while the dog is at large, and the attack causes bodily injury or death to the domestic animal or domestic fowl.
- C) A person commits an offense if the person is the owner of a dangerous dog or the new owner of a dangerous dog and performs an act prohibited or fails to perform an act required by this chapter.

1.020 DEFENSES.

- A) It is a defense to prosecution under **1.019** that the person is a veterinarian, a peace officer, a person employed by a recognized animal services center, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the animal in connection with that position.
- B) It is a defense to prosecution under **1.019** that the person is an employee of the institutional division of the State Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.
- C) It is a defense to prosecution under **1.019** that the person is a dog trainer or an employee of a guard dog company under the **Private Investigators and Private Security Agencies Act (Tex. Occupations Code, § 1702.109)**, and is not the actual owner of the dog.
- D) It is a defense to prosecution under **1.019** that the person injured was teasing, tormenting, abusing, or assaulting the dog or has, in the past, been reported to have teased, tormented, abused, or assaulted the dog.
- E) It is a defense to prosecution under **1.019** that the person injured was committing or attempting to commit a crime.
- F) It is a defense to prosecution under **1.019** that the dog was protecting or defending a person while in the person's control, from an unjustified attack or assault.

1.021 IMPOUNDMENT AND DESTRUCTION OF DANGEROUS DOG.

- A) The Animal Control Officer shall seize the subject dangerous dog according to a warrant or shall order the seizure and shall accept the animal into custody when delivered by the owner.
- B) The Animal Control Officer shall provide for impoundment of the subject dog in a secure and humane manner until the Court orders the disposition of the subject dog. The Animal Control Officer may accept proof of impoundment from a licensed veterinarian if the proof and impoundment are satisfactory to the Animal Control Officer.
- C) The owner shall pay any costs and fees incurred by the city related to the seizure, impoundment, and destruction of a dangerous dog.
- D) The Court shall order the Animal Control Officer to humanely destroy the dangerous dog if the owner of the dog has not been located within ten calendar days after the seizure and impoundment of the animal and if no other statute or Ordinance has allowed or required the dog's earlier destruction.
- E) The Court shall order the Animal Control Officer to humanely destroy a dangerous dog that can no longer be returned to its owner under this chapter.
- F) If impoundment of a dangerous dog is being attempted away from the premises of the owner and the impoundment cannot be made with safety, the

dog may be destroyed without notice to the owner or harborer. If an attempt is made to impound a dangerous dog from the premises of the owner and the impoundment cannot be made with safety, the owner will be given 24-hours notice that if the animal is not surrendered to the Animal Control Officer within the 24-hour period, then the dog will be destroyed wherever it is found. After this notice, the dangerous dog may be destroyed during an attempt to impound if impoundment cannot be made with safety, wherever the impoundment is attempted. Notice under this section shall be in writing. A written notice left at the entrance to the premise where the dangerous animal is harbored will be considered valid notice as of the date and time of posting. In lieu of surrendering the dog to the Animal Control Officer, an owner may permanently remove the dog from the City, if written proof of destination is provided to the Animal Control Officer and transport is made in compliance with this chapter.

QUANTITY LIMITS

1.022 ANIMAL QUANTITY LIMITS

A) It shall be unlawful for any person to keep or have more than five total domestic animals at any one residence within the incorporated limits of the city subject to the exceptions provided herein.

B) The following breeder exemption to the keeping of more than five total domestic animals within the incorporated limits of the city. Owners may claim exemptions from this section provided they provide proof that they breed animals for show or profit and adhere to the following criteria:

- 1) The owner must submit in writing to the Director of Animal Control or his or her designee a request for permit for a breeder exception and include copies of current rabies certificates for all domestic animals on premises;
- 2) After receipt of the request, the Director or his or her designee will inspect the proposed breeding facility to ensure appropriate cleanliness, shelter, restraint and open space for all animals within the facility;
- 3) After the proposed facility passes inspection, the owner will complete and return the permit application for a breeder exception with the annual fee of \$100;
- 4) Each year thereafter the owner will submit a new permit application with the appropriate fee and proof of current rabies vaccinations;
- 5) The Animal Control Department will re-inspect the breeding facility at each annual renewal request and any time deemed necessary by the Director to ensure compliance with this chapter;

