

ANIMAL ORDINANCE FOR THE CITY OF MARION, TEXAS

ORDINANCE NO. 14-2009

AN ORDINANCE REPEALING ORDINANCE NO. 10-2004 OF THE CODE OF ORDINANCES OF THE CITY OF MARION, TEXAS, ADOPTING ANIMAL, CONTROL REGULATIONS DESIGNED TO PROTECT THE PUBLIC HEALTH AND SAFETY; PROVIDING FOR ANIMAL CONTROL OFFICERS REQUIRING THE LICENSING OF DOGS AND CATS AS WELL AS THE PERMITTING OF COMMERCIAL ANIMAL ESTABLISHMENTS; PROVIDING FOR IMPOUNDING AND DISPOSITION OF ANIMALS RUNNING AT LARGE OR OTHERWISE IN VIOLATION OF THIS ORDINANCE; PROVIDING FOR QUARANTINING AND TESTING OF BITING ANIMALS AND REDUCTION OF THE STRAY ANIMAL POPULATION AND RESTRAINT OF DANGEROUS DOGS. PRESCRIBING REGULATIONS FOR THE CARE AND KEEPING OF ANIMALS WITHIN THE CITY LIMITS OF MARION; ESTABLISHING VACCINATION REQUIREMENTS; PROVIDING PROCEDURES FOR RABIES REPORTING AND CONTROL; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND PROVIDING PENALTY FOR VIOLATIONS OF THIS ORDINANCE

WHEREAS, the City Council of the City of Marion, Texas desires to protect the public health and safety by regulating the care and keeping of animals within the city limits and by providing vaccination and quarantine procedures in accordance with the Rabies Control Act of 1981 and its subsequent amendments; and

WHEREAS, the current Ordinance, 10-2004 does not properly provide the desired level of public health and safety protection; and should be repealed; and

WHEREAS, the City Council of the City of Marion finds it necessary to establish or increase the fees charged for various permits, licenses, and penalties in order to meet the costs of administering the Animal Control programs; now therefore,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARION, TEXAS.

That Ordinance No. 10-2004 of the City of Marion, Texas is hereby repealed; and, that Ordinance No. 14-2009 of Marion, Texas relating to adoption of the Animal Control Programs shall read as follows:

ARTICLE 1- Definitions

Section I - Definitions

As used in this ordinance the following terms are defined below:

ANIMAL: Every non-human species of animal, both domestic and wild.

ANIMAL ABANDONMENT: To leave an animal helpless without protection, food or water without intending to return.

ANIMAL AT LARGE: Any animal not under the restraint (as defined below) of a person capable of controlling the animal, on or off the premises of the owner.

ANIMAL CONTROL AUTHORITY: The animal control division of the City.

ANIMAL CONTROL OFFICER OR HUMANE OFFICER: The person Designated by the City Council of the City of Marion, as the law enforcement officer, who is qualified to perform such duties under the laws of the City and/or this state statute. Where appropriate, this term also applies to a designatee of the Animal Control Office or Humane Officer

ANIMAL SHELTER: Any facility operated by a humane society, a municipal agency, or its authorized agents, that legally impounds strays, homeless, abandoned, dangerous, or unwanted animals for care, confinement, returned to owner, adoption or euthanasia.

ANTI-ESCAPE DEVICE: Is any housing, fencing or a device, which the guard dog cannot go over, under, through or around.

ALTERED: The surgical removal of the reproductive organs of a dog to render the animal unable to reproduce, also referred to as neutering.

AUCTION: Any place or facility where animals are regularly bought, sold, or traded except for those facilities otherwise defined in this Ordinance. This section does not apply to individual sales of animals by owners privately.

BITE: Puncturing, tearing or bruising of the skin by an animal's teeth.

CAT: Any live or dead *Felis Catus*

CIRCUS: Commercial variety show featuring animal acts for public entertainment.

COLLAR: Means any collar constructed of nylon, leather, or similar material, specifically designed to be used on a dog.

COMMERCIAL ANIMAL ESTABLISHMENT: Any pet shop, grooming shop, guard dog or obedience training center, animal auction, riding school or stable, zoological park, circus, performing animal exhibition, or boarding or breeding kennel.

COMMERCIAL PROPERTY: Is a portion of land and/or building utilized for commercial or business uses in the City limits including temporary sites.

