

ORDINANCE 2009 - 48

**AN ORDINANCE TO REPEAL THE CURRENT TITLE 3 ANIMAL CONTROL
AND REPLACE WITH A NEW TITLE 3 ANIMAL CONTROL**

WHEREAS, the City of Mt. Juliet Board of Commissioners desire to approve the attached Title 3 as the rules and regulations to govern the control of all dogs and cats; and

BE IT ORDAINED by the Board of Commissioners, City of Mt. Juliet, Tennessee, Wilson County, as follows:

Section 1: Title 3 is repealed in its entirety and is replaced with the new Title 3 attached hereto.

Section 2: In the case of conflict between this Ordinance, or any part thereof, and the whole or part of any existing Ordinance of the City, the conflicting Ordinance is repealed to the extent of the conflict but no further.

Section 3: If any section, clause, provision or portion of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this ordinance.

Section 4: This ordinance shall take effect on the earliest date allowed by law, the public welfare requiring it.

PASSED:

FIRST READING:
SECOND READING:

7/27/09
9/14/09

Linda C. Elam, Mayor

ATTEST:



Sheila S. Lockett, CMC
City Recorder

APPROVED AS TO FORM:

Randy Robertson, City Manager

Jason Holleman
City Attorney

9/17/2009Z:\City Hall\City Recorder\Agenda Items\2009\Ordinances\Adopt Title 3
Animal Control ordinance.doc

Title 3

Animal Control

Chapter

1. Dogs and Cats.
2. Animals in general.

Chapter 1

Dogs and Cats

Section

- 3-1-1 Applicability.
- 3-1-2 Animal Control Officer
- 3-1-3 Use of firearms
- 3-1-4 Issuance of subpoenas or citations
- 3-1-5 Ownership of animals.
- 3-1-6 Animal Care
- 3-1-7 Animal left in vehicle
- 3-1-8 Emergency Care
- 3-1-9 Keeping in such a manner as becoming a nuisance prohibited
- 3-1-10 Dogs running at large
- 3-1-11 Impoundment, notice of violation
- 3-1-12 Adoption of dogs and cats
- 3-1-13 Dangerous/vicious dog or animal
- 3-1-14 Rabies
- 3-1-15 Examination for rabies

Sec. 3-1-1 Applicability

The provisions of this chapter shall govern the control of all dogs and cats.

Sec. 3-1-2 Animal control officer.

The City may designate animal control officers whose primary responsibilities include the enforcement and implementation of this chapter and regulations promulgated hereunder. The animal control officer shall coordinate and administer the activities involving the animal control program in accordance with the goals, policies and procedures established the city police department until otherwise designated.

Sec. 3-1-3 Use of firearms.

Animal control officers are prohibited from carrying or using firearms in connection with their responsibilities relating to animal control. The animal control officer is hereby authorized to request the assistance of a police officer, and the police officer is hereby authorized to employ the use of firearms in the apprehension or destruction of any animal that, in his assessment, has an injury that warrants immediate euthanasia or that constitutes a threat to human beings or animals.

Sec. 3-1-4 Issuance of subpoenas or citations.

The animal control officer is hereby authorized to issue a subpoena or citation to any individual who is in violation of the terms and conditions of this chapter.

Sec. 3-1-5 Ownership of animals.

Owners of dogs or cats in the City shall be liable for any violations of this chapter caused by their animal. The presence of any dog or cat on a premises for a period of at three (3) days or more and a demonstration that the occupant or owner of the premises has provided food, water and shelter to the animal during that time period, shall constitute prima facie evidence that such dog or cat belongs to the occupant or owner of such premises. Upon a prima facie showing by the City of the factors described in this paragraph, the burden shifts to the owner or occupant to disprove ownership of the dog or cat.

Sec. 3-1-6 Animal Care.

(a) Every owner shall provide his or her animals with good, wholesome food, water, proper shelter, protection from the weather, veterinary care when needed to prevent suffering, and provide humane care and treatment.

(1) **Food.** Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight. Feed standards shall be those recommended by the National Research Council.

(2) **Water.** Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.

