

ORDINANCE NO. _____

AN ORDINANCE FOR THE CITY OF MONTGOMERY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MONTGOMERY, TEXAS, BY REPEALING CHAPTER 14 IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER; PROVIDING FOR DEFINITIONS; REQUIRED PROVIDING FOR A LOCAL RABIES CONTROL AUTHORITY; PROVIDING FOR PURPOSES, APPLICABILITY AND EFFECT; ANIMAL DENSITY, CARE AND PROTECTION; PROVIDING FOR A PENALTY; PROVIDING FOR THE SEVERABILITY OF THE PROVISIONS OF THIS ORDINANCE; PROVIDING FOR THE REPEAL OF ANY AND ALL ORDINANCES, RESOLUTIONS, AND/OR INFORMAL POLICIES TO THE EXTENT THE SAME ARE INCONSISTENT WITH OR IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Montgomery, Texas, believes that it would be in the best interest of the public and the citizens of the City of Montgomery that both domestic and wild animals be controlled or prohibited within the city limits; and

WHEREAS, the City Council desires to pass a new animal control ordinance, thereby repealing chapter 14 of the Code of Ordinances of the City of Montgomery, Texas in its entirety; and

WHEREAS, Section 826.013 of the Texas Health and safety code (the "Code") provides that the governing body of a municipality may adopt the provisions of the Rabies Control Act of 1981 (Texas Health and Safety Code, Chapter 826); and

WHEREAS, Section 826.015 of the Code provides that a governing body of a municipality may adopt ordinances or rules that establish a local rabies control program in the municipality and set local standards that are compatible and equal to or more stringent than (1) the ordinances or rules adopted by the county in which the municipality is located; and (2) the program established by the chapter and the rules adopted by the Texas Board of Health; and

WHEREAS, Section 826.016 of the Code permits the governing body of a municipality to enter into contractual agreements with public or private entities to carry out the activities required or authorized under Chapter 826 of the Code; and

WHEREAS, Section 826.017 of the Code permits the governing body of a municipality to designate an officer to act as the local rabies control authority as provided in the Code.

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

SECTION ONE

The Code of Ordinances of the City of Montgomery, Texas, shall be and is hereby amended by repealing Chapter 14 in its entirety and adopting a new Chapter 14 as follows:

Chapter 14

ANIMALS

ARTICLE 1, IN GENERAL

Section 14-1 Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any vertebrate member of the animal kingdom, domestic or wild, excluding the human species.

. Animal Control means Montgomery County Animal Control Department

Astray or Stray means any animal running free or otherwise without physical or other restraint whether on or off the premises of its owner.

Cat means any domesticated member of the family *felis catus*.

Community Cats means any unowned cats These cats may be feral, unsocialized, or friendly and may either have been borne into the wild or are lost or abandoned pet cats.

Director means the City of Montgomery Director of Public Works or authorized designee.

Dog means a domesticated member of the family *canidae* but shall not include a wolf, jackal, fox, or other wild animal of this family.

Fowl means any heavy bodied, terrestrial bird of the order Galliformes, including but not limited to chickens, ducks, geese, pheasants, turkeys, grouse, guineas, or other common domestic fowl, but not including caged pet birds kept inside a building and otherwise not a bird defined as fowl herein.

Livestock means any horse, swine, cattle, sheep, goat, mules jack, or jenny.

Owner means any owning, keeping, or harboring an animal and any person who permits an animal to remain on or about his premises, who has possession, or has control or the responsibility to control an animal.

Person means any individual, corporation, partnership, trust, association or other legal entity.

Quarantine means strict confinement under restraint by closed cage or paddock or on the premises of the owner in any other manner approved by the Local Rabies Control Authority or designee or at a facility approved by the Local Rabies Control Authority or designee.

Rabies means an acute viral disease of human and animal affecting the central nervous system usually transmitted through the bite of a rabid animal or contact with bodily fluid of a rabid animal and/or including the condition commonly known as rabies.

Reptile means any cold-blooded vertebrate of the class reptilia, such as lizards, snakes, etc.; of particular concern are those that are poisonous, constrictors, and/or carnivores.

Restraint, except as otherwise provided, an animal shall be deemed to be restrained when it is:

- (a) Confined on the premises of the owner within a fence or enclosure; or fastened or picketed by a lead, rope, or chain so as to keep the animal on the premises of the owner; or
- (b) Under the control of a person by means of a harness, leash, chain, or similar device attended by a person of sufficient strength to prevent the animal from running at large; or
- (c) On or within a vehicle being driven or parked if the owner is present to control the animal from jumping or falling out;
- (d) At heel beside or otherwise controlled and obedient to a person competent to restrain the animal by command.
- (e) Running at large means animals wandering or roving at will and unsupervised secure enclosure means a fenced or locked area that is capable of confining the animal in question.

Section 14-2. Local Rabies Control Authority designated; duties.