CURRENTLY VACCINATED: Vaccinated and satisfying the following criteria:

(i) The animal must have been at least three months of age, as prescribed by the United States Department of Agriculture (USDA) at the time of vaccination

(ii) At least thirty (30) days have elapsed since the initial vaccination.

(iii) Not more than twelve (12) months have elapsed since the most recent vaccination.

CUSTODIAN: A person or, agency which, shelters, harbors, or has possession or control, or has the responsibility to control an animal.

DANGEROUS ANIMAL: Any animal that bites, scratches, or attacks any other animal, or any human being, within the City limits, without provocation.

DANGEROUS DOG: A dog that:

A. Makes an unprovoked attack on a person, that causes bodily injury, and occurs in a place other than the enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

B. Commits unprovoked acts in a place other than an enclosure in which the dog was being kept, and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

DOG: Any live or dead Canis Familiaris, or domesticated animal that is a member of the canine family.

DOMESTIC ANIMAL: Tame, domesticated, pertaining to the family or household.

EUTHANASIA: To humanely cause the death of an animal by a method by which:

(i) Rapidly produces unconsciousness and death without visible evidence of pain or stress, or

(ii) Utilizes anesthesia produced by an agent, which causes painless loss of consciousness and death following such loss of consciousness.

FOSTER HOME: A private residence where animals, belonging to a legitimate, non-profit, animal welfare organization, are cared for on a temporary basis.

FOWL: A bird of any kind, including but not limited to domestic cock or hen (Gallus Gallus).

GROOMING SHOP: A commercial establishment where animals are bathed, clipped, plucked or otherwise groomed.

GUARD DOG: Is any dog that is utilized to protect commercial property.

GUARD DOG PERMITS: City permit required for each commercial property where guard dogs are used, or where guard dogs are kept or boarded.

GUARD DOG TRAINING CENTER: Any commercial property where guard dogs are kept, boarded, bred, sold, let to hire or trained for a fee for guard dog purposes.

HANDLER: A person who is responsible for, and capable of, controlling the activities of a guard dog.

HOUSING: Any location where the guard dog is kept when not utilized for protection purposes.

KENNEL OR CATTERY: Any premise wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, selling, dogs or cats and/or a facility for keeping no more than six (6) animals of the same species.

IMPOUNDMENT: The collecting and confining of an animal because of a violation in state or county law, or city ordinance.

LICENSED VETERINARIAN: A veterinarian licensed to practice veterinary medicine in the State of Texas.

LIVESTOCK: Domestic animals used or raised on a farm or ranch, especially those kept for a profit: including cows, horses, sheep, goats, pigs, mule, burro, jack, or jenny regardless of age, sex, or breed.

LOCAL HEALTH AUTHORITY OR RABIES CONTROL OFFICER: The City Council may designate a Local Health Authority in the City of Marion. The City Council may appoint one or more persons to perform the duties of the Local Health Authority. The Local Health Authority shall be responsible to implement and enforce this Ordinance and the Rabies Control Act of 1981 and all amendments to that Act.

OBSERVATION PERIOD: The ten (10) days following a bite incident during which the biting animal's health status must be monitored. The ten (10) day observation period will begin on the day of the bite incident (day one).

OWNER: Any person, partnership or corporation owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more, or if it returns to a residence or business on three separate days, or any person who owns custody or control of an animal.

PERFORMING ANIMAL EXHIBITION: Any spectacle, display, act or event, other than circuses; in which performing animals are used. This shall include animal amusement vendors such as but not limited to, pony-go-round rides, horseback pictures, etc.

PERSON: Individual, corporation, government or governmental subdivision, or agency, business trust, estate, partnership, association, or any other legal entity.

PET OR COMPANION ANIMAL: Animal kept for pleasure rather than utility; an animal of a species that has been bred and raised to live in or about the habitation of humans and is dependent on people for food and shelter.

PET SHOP: Any person, as defined herein, except for a licensed kennel, that commercially buys, sells, or boards any species of animal.

POSSIBLE EXPOSURE TO RABIES: The receipt of a bite or scratch from any warm-blooded animal, animal to human or animal-to-animal, is reason to suspect exposure to rabies.

POULTRY: Any species of domesticated birds commonly kept for eggs and/or meat.

PROVOCATION: Any purposeful act that causes an animal to bite, scratch or attack, in protection of self, owner, or owner's premises. Entrance in any manner into an area where an animal is properly under restraint in compliance with City Ordinances would be considered provocation, irrespective of the reason for such entrance.