(3) **Enclosures and shelter.**

(A) Enclosures shall:

(i) Have an area of no less than 50 square feet for the first dog and shall have 30 additional square feet for each additional dog;

(ii) Have their least linear dimension no less than 5 feet.

(iii) Be kept in a sanitary condition.

(iv) Be structured in such a way as to not deny an animal access to food and water.

(B) **Shelter.** Shelter for any dog kept outside shall include a moisture proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture-proof floor. The structure shall be provided with a sufficient quantity of suitable bedding to provide insulation and protection against cold and dampness and promote retention of body heat.

Sec. 3-1-7 Animal Left in Vehicle.

(a) A person shall not leave a cat or dog unattended in a standing or parked motor vehicle in a manner that endangers the health or safety of the cat or dog.

(b) A person may use reasonable force, including but not limited to, breaking a vehicle's window to remove from a motor vehicle a cat or dog left in the vehicle in violation of the provisions of subsection (a) of this section if the person:

- (i) is a law enforcement officer;
- (ii) is a public safety employee;
- (iii) is an animal control officer;
- (iv) is a volunteer or professional of a fire and rescue service; or
- (v) reasonably believes that the animal is in imminent threat of death.

Sec. 3-1-8 Emergency care.

Minimal emergency medical care may be given to any sick or injured animal found at large within the City. Such animal may be taken to any veterinarian for minimal emergency care or euthanasia. If the owner/custodian of such animal can be identified, the animal control officer shall attempt to notify the owner immediately or as soon as practical thereafter. In any case, such owner/custodian shall be liable for any expense incurred with respect to such animal. If the owner of such animal cannot be identified within 24 hours, the animal shall become the property of the city. If, during the initial 24 hour period, it is recommended, in writing, by a veterinarian that the animal is in such pain and has no reasonable hope of recovery, the animal may be humanely euthanized as authorized, in writing, by a designated agent of the City. The reasonable and necessary expense of such emergency medical care or euthanasia shall be paid by the owner of the animal. The City shall not be liable for any expense with respect to such animal at any time unless expressly authorized by the City. If after minimal emergency care such animal can be safely impounded, the animal control officer and or police officer may impound such animal.

Sec. 3-1-9 Keeping in such a manner as becoming a nuisance prohibited.

No animal shall be kept in such a place or condition as to become a nuisance either by noise, odor, contagious disease, or other reason.

Animals which, by loud and frequent barking, whining, or howling, annoys or disturbs the peace and quiet of any business or neighborhood shall be considered a nuisance.

Sec. 3-1-10 Dogs running at large.

- (a) Dog owners or handlers shall not knowingly or negligently allow the animal to run at large.
- (b) Walking a dog on a leash. Any person walking a dog on public property including sidewalks must keep the dog on a leash and under physical control at all times.
- (c) Methods of restraint.

(1) Dog restrained by traditional or electronic fencing. Fencing must be in good condition, of recognized construction methods, and prevent the dog from escaping.

(2) Dogs restrained by tie-outs or overhead cable runs. As an alternate to traditional fencing, dogs may be restrained with suitably sized tie-outs or overhead cable runs. These restraints must be sufficient in length but never less than ten (10) feet to allow the animal freedom of motion, and to move about at will within a protected area on the property of the owner or handler without becoming tangled in obstacles. These types of restraints shall be located in the yard area so as to prevent the dog from traversing upon another person's property, public sidewalks or public property, and from charging and harassing persons and pedestrians utilizing these properties.

Sec. 3-1-11 Impoundment, notice of violation.

(a) Unrestrained dogs shall be taken by the animal control or police officers and impounded in a humane manner. If the owner is known, he shall be given notice in person, by telephone, or certified mail addressed to his last known mailing address.

(b) Untagged impounded dogs shall be retained for not less than (3) three working days. The City shall not be liable for any costs associated with the retention or disposition of such animal in accordance with this chapter. If not reclaimed by the owner within three (3) working days, the animal control director may continue to retain the dog for a reasonable period of time and allow it to be adopted or may humanely euthanize the dog.