(a) The Mayor shall designate the Montgomery County Animal Control Department (Animal Control) official designated by Montgomery County Commissioner's Court, as the Director or his designee as the Local Rabies Control Authority pursuant to state law.

(b) The duties of the Director and the Local Rabies Control Authority shall include but are not limited to:

- (ii) Enforcement of all ordinances and/or rules of the City pertaining to rabies and animal control; enforcement of the provisions of state law and administrative rules of the Texas Board of Health pertaining to rabies and animal control.
- (iii) Selection and establishment of facilities for impoundment, maintenance, shelter and dysfunction of stray, diseased, injured, or vicious animals.

(c) The Director or Animal Control may employ such Animal Control Officers or inspectors as are necessary and feasible to carry out the purposes of this chapter.

Nothing in this Ordinance shall be interpreted so to prohibit a service animal as defined in federal law, or an assistance animal defined in State law, that is specially trained or equipped to assist persons with disabilities.

Sec. 14-3, Citation of person in control; interference or false reports unlawful.

(a) Whenever an animal is found in violation of this chapter and when ownership is known to an Animal Control Officer, a peace officer or other authorized official, such person enforcing this Chapter may elect, in lieu of or in addition to impounding such animal, to issue a citation to the owner, harborer, or other person in control of the animal which shall require the person to appear in the Municipal Court within ten (10) business days to answer a charge of violation of this chapter.

(b) The signature of the owner, harborer or other person in control on a citation shall constitute only a promise to appear at the appointed date and shall not be construed as an admission of guilt.

(c) It is unlawful for any person, upon being issued a citation for violation of this chapter, to fail to provide proof of identification, or provide a false name, address, or other false information concerning an animal or its ownership to an Animal Control Officer or other enforcing official.

(d) It is unlawful for any person to interfere with, hinder or obstruct an Animal Control Officer or other official engaged in the enforcement of this chapter, including but not limited to the failure to release an animal for impoundment by any manner of interference with such impoundment.

(e) It is unlawful for any person to make a false report or complaint concerning a violation of this chapter to the Director, to any Animal Control Officer or to any other enforcing official.

Sec. 14-4. Authority to impound or destroy certain animals,

(a) The Director, the Police Chief, or their designee are hereby authorized to:

(i) Impound any stray animal found running at large within the city limits or within five thousand (5,000) feet thereof, or any animal being kept in violation of this chapter;

(ii) Impound any animal which has attacks, bites, or physically injures human beings, domestic animals, or livestock or which has acted in a vicious manner as described herein;

(iii) Destroy, any animal if it is in the act of pursuing or wounding livestock or wounding or killing poultry or attacking humans under circumstances of emergency;

(iv) Impound for treatment or, in the alternative } humanely destroy an animal that is injured to a degree presenting little or no likelihood of recovery, upon the recommendation of a licensed veterinarian, This provision shall not be construed to include veterinary hospitals 01' animals under active veterinary care.

(v) If an animal running astray is found upon the premises of any person, the owner or occupant thereof shall have the right to confine the animal temporarily in humane

fashion pending notification and response by the Animal Control Department or other authority

Sec. 14-5. Reserved

ARTICLE II. ANIMAL DENSITY, CARE AND PROTECTION

Section 14-6 Nuisance

It is unlawful for the owner, custodian, or keeper of any animal to be a nuisance to any neighbor, including but not limited to: noxious odors from the animals or their enclosure, or any animal which soils, defiles, or defecates on public or private property, other than the property of the owner, unless the owner immediately removes and properly disposes of it, noise loud, persistent and habitual in nature,

No person shall keep or allow or permit to be kept on any premises occupied by him or under his charge or control, any animal or fowl in a pen or other enclosure under such conditions that an offensive or noxious smell or odor shall arise therefrom, to the injury, annoyance or inconvenience of any inhabitant of the neighborhood or City, Any odor which is detectable from a public right of way or adjacent property line is considered to be in violation of this section.

It is a violation to keep any dog, bird or other animal that causes frequent or long continued noise that disturbs the comfort and repose of any person of ordinary sensibilities in the immediate vicinity. Once a noise violation has been determined by the Director the violator has two weeks to remedy this violation through training technology or relocation of the animal(s).

Fines for animal owners found guilty of the above noise and odor nuisances shall be: One hundred dollars (\$ 100.00) for the first (1st) offense. Two hundred dollars (\$200.00) for the second (2nd) offense. And Three hundred dollars (\$300.00) for the third (3rd) offense and additionally a person convicted of a third (3rd) offense shall have his or her right to keep or maintain livestock within City revoked for one (1) year,

Section 14-7 Keeping of Dogs

No person may keep more than six dogs over three months of age on a property of less than five acres.

No person may keep a dog outdoors within an enclosure such as a fence, kennel, or other device unless the enclosure contains at least one hundred square feet of unobstructed area per each dog weighing twenty pounds or less and at least two hundred square feet of unobstructed area per each dog weighing more than twenty pounds, The height of such enclosure should be no less than two feet above the tip of the animal's ears if the ears are upright or otherwise two feet above the animal's head. This restriction shall not apply to government agencies, non-profit animal rescue organizations exempt from taxation under Internal Revenue Code section 501 (c) (3), humane societies or societies for the prevention of cruelty to animals.