PUBLIC NUISANCE: Any animal or animals that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance animal" shall mean and include, but is not limited to, any animal that;

(a) is repeatedly at large or stray;

(b) damages the property of anyone other than its owner;

(c) molests or intimidates pedestrians or passerby;

(d) trespasses on school grounds;

(e) chases vehicles;

(f) excessively and repeatedly makes unprovoked disturbing noises, including but not limited to continued and repeated howling, barking, on the premises where the animal is kept or harbored;

(e) causes fouling of the air by odor and thereby creates an unreasonable annoyance to neighboring citizens;

(g) is a dangerous, or vicious animal;

(h) is offensive or dangerous to the public health, safety, or welfare by virtue of the number and/or types of animals maintained;

(i) attacks other domestic animals;

Any animal considered a public nuisance that has been cited twice (2) for specific violations by Animal Control Officer, or proper authority, shall be removed from the City limits.

QUARANTINE: Strict confinement, for the purpose of observation and preventing the spread of disease, under restraint by closed cage, isolation kennel, rabies chamber, padlock, or in any other manner approved by the Local Health Authority, on the premises of the owner or at a facility approved by the Local Health Authority

QUARANTINE PERIOD: That portion of the observation period during which a biting animal is physically confined for observation as provided for under the quarantine method and testing section of this Ordinance.

RABIES: An acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite or saliva.

RESTRAINT: Secured by a leash or lead and under the control of a responsible person. At all times, a dog or other such animal shall be confined to the realty or premises of the owner by a substantial fence of a sufficient strength and height to prevent such dog or other animal from escaping there from; or inside a house on such premises.

RIDING SCHOOL OR STABLE: Any place that has available for hire, boarding, and/or riding instruction, horses, ponies, donkeys, mules, or burros; or any place that regularly buys, sells, or trains the above animals, including a racetrack, trotting track, or rodeo.

RISIDENCE/RESIDENTIAL: A home or building where one actually lives.

RUNNING AT LARGE: An free of restraint while outside the boundaries of the real property of the animal owner, or on private property without the permission of the property owner or property owner's agent.

SANCTUARY: A place of refuge and protection.

SCRATCH: A scrape left by the claws or nails of an animal, and of sufficient severity to break the skin and draw blood.

SECURE ENCLOSURE: A fenced area or structure that is:

1. Locked;
2. Capable of preventing the entry of the general public, including children;
3. Capable of preventing the escape or release of a dog;
4. Clearly marked as containing a dangerous dog; and
5. In conformance with the requirements for enclosures as established by local animal control authority or animal control officer.

SERIOUS BODILY INJURY: An injury characterized by severe bite wounds or severe ripping or tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether a person actually sought medical treatment

SICK ANIMAL: Any animal that appears to be suffering from an infectious, contagious, or communicable disease; or that is showing evidence of a physical injury, physical disorder, or traumatic injury; or that has an elevated temperature.

STRAY: Animal running free or at large beyond the premises of the animals owner, with no physical restraint.

UNALTERED: Any animal that has been sterilized.

UNKNOWN ANIMAL: Any animal for which an owner has not been identified.

VACCINATED: Properly injected with a rabies vaccine licensed for use in that species by the United States Department of Agriculture and administered by or under the direct supervision of a licensed veterinarian.

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

VICIOUS ANIMAL: Any animal that attacks, bites or injures a human being or domesticated animal without provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure a human being or domesticated animal; or an individual animal which local authority has reason to believe has a dangerous disposition, likely to be harmful to humans or other animals

WILD ANIMAL: The term wild animal shall mean all wolves, coyotes, panthers, monkeys, raccoons, skunks, armadillos, foxes, snakes, leopards, tigers, lions, lynx, or any other animals, which normally would be found in a zoo.

WILDLIFE: Any animal that occurs naturally in the wild state.

WILD STATE: Living in its original, natural condition; not domesticated or tame, regardless of state or duration of captivity.

ZOOLOGICAL PARK: Facility other than pet shop or kennel, displaying or exhibiting one or more species of animal.