(c) Tagged impounded dogs shall be kept for not less than (5) five working days. The City shall not be liable for any costs associated with the retention or disposition of such animal in accordance with this chapter. If not reclaimed by the owner within three (5) working days, the animal control director may continue to retain the dog for a reasonable period of time and allow it to be adopted or may humanely euthanize the dog. In the event an animal's owner refuses to pay the designated fees/cost associated with the recovery of the animal, the animal will become the property of the City as defined in section 3-1-20.

(d) First impoundment.

Any dog found running at large shall be apprehended and incarcerated in the city animal shelter. The owner may redeem or repossess the same upon:

(1) payment for, or presentation of, a current rabies vaccination certificate;

(2) payment of twenty five dollars (\$25.00), plus ten dollars (\$10.00) for each day of confinement to defray the cost of the capture of such animal and the protection of the public; and

(3) payment of any and all outstanding adjudicated fines¹ owed to the City.

(e) Second impoundment.

Should a dog belonging to the same owner be picked up for a second time within two (2) years of the date of the first offense, the owner may redeem and repossess the dog upon:

(1) payment for, or presentation of, a current rabies vaccination certificate;

¹ For purposes of this Title the term "adjudicated" shall mean all fines, costs and fees that have been previously adjudicated against the owner in court for previous violations of the Mt. Juliet Code of Laws.

(2) payment of fifty dollars (\$50.00), plus ten dollars (\$10.00) for each day of confinement to defray the cost of the capture of such animal and the protection of the public; and

(3) payment of any and all outstanding adjudicated fines owed to the City.

(f) **Third impoundment.**

Should a dog belonging to the same owner be picked up for a third time within three (3) years of the date of the first offense, the owner may redeem or repossess the dog upon:

(1) payment for, or presentation of, a current rabies vaccination certificate;

(2) payment of seventy five dollars (\$75.00), plus ten dollars (\$10.00) for each day to defray the cost of capture of said animal and protection of the public; and

(3) payment of any and all outstanding adjudicated fines owed to the City.

Sec. 3-1-12 Adoption of dogs and cats.

Once a dog or cat becomes the property of the city animal shelter either by gift, donation, abandonment or any other voluntary conveyance or as a result of pickup by the animal shelter or any other person or entity after the animal has been found running at large in violation of this chapter, a dog or cat may be adopted in accordance with the terms of the adoption contract (supplied by the shelter) and upon payment of fees/cost for any service supplied by the city animal shelter in connection with such dog or cat. Each unaltered dog and/or cat shall be sterilized by the contract or approved veterinarian prior to the adopter taking possession of the animal.

Sec. 3-1-13 Dangerous/vicious dog or animal.

(a) When an animal attacks, bites, or demonstrates other dangerously aggressive behavior towards a human being or another animal, the animal may be confiscated by the City as soon as practicable.

(b) Upon confiscation, the animal control director shall determine whether the animal shall be classified as "dangerous/vicious" based upon the circumstances of the incident.

(1) if the animal is determined to not be "dangerous/vicious," then the animal may be released to the custody of the owner upon payment of outstanding adjudicated fines and costs associated with the retention and completion of such other requirements as set forth in § 3-1-11.

(2) if the animal is determined to be "dangerous/vicious," then the animal control director may:

(A) euthanize the animal; or

(B) release the animal to the owner upon payment of outstanding adjudicated fines and costs associated with the retention and completion of such other requirements as set forth in § 3-1-11 and upon a demonstration that the animal will be confined as follows:

(i) if kept outdoors, the animal shall be securely confined in an enclosed and locked pen or kennel, except when leashed and muzzled as provided above, and the premises shall have a clearly visible warning sign at all entry points that reads: "Warning Dangerous/Vicious Dog on Premises"; or

(ii) if kept indoors, the animal shall be securely confined to part of a house or structure that would not allow the animal to exit such building of its own volition and shall not be kept on a porch or patio.

(iii) if taken outdoors and not confined as described in subsection (i), the animal must be outfitted with a leash and muzzle.

(c) If an owner, or a person who is injured or whose animal is injured by an animal attack, disagrees with the animal control director's decision pursuant to § 3-1-13(b), then that person may appeal the animal control director's decision to the City Judge.