No person shall keep, use or maintain a dog outdoors on any premises unless the dog is either provided with full access to an enclosed building or access to a dog house or similar shelter at all times.

No person shall keep, use or maintain any dog on any premises unless the dog has access to clean, fresh water at all times. Clean potable water shall be available to the dog unless restricted for veterinary care,

No person shall keep, use or maintain any dog on any premises unless the dog is provided sufficient food daily to maintain proper body weight and good general health.

It shall be unlawful for any person to tether, fasten, chain tie, restrain or cause a dog to be fastened, chained, tied or restrained to houses, trees, fences, garages or other stationary or highly immobile objects by means of a rope, chain, strap or other physical restraint for the purpose of confined, except in circumstances where all of the following requirements are met:

- a. The tethering shall not be for more time than is necessary for the dog owner or custodian to complete a temporary task that requires the dog to be physically restrained for a reasonable period; and
- b. The dog must be tethered by a non-choke type collar or a body harness to a tether that is at least three times the body length of the dog, measured from the dog's nose to the back of the hindquarters and which tether is free from entanglement; and
- c. The dog must have access to food, water and shelter as described above; and
- d. The dog shall be monitored periodically..

Restraint by a trolley system is permitted under the following conditions:

- a. Only one animal may be tethered to each cable run; and
- b. The device must be attached to a pulley on a cable run or trolley; and
- c. There must be a swivel on at least one end of the tether to minimize tangling of the tether; and
- d. The tether and cable must be of adequate size and strength to effectively restrain the animal. The size and weight must not be excessive as determined by the Director, considering the age, size, and health of the animal; and
- e. The cable run must be at least ten feet in length and at least four feet above the ground; and
- f. The tether must not allow the animal to move beyond the legal boundary of the owner's property; and
- g. The device must be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness; and
- h. The device must be fastened so that the animal can sit, walk, and lie down comfortably, and must be unobstructed by objects that may cause the device or animal to become entangled or strangled;
- i. The animal must have easy access to adequate shade, shelter, food, and potable water; and
- j. The area where the animal is confined must be kept free of garbage and other debris that might endanger the animal's health or safety, Feces shall be cleaned regularly, but no less frequently than once per week.

Section 14-8 Keeping of Chickens and Rabbits

No person may keep more than 20 grown chickens and 6 grown rabbits or 18 flyer rabbits on a property of less than one acre. Students enrolled in a 4-H Future Fanners of America project may receive a temporary exception to this restriction, provided they are city residents who are members of the immediate household', they have filed with the City Secretary a letter from their 4-H adult leader or the teacher of

their Future Farmers of America class, certifying their project; and no neighbor within 50 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 for the duration of his or her project. All other husbandly requirements of this section must be met.

The animals shall be provided with a covered, predator-proof pen that is thoroughly ventilated, of sufficient size to admit free movement of the animals, designed to be easily accessed, cleaned and maintained by the owners and be at least two square feet per adult animal in size. All enclosures shall be so constructed or repaired as to prevent rots, mice, or other rodents from being harbored underneath or within the walls of the structure

No animal pen will be located closer than fifty feet to any residential structure occupied by someone other than the owner of the animals and must be located no closer than ten feet to any adjacent property line.

The animals shall be shut into their pens at night from sunset to sunrise. The owner, custodian, or keeper of chickens or rabbits shall not keep animals in any location on the property other than in the backyard. For the purposes of this Section, "backyard" means the portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the residential structure and extending to the side lot lines.

The area containing the animals shall be adequately fenced to protect and contain the animals and to prevent access to the animals by dogs or other predators.

Stored feed must be kept in rodent and predator proof container. No person shall keep, use or maintain any animal outdoors unless the animal is either provided with natural shade or a man-made structure.

No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

No more than two roosters shall be allowed on any property.

Section 14-9 Keeping of Livestock

Cows, horses, sheep, goats and other similar farm animals are permitted only on lots of at least one acre. Recommended stocking densities are as follows:

| <u>Animal</u> | <u>Area Recommended for First Animal</u> | <u>Additional Animals</u> |
|------------------------|--|---------------------------|
| Beef cattle/dairy cows | 1 acre for first animal | 1 acre each |
| | 1.5 acres for first animal | 1 acre each |
| Sheep, goats, alpaca | 1 acre for first animal | 1 acre each |

| | | |
|----------------------------|----------------------------|-------------|
| Llama | 1.5 acres for first animal | 1 acre each |
| Horses/equine-type animals | 1.5 acres for first animal | 1 acre each |

The acreage on which such livestock are maintained must be enclosed by a fence of sufficient height, strength, and construction to keep such livestock from escaping from the premises.