- 6) If at any time the Director or his or her designee finds a violation of this chapter, the breeder permit will be revoked for a period of one year and the owner will be given ten days to remove all domestic animals exceeding the five animal limits, from the owner's premises and from the incorporated city limits;
 - 7) If the Department receives a complaint from any adjacent property owner about the level of noise, smell, conditions or lack of restraint, the Director or his or her designee will re-inspect the facility and may revoke the breeder exception permit if a violation is found; and
 - 8) No refund will be provided if the permit is revoked, and revocation of the breeder exemption permit will not exempt the owner from charges resulting in violations of an ordinance or city code found during the inspections.
- C) In the event that an accidental breeding occurs which results in the total number of domestic animals on premises being exceeded:
- 1) The Director or his or her designee shall make the determination as to whether the breeder permit and fee shall immediately be applied based on the following:
 - a) Prior history of accidental breeding;
 - b) Breed/pedigree of bred animal; and
 - c) Willingness of owner to notify the Director of the accidental breeding;
 - 2) The owner shall find homes for all members of the "accidental" litter exceeding the limit by their sixth month of age after rabies vaccinations have been administered by a licensed veterinarian;
 - 3) Proof of rabies vaccination shall be provided to the Director by the owner; and
 - 4) Owners of the adult animal(s) causing the accidental breeding will voluntarily sterilize the animal(s) and provide proof to the Director to prevent further accidental breeding.

WILD ANIMALS

1.023 KEEPING WILD ANIMALS PROHIBITED

A) The keeping of any wild animal as defined in **1.002** within the corporate limits of the city is hereby declared to be a nuisance, and it shall be unlawful for any person to own, keep, harbor, or have custody or control of any wild animal at any place within the city, subject to the exceptions provided herein.

B) Wild animals running at large in the city are prohibited. The Animal Control Officer, Code Enforcement Officer, or a city police officer is hereby authorized to seize and impound any wild animal at Large in the city; or if the animal is reasonably determined to be dangerous and cannot be seized without endangering the officer or another person, the officer is authorized to destroy the animal by any reasonable means.

C) **Exceptions.** A person may temporarily keep a wild animal in the city if the animal is being used for educational or amusement purposes so long as the Owner:

- 1) Registers the wild animal with the City Code Enforcement Officer at City Hall and/or Police Department;
- 2) Keeps the wild animal reasonably secured or caged at all times;
- 3) Maintains a liability insurance policy on the animal or animals of at least \$1,000,000. A certificate of insurance must be produced at the time the animal is registered at the Code Enforcement Department and/or Police Department; and
- 4) Keeps the animal in the city no more than seven days.

PENALTY PROVISIONS

1.024 PENALTY

A) Any person who shall violate any of the provisions of this chapter shall be deemed guilty of a **Class C misdemeanor**, unless otherwise noted, and, upon conviction thereof, shall be fined a sum not to exceed **\$500**, or as otherwise noted, for each and every violation.

B) Any person violating **1.004(A)** is guilty of a **Class A misdemeanor** under the **Texas Penal Code**.

C) An offense under **1.006(D)** is a **Class C misdemeanor** and, upon conviction thereof, shall be deemed guilty thereof and shall be fined a sum not to exceed **\$500** for each and every violation.

D) An offense under **1.007(E)** is a **Class C misdemeanor** and, upon conviction thereof, shall be deemed guilty and be fined in a sum not to exceed **\$500** for each and every violation.

E) Any person violating **1.011** is guilty of an offense punishable as a **Class A misdemeanor** under **Tex. Penal Code, § 42.11**.

F) Any person who refuses to comply with and violates the provisions of **1.012** and fails to quarantine a dog or cat which has been identified as the biting animal shall be guilty of a **Class C misdemeanor** and shall be fined in a sum not to exceed **\$500** for each and every violation. The owner shall receive a citation for each and every day the animal has not been placed in quarantine, up to the tenth day of the bite.

MISCELLANEOUS

1.025 MISCELLANEOUS.

A) SAVINGS CLAUSE.

That if any part of this ordinance is, or should be held invalid for any reason, then that fact shall not be invalidate the entire ordinance, but the balance thereof shall remain in full force and effect.

B) REPEALS OF CONFLICTING ORDINANCES.

All other ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

C) PUBLICATION.

A descriptive caption of this ordinance shall be published one time in the Madisonville Meteor, the official newspaper in the City of Madisonville, immediately after the date of passage hereof and said ordinance shall become effective _____, 2011.

PASSED AND APPROVED THIS THE ____ DAY OF _____, 2011.

MAYOR

CITY SECRETARY

APPROVED BY CITY ATTORNEY:

JOHN R. BANKHEAD