(d) If an animal attack causes injury to, or death of, any human being, the owner of the animal may be cited for failing to properly control the animal and/or be criminally prosecuted.

(e) This article and chapter does not apply to dogs or animals used by law enforcement officials for law enforcement work or purposes.

(f) An animal shall not be classified as dangerous/vicious if the threat, injury, or damage was sustained by a person, who at the time was tormenting, abusing, or assaulting the dog or its owner or handler.

Sec. 3-1-14 Rabies.

All dogs three (3) months of age or older or cats six (6) months of age or older shall be immunized against rabies by a licensed veterinarian. The owner of a dog or cat must have readily available a current vaccination certificate subject to the inspection of the animal control officer, or designated agent of the City. All dogs shall have a current rabies tag attached to their collar.

Sec. 3-1-15 Examination for rabies.

(a) If any dog or cat is suspected of being infected with rabies or has bitten any person so as to break the skin, the animal control officer shall use reasonable efforts to cause such animal to be apprehended and quarantined in the shelter, veterinary clinic, or otherwise securely penned and separated from other animals for ten (10) days in order to ascertain whether or not the animal is infected with rabies. Pet owners who are bitten by their own dog or cat may be allowed to quarantine their animal at a veterinary clinic or at home. The animal control director will have final authority with regard to animal bite quarantines.

(b) If, after sufficient quarantine, the animal is not infected, in the opinion of the animal control director or the designated animal control officers, it shall be returned to the owner, upon payment of appropriate impound and rabies inoculation fees/cost. If not redeemed by the owner at the end of the quarantine period, the animal shall become the property of the animal shelter. If, in the opinion of the animal control director or designated animal control officers, a lab diagnosis is justified, the animal may be euthanized and proper examination made by the State of Tennessee Department of Health. In determining the necessity of the microscopic examination, the action of the animal control director shall be final.

(d) Any animal desired for observation by the State of Tennessee Department of Health or animal control under provisions of this section shall be delivered to the city animal control personnel upon demand.

Chapter 2

Animals in General

Section

- 3-2-1 Applicability.**
- 3-2-2 Running at large prohibited.**
- 3-2-3 Pen or enclosure to be kept clean.**
- 3-2-4 Adequate food, water, and shelter, etc., to be provided.**
- 3-2-5 Keeping in such a manner as becoming a nuisance prohibited.**
- 3-2-6 Cruel treatment prohibited.**
- 3-2-7 Seizure and disposition of animals.**

Sec. 3-2-1 Applicability.

The provisions of this chapter shall govern the control of all animals, excluding domestic dogs and cats. For the purposes of this chapter, "animals" includes, but is not limited to cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock.

Sec. 3-2-2 Running at large prohibited.

It shall be unlawful for any person owning or being in charge of any animal to knowingly or negligently permit such animal to run at large within the corporate limits.

Sec. 3-2-3 Pen or enclosure to be kept clean.

When animals are kept within the corporate limits, the buildings, structure, corral, pen or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition.

Sec. 3-2-4 Adequate food, water, and shelter, etc. to be provided.

No animal shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended.

Sec. 3-2-5 Keeping in such a manner as to becoming a nuisance.

No animal shall be kept in such a place or condition as to become a nuisance either because of noise, odor, contagious disease, or other reason.

Sec. 3-2-6 Cruel treatment prohibited

It shall be unlawful for any person unnecessarily to beat or otherwise abuse or injure any animal.

Sec. 3-2-7 Seizure and disposition of animals.

Any animal found running at large or otherwise being kept in violation of this chapter may be seized by any animal control officer and confined in a shelter. If the owner is known, he shall be given notice in person, by telephone, or certified mail addressed to his last known mailing address. The notice shall state that the impounded animal must be claimed within five (5) days from the date of the notice by paying outstanding adjudicated fines and shelter costs as provided in § 3-1-11 or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl may be sold or humanely destroyed.

The animal shelter shall be entitled to collect from each person claiming an impounded animal a reasonable fees/cost to cover the costs of impoundment and maintenance.