Rodeo, roping, calf-wrestling or other such type of special activities with corrals and proper provisions for the animals are excepted from the area requirements of this Section.

All livestock kept under this Section shall be provided a stable, shed, pen, or other structure of adequate size for the storage, shelter, and safekeeping of such animals. This structure shall be located at least fifty feet from property lines.

No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

Areas on which agricultural operations are conducted or livestock are kept that are annexed into the City shall remain as legal uses pursuant to state law, State law requires that regulations of agricultural operations or livestock in such newly-annexed areas can only be applied if the City Council, by resolution, makes findings that such regulations are necessary to protect the public health.

Section 14-10 Keeping of potbellied pigs

No more than two potbellied pigs may be kept as pets, provided:

- (a) Lot size is at least twenty thousand square feet; and
- (b) The animals are regularly housed indoors, and when outdoors are restrained by leash or within a durable fenced enclosure area; and
- (c) Animals over the age of four months are spayed/neutered, Exemption to this requirement will be considered when the Director is presented with evidence authored by a veterinarian stating that this procedure would be detrimental to the health of the animal; and
- (d) Tusks are regularly trimmed so as not to exceed one inch in length outside the outer lip.

No person shall keep, use or maintain any animal unless the animal has access to clean, fresh water at all times. Clean potable water shall be available to the animal unless restricted for veterinary care.

No person shall keep, use or maintain any animal unless the animal is provided sufficient food daily to maintain proper body weight and good general health.

Sections 14-11 to 14-16 Reserved

ARTICLE III. PROHIBITED ACTS

Sec, 14-17 Animals running at large

- (a) It is unlawful for any person to allow an animal to run at large, as defined in this ordinance on any public or private street, alley, sidewalk, vacant lot, or property. An animal control officer has the right to impound animals that are destroying public property or endangering the welfare of any person or animal that is lawfully on public or private property. All dogs, livestock, fowl or dangerous wild animals running at large within the city limits or within five thousand feet of such . are hereby declared a public nuisance.
- (b) A notice of impoundment will be left in each case that an animal is impounded from private property. An attempt will be made by the animal control officer to contact the owner.
- (c) Community cat colonies that are actively managed by a property owner are exempt from the provisions of this ordinance prohibiting animals from running at large. To be an eligible community cat colony manager, the property owner must show active work to trap, feed, vaccinate, sterilize, and release members of the colony, it is preferred, but not required, that animals that have been trapped and released will have their left ear clipped as a visual identification of sterilization and vaccination against rabies. Information for each colony cat will include a description of cat (gender, color, and approximate age), date of sterilization, location of colony, and property owner's name and contact information. In order to qualify for the ordinance exemption, it is the responsibility of the property owner to provide the Director with information about each cat in the colony as it is trapped and sterilized. Animals with appropriate markings and found on property elsewhere will be treated as though they were on the property where their colony is registered.
- (d) It is unlawful for any person to chain, stake-out, graze or herd any animal on any unenclosed premises in such a manner that the animal may go beyond the property line or that is detrimental to the animal's safety or health.
- (e) Any dog not deemed potentially dangerous or on its owner's property may be kept under the immediate physical control of a person capable of restraining the animal confined through a means of a buried electronic barrier/collar system if the animal is properly trained and the electronic system is functioning properly.

Section 14-18 Animal fights

It is unlawful for any person to promote, stage, hold, manage, conduct or attend any game exhibition, contest, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal,

Section 14-19. Dangerous wild animals prohibited,

Dangerous wild animal or reptile means one not normally considered domesticated, that is wild by nature, which, because of habit, mode of life, or natural instinct, is incapable of being completely domesticated, and requires the exercise of art, force or skill to keep it in subjection; and is dangerous by nature, capable of inflicting serious injury, death or disease to humans, and is more likely to do so than a domestic animal. In addition to wild animals prohibited by federal or state law, prohibited wild animals shall include, but are not limited to:

Racers, boas, water snakes, pythons, other constrictor snakes, venomous snakes, alligators, caymans, crocodiles, hawks, eagles, vultures, ostriches, rheas, cassowaries, bats, ocelots, margays, tigers, jaguars, leopards, cougars, cheetahs, lynx, bobcats, mountain lions, panthers, wolves, wolf hybrids, dingos, coyotes, fox, jackals, weasels, martins, mink, skunks, badgers, raccoons, bears, kangaroos, opossums, sloths, anteaters, armadillos, elephants, monkeys, chimpanzees, gorillas, porcupines, antelope, deer, bison or camels.

Sec. 14-20 Sale of animals.

Diseased animals

- a. It is unlawful for any person to, with knowledge, sell, barter, or otherwise transfer for use, retention, or resale as a pet any animal which has a disease or internal parasite.
- b. It is a defense to prosecution under subpart a. that the seller or transferor provided to the transferee at the time of such sale or transfer a certificate from a licensed veterinarian attesting that the veterinarian had examined the animal within ten (10) days prior to such sale or transfer and found the animal to be free of disease or parasites.
- c. It is unlawful for any person to, with knowledge, make any false statement in the certificate described in the preceding subpart.

Section 14-21 Roadside sale of animals

It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or display for any purpose a live animal on a roadside, public right of way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event,

This Section does not apply to;

1. An event primarily for the sale of agricultural livestock such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber product;
2. A tax exempt, registered 501(c)(3) non-profit organization founded for the purpose of providing humane sanctuary for abandoned or unwanted animals; or
3. County or municipal animal shelter or shelter-certified partner.

Section 14-22. Trapping prohibited; impoundment of traps; exceptions,

(a) It is unlawful for any person to set or place any trap designed for trapping animals in any street, alley, park, or other public place within the city limits.

(b) It is unlawful for any person to set or place any steel-jawed or tooth-jawed trap upon private premises within the City.

(c) Any traps mentioned in the preceding subparts, when found within the city limits, are hereby declared to be abandoned property and any peace officer or Animal Control Officer is hereby authorized to impound and process the same as abandoned property in accordance with state law and this Code.

(d) This Section shall not apply to any peace officer or Animal Control Officer engaged in the performance of their duties within the city limits or to persons using traps provided by Animal Control or with specific authorization,

Sec. 14-23, Duty to remove dead or decaying animal carcasses.

(a) It is unlawful for any owner, occupant, or other person in control of premises to knowingly suffer, permit or maintain the presence of a dead or decaying animal carcass upon any such premises within the City, whether public or private, for more than six (6) hours,

(b) The presence of dead or decaying animal carcasses in violation of this section are hereby deemed a public nuisance,

(c) Dogs, cats or any other small dead animals shall not be placed in garbage containers nor collected as solid waste.

(d) Proper disposal shall include:

- (i) Burial below the natural surface of the ground. Dead animals shall be buried to such a depth that no part of the dead animal shall be nearer than three (3) feet to the natural surface of the ground. Every part of the dead animal shall be covered with at least three feet of earth. The location of a burial site shall be in compliance with any applicable setbacks for sanitary or public health reasons; or
- (ii) Drop off at a location that is approved by the Montgomery County Health Department for disposal of deceased animals; or

(e) Pick up by Montgomery County Health Department or designated representatives.

Sec. 14-24 Maintenance of mosquito breeding waters unlawful,

(a) The collection or maintenance of standing or flowing water in which mosquitoes breed or are conducive to breed is hereby declared to be an illegal public nuisance, unless such collection of water is treated in the manner prescribed by Animal Control, so as to prevent the breeding of mosquitoes,

(b) The methods of treatment of any collection of water for the purpose of preventing the breeding of mosquitoes is subject to approval by Animal Control and may include one or more of the following:

- (i) Screening with wire netting of at least sixteen (16) meshes to the inch one way or any other material which will effectively prevent the ingress or egress of mosquitoes;
 - (ii) Complete emptying every seven (7) days of unscreened containers together with their thorough drying or cleaning;
 - (iii) Using an approved larvicide;
 - (iv) Clearing and keeping sufficiently free of vegetable growth and other obstructions and stocking with mosquito destroying fish (with absence of half-grown mosquito larvae to be evidence of compliance);
 - (v) Filling or draining to the satisfaction of the Animal Control;
 - (vi) Proper disposal of bottles, cans, boxes, tubs, broken or empty bottles or similar articles likely to hold water.
- (c) The City or Animal Control shall forward written notice to comply with this Section within three (3) days, to the owner, occupant or other person in control of premises describing with particularity the mosquito breeding conditions to be abated and the suggested method to abate them.

Sections 14-24 to 14-29 Reserved.

ARTICLE IV FIERCE OR DANGEROUS ANIMAL

Section 14-30 Regulation of fierce or dangerous animals.

- (a) No person who owns or keeps an animal shall allow the animal to engage in fierce or dangerous conduct. If any person witnesses an animal engaging in fierce dangerous conduct as described herein, a complaint can be filed in Municipal Court against the owner or keeper of the animal This Article shall not apply to animals that are in the service of law enforcement agencies or guard dogs restrained as provided in Sec. 14-31.

1. Determination That Dog is a Dangerous Dog

A dog may be determined to be a Dangerous Dog under the following procedures:

- (i) Incident Report. Any person may report by sworn statement an incident described in Section 14-30 to the Director. Such statement shall include a description of all elements of the act required under Section 14-30, including whether the incident related to actions against a person or actions against livestock, a domestic animal or fowl Reports of such Incident(s) received by police officers or other law enforcement officials or county representatives shall be forwarded to the Director.

- (ii) Investigation. The Director, will investigate any Incident Report received under Section 14-30 by taking sworn statements concerning the Incident from witnesses and gathering any other pertinent information related to the Incident
 - (iii) Notice. Written notice will be given to the person filing the Incident Report (when that person provides sufficient to contact information), the Owner of the dog (when the Owner is known and sufficient contact information is available), and other interested parties known to the Director of the time and date of the hearing to review the Incident information.
 - (iv) Hearing. A hearing will be held before the Director or his/her designated representative (with such person always being a person separate from the persons investigating the Incident) to hear testimony from witnesses and review all information gathered related to the Incident
 - (v) Findings. Upon completion of the hearing, the Director (or his designated representative) shall make a determination based upon a preponderance of the evidence as to whether or not the dog meets the requirements to be determined a "Dangerous Dog" and shall issue such determination either at the end of the hearing or within a reasonable time after the hearing, The determination shall be made in writing and shall include the finding that the dog is a Dangerous Dog (with a description of the action which was the basis of the complaint specifying whether the action was against a person or another animal), shall order compliance with the requirements of these Rules regarding Dangerous Dogs (including a copy of those requirements), and shall advise the Owner of the possible results of failure to comply with those requirements.
 - (vi) Notification of Findings. If the determination is not made at the hearing, the Director will promptly notify the Owner and those requesting such notification at the hearing and providing necessary contact information) of the finding by telephone or email, with written notification to follow (as allowed by available contact information), Written notification will include the elements of the determination described in subsection v above and will also be provided as follow-up to any determination made at the hearing. If the dog is determined to be a Dangerous Dog the Owner:
 - a. Has 15 days in which to appeal the decision to a court of competent jurisdiction; and/or if there is no appeal;
 - b. Has 30 days (measured from the date the Owner received notice under Section vi above, or the date a final decision is reached under an appeal, whichever applies) to comply with the requirements of Section and to provide proof of such compliance to the Director; or if an appeal is filed, during that appeal, the Owner must either comply with the requirements of this Section for Dangerous Dog or post sufficient bond, as determined by the Court, or allow the Director to continue to impound the dog and pay all fees and costs related to such impoundment on a weekly basis; or
 - c. Shall deliver the dog to Animal Control or a licensed veterinarian for disposition and immediately thereafter provide proof of disposition to the Director.
- (b) Requirements for Dangerous Dog Owners Restraining the Dog

Requirements, The Owner of a Dangerous Dog must either deliver the dog to Animal Control or a licensed veterinarian for disposition or, no later than the 30th day after learning that the person is the Owner of a Dangerous Dog (and on an annual basis for as long as the Owner retains possession of the Dangerous Dog) comply with the following and submit to the Director proof of such compliance where required:

- (i) register the dog (and continue registration with current proof of the following) on an annual basis) with the Director as follows:
 - (ii) provide proof of compliance with the insurance requirements in Section;
 - (iii) provide proof of current rabies vaccination;
 - (iv) provide proof satisfactory to the Director of a Secure Enclosure in which the dog is and will be kept when not on a leash or under the Owner's direct control (or direct control of a person designated or allowed by the Owner). Such proof may include pictures, statements, or other evidence, including an on-site visit by the Director, as determined by the Director, The Secure Enclosure shall be clearly marked as containing a Dangerous Dog;
 - (v) pay an annual \$50 fee; and
 - (vi) within 14 days of moving the dog, provide the Director notice of the new address, immediately ensure that the dog is restrained at all times on a leash in the immediate control of a person or in a Secure Enclosure. Failure to restrain the dog as required will subject the dog to immediate seizure and impound by Animal Control.
 - (vii) obtain liability insurance coverage or show financial responsibility in the following amounts to cover damages resulting from an attack by the dog on any person, livestock, domestic animal or fowl, and provide proof of such to the Director on an annual basis;
 - (viii) for acts against a person \$100,000.00 for acts against livestock domestic animal or fowl \$ 10,000.00
2. Comply with all other requirements of the Director contained in the Notification of Findings in which a Dangerous Dog determination has been made or imposed by the Director pursuant to these Rules. Any additional requirements will be reasonably related to the proper enforcement of the applicable provisions of these Rules and provided to the Owner in writing by the Director.
 3. Notify the Director in writing if the dog dies or if ownership of the dog is transferred to another person within 7 days of such death or transfer of ownership. If ownership is transferred, the written notice shall contain the new Owner's name, address and telephone number. The original Owner must notify the new Owner of the Dangerous Dog status of the dog prior to transferring ownership. The new Owner then becomes responsible for meeting all applicable requirements of these Rules.
 4. Allow the Director to identify the dog by microchip with the cost for such identification being born by the owner.

A person learns that the person is the Owner of a Dangerous Dog under Section above when:

- a. the Owner knows of an attack described under Section

- b. the Owner receives notice that a court has made such determination related to proceedings under Section 14-30, or
- c. the Owner is informed by the Director that the dog is a Dangerous Dog under Section 14-30,

The status of "Dangerous Dog" remains with the dog regardless of ownership, and the requirements of these Rules apply equally to the Owner in possession of the dog when the determination was made and any future Owner.

Failure to Comply:

- 1. Application,
 - a. Act against a Person. Any person may make application by sworn statement to the appropriate court to determine that an Owner knowingly has possession of a Dangerous Dog under Section 14-30 and has failed to comply with Section 14-30. A person will be considered to "knowingly have possession of a Dangerous Dog if that person learns" that the person has a Dangerous Dog as described under Section 14-30.
 - b. Act against an Animal. Any person may make application by sworn statement to the Director to determine that an Owner knowingly has possession of a Dangerous Dog under Section 14-30 and has failed to comply with Section 14-30. A person will be considered to "knowingly have possession of a Dangerous Dog if that person "learns" that the person has a Dangerous Dog as described under Section 14-30.
- 2. Hearing,
 - a. Act against a Person. On receipt of such application under _____, the Municipal Court shall set a hearing date that is within 10 days of receiving the application, and give written notice of such hearing date to the Owner, the applicant and any other known interested parties.
 - b. Act against an Animal, on receipt of such application under _____, the Director shall set a hearing date that is within 10 days of receiving the application, and give written notice of such hearing date to the Owner, the applicant and any other known interested parties.
- 3. Decision.
 - a. Act against a Person. If the Municipal Court determines that the Owner has failed to comply with the requirements of these Rules regarding a Dangerous Dog where the act was against a person, the court shall order Animal Control to seize the dog and shall issue a warrant authorizing the seizure. The Owner may appeal the decision of the court to the appropriate court. Nothing in this subsection prevents Animal Control from seizing the dog at any time under this or any other applicable portion of these Rules.
 - b. Act against an Animal. If the Director determines that the Owner has failed to comply with the requirements of these Rules regarding a Dangerous Dog where the act was against an animal, Animal Control shall seize the dog. The Owner may appeal the decision of the Director to the appropriate court. Nothing in this subsection prevents Animal Control from seizing the dog at any time under this or any other applicable portion of these Rules.

4. Impound. Upon such court order or decision by the Director under Subsection Section 14-30, Animal Control shall seize and impound the dog.

5. Compliance.

a. Appeal. No further action shall be taken regarding the dog (other than the Director continuing to impound the dog) if the Owner files an appeal under Section 14-30 until a final decision is issued under such appeal. If the decision of the appeals court is that the dog is not a Dangerous Dog or that the Owner has not failed to comply, the dog shall be immediately released to the Owner. If the appeals court agrees that the dog is a Dangerous Dog and that the Owner has failed to comply with applicable requirements of these Rules (or if no appeal is filed) subsections "b" and "c" below will apply, with the time periods being measured from the date of such decision of the appeals court rather than the date the dog is seized, b, Release. The Court shall order the dog released to the Owner if the Owner:

- (i) before the 11th day after the dog was seized, shows proof of compliance with the applicable requirements; and
- (ii) pays any cost (including necessary medical costs, as determined by a licensed veterinarian), fee or fines assessed by Montgomery County Health Department and/or the City of Montgomery related to the seizure, acceptance and impoundment.

b. Destruction.

- (i) If the Owner does not fulfill the requirements of Section 14-30.5.(i) and (ii); and
- (ii) within the 11 day time period, in the event that the attack or acts were directed toward a person, the court shall order Animal Control to humanely destroy the dog.
- (iii) If the Owner does not fulfill the requirements of Section 14-30 (i) and (ii) within the 11 day time period, in the event the attack or acts were directed toward livestock, a domestic animal or fowl, the court may make its own determination as to the action to be taken or submit the matter to the Director for consideration by hearing as set forth in subsection below. The Owner shall pay all costs related to the seizure, acceptance, impoundment and/or destruction of the dog (including necessary medical costs, as determined by a licensed veterinarian). If the Owner of the dog is not found by the 15th day after the dog was seized, and the dog is a Dangerous Dog, they could shall order the dog humanely destroyed.

D. Attack by a Dangerous Dog. Subject to the following, Section 14-30 shall apply to any attack by a Dangerous Dog after such determination has been made:

- (i) After a dog has been determined to be a Dangerous Dog, notification of an attack by a Dangerous Dog on any person, livestock, or domestic animal or fowl shall be given to the Director within 24 hours of the attack or as soon as such attack is known by any person to have occurred.
- (ii) Attack on an Animal. The offense classifications of the statute (as set forth in Section herein) shall only apply to attacks against a person. If the attack is against livestock, domestic animals or fowl, the attack shall be registered with the Director. After one such registered attack (an attack made after the dog has been determined to be a Dangerous Dog), the dog shall be

surrendered to Animal Control. The Director shall schedule a hearing to be held pursuant to with prior notice of such hearing to the Owner. Unless good cause shall be shown at the hearing as to why the dog should not be destroyed* Animal Control shall humanely destroy the dog, ff the Director finds reason not to destroy the dog, and a second attack occurs, then Animal Control must humanely destroy the dog.

E. Violation. Attack by a Dangerous Dog Against a Person,

- a. A person commits an offense if the person is the owner of a Dangerous Dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.
- b. An offense under this section is a Class C misdemeanor, unless the attack causes Serious Bodily Injury or death, in which event the offense is a Class A misdemeanor.
- c. If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person authorized under the AC Laws to perform such a procedure.
- d. In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000. An attorney having jurisdiction in the county where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the county.

2. Any person who keeps a Dangerous Dog which was classified as such because of an attack or act upon a person and does not comply with all requirements of these Rules commits an offense which is a Class C misdemeanor, unless it is shown at trial that the defendant has previously been convicted of an offense under this Subsection E.a., in which case the offense is a Class B misdemeanor. Defenses to prosecution under this Section are as set forth in Section. This Section E.a. applies only to a dog determined to be a Dangerous Dog as a result of an attack or acts against a person, and does not apply where the attack or acts were against livestock, a domestic animal or fowl.

Section 14-31. Guard dogs. .

Except for law enforcement agency dogs, it is unlawful to place or maintain any dog which has been specifically trained to attack) in any area for the protection of persons or property unless the dog is physically confined to a specific area or is under complete. And absolute control, if a guard dog is to be maintained in a building, or adjoining fenced area, of a business after work hours, then the Fire Department and Police Department must be notified. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two (2) inches high and placed not less than every twenty-five (25) feet on or adjacent to the structure or barrier which confines the animal; at least one (1) warning sign shall be conspicuously posted,

Secs. 14-32--14-39. Reserved.

ARTICLE IV. RABIES CONTROL

Sec. 14-40, Proof of vaccination required.

(a) All dogs and cats within the city limits must be vaccinated against rabies. It is the duty of all persons owning or keeping a dog or cat over the age of three months to have such animals vaccinated against rabies, The initial rabies vaccine shall be given in an amount sufficient to provide immunity from rabies for one year, Subsequent vaccinations, provided proof of prior rabies vaccination is provided, can be administered with a three-year vaccine, A certificate from a licensed veterinarian shall be evidence of vaccine and type. Montgomery County Health Department may require other animals to receive rabies vaccinations. All anti-rabies vaccines shall be administered by or under the supervision of a licensed veterinarian who shall issue a serially-numbered certificate and tag for each such administration.

(b) The minimum fine for violation of the requirement to have dogs and cats vaccinated for rabies annually shall be twenty-five dollars (\$25.00).

(c) The veterinarian administering anti-rabies vaccines to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of the vaccination and the expiration date of the period of immunity.

(d) It is unlawful for the owner or keeper of any dog or cat to fail to exhibit its certificate of vaccination upon demand by an animal control officer,

(e) From time to time, public health and safety requirements may result in the three-year vaccination period being modified by the Montgomery County Health Department. The City requirement for rabies shall reflect any such change.

Sec. 14-41. Reserved.

Sec. 14-42, Impoundment, quarantine of animals; redemption by owner,

(a) Pursuant to state law, the Director or designee are authorized to impound and/or quarantine an animal when there is probable cause to believe that a person may have been exposed to rabies,

(b) A quarantined animal with rabies or rabies symptoms shall be confined in the County animal shelter or a veterinary hospital and disposition shall be made in accordance with state law.

(c) In the case of other animals quarantined, the Director or designee shall determine whether to confine the animal in the County shelter, a veterinary hospital, or on the premises of the owner,

(d) Home quarantine on the premises of the owner shall be permissible where:

(i) The owner is a City resident;

- (ii) The owner possesses facilities adequate to restrain the animal so as to prevent exposure of persons or other animals;
- (iii) Adequate documentation exists that the animal was vaccinated against rabies in the preceding twelve month period; and
- (iv) The animal currently possesses no apparent symptoms of rabies.
- (e) It is unlawful for any person to remove an animal from the premises of the owner following issuance of an order for home quarantine.
- (f) During confinement, an animal may be inspected at any time by the Director or designee,
- (g) The Director or designee shall determine the length of confinement and safety procedures. A licensed veterinarian shall make a determination of whether or not the animal is free of rabies pursuant to state law.
- (h) If a licensed veterinarian determines that the animal does not show the clinical signs of rabies, the animal may be reclaimed by the owner upon satisfaction of applicable tests.

SECTION TWO

It is hereby declared to be the intention of the City Council that the several provisions of this ordinance are severable, and if any court of competent jurisdiction shall judge any provision of this ordinance to be illegal, invalid, or unenforceable, such judgment shall not affect any other provisions of this ordinance which are not specifically designated as being illegal } invalid or unenforceable.

SECTION THREE

Any and all ordinances, resolutions, and/or policies of the City of Montgomery, Texas, whether written or otherwise, which are in any manner in conflict with or inconsistent with this ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION FOUR

This ordinance shall become effective and applicable immediately upon its passage and approval as provided by law.

PASSED, APPROVED and ADOPTED by the City Council of the City of Montgomery, Texas, on this

.....day of....., 2018,

CITY OF MONTGOMERY, TEXAS

Sara Countryman, Mayor

ATTEST:

Susan Hensley, City Secretary

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