ARTICLE 11-General Provisions

Section I - Animal Control Officer

There shall be appointed an Animal Control Officer(s) whose duty it will be to gather up and impound any livestock, fowl, cats, dogs, or other domestic or non-domestic animals found running at large (stray), any animal found to be in noncompliance with this Ordinance, or vicious animal. The Animal Control Officer shall be empowered to issue and revoke permits, for the keeping of animals so specified herein. The Animal Control Officer is hereby designated as the Health Authority for this Ordinance. The Animal Control Officer shall be authorized to declare an animal dangerous and impose the restrictions so specified herein. The Animal Control Officer shall be authorized to declare an animal, or situation, a "Public Nuisance", and may impose restrictions so specified herein.

Section II - Reports

It shall be the duty of the Animal Control Officer to report, in writing monthly, the total number of animals impounded, the total number of animals redeemed or sold, and the total number of animals disposed of.

Section III - Fee Deposits

It shall be the duty of Animal Control Officer to pay, or cause to be paid, all monies due, under the terms of this Ordinance, to the City of Marion.

Section IV - Abettors and Packing Houses

The provisions of this Ordinance shall not be construed to prohibit any person, engaged in operating any abettor or packing houses, from keeping livestock, for a reasonable length of time, awaiting their use.

ARTICLE III- Licensing/Commercial Permits

Section 1-Licensing Procedures

Any person owning, keeping, harboring, or having custody of any animal over eight (8) weeks of age, within the City of Marion, must obtain a license as herein provided. This provision does not apply to the keeping of caged birds, aquatic and amphibian animals, or small reptiles solely as pets.

Written application for licenses shall be made to the Animal Control Officer or his designee which shall include; name, address of applicant, name of animal, description of animal, a rabies vaccination certificate from a licensed Veterinarian or rabies clinic, and the licensing fee. The licensing period shall begin October 1st annually. License fees as specified in Article XIII shall be applied for each animal.

Section II - License Acceptance and Use

Upon acceptance of the license application and fee, the Animal Control Officer, or his designee, shall issue a durable tag, stamped with the identifying number and the year of issuance. Tags will be designed so that they may be fastened or riveted to the animal's collar or harness.

Dogs and cats must wear identification tags or collars at all times. It shall be the duty of the owner of any animal to procure a duplicate tag from the Animal Control Officer in the event that the original tag is lost or destroyed. There will be a fee as charged in Article XIII.

No person may use a license for any animal other than the animal for which it was issued.

The Animal Control Officer shall maintain a record of all tags that are issued.

Section III - Commercial Permits

No person shall operate a commercial animal establishment, kennel, auction, grooming house, circus, Zoological Park, or veterinary hospital within one quarter (1/4) mile from any house, home, apartment, or domicile, and shall obtain a variance in compliance with this section.

The City of Marion shall promulgate regulations for the issuance of permits, and shall include requirements for the humane care of all animals, and for compliance with the provisions of this Ordinance, and other applicable laws. The City of Marion may amend such regulations, from time to time, as deemed desirable for public health and welfare, and for the protection of the animals.

Upon a showing by an applicant that he/they are willing and able to comply with the regulations of this Ordinance, a permit shall be issued upon payment of the applicable fee(s) in Article XII. Fees will be pro-rated per months left within the year. The applicant must provide the Animal Control Officer such information as to ascertain a Public Health Hazard, or Public Nuisance, will not be created by the issuance of the permit.

The permit period shall begin October 1st annually except for a Circus and auction, which will be issued for 10-day periods. Renewal applications for permits may be made thirty days prior to October 1st. New permits may be applied for at anytime.

Permits are non-transferable to other owners. Every facility regulated by this Ordinance shall be considered a separate enterprise, and requires an individual permit.

No person shall train any dog to be used as a guard or sentry dog without possessing a valid State of-Texas license and a valid City of Marion license. This section shall not apply to the United States, State of Texas or subdivisions or agencies. The application for a guard or sentry dog training license shall state the name, address, and phone number of the owner and trainer, location of the facility, and the maximum number of dogs to be housed at the training facility, and the information below.

Procedures for permit application, and for inspection of the guard dog facilities will be established by the Animal Control Officer or his designee.

Permits for both permanent and temporary locations may be transferred to a new location operated by the same business firm during the permit year. However, such transfers shall not be effective until the Animal Control Officer has inspected and approved the facilities at the new location, has received the following information, has verified the information, and has determined that the new facility meets City Code requirements:

- 1) The business name, address, and telephone number of the commercial property where guard dogs are to be used.
- 2) The name, address and telephone number of the dog's handler(s) who can be reached at any time during the day or night.
- 3) The number of dogs to be used and a general description of their use.
- 4) Description of the dogs and proof of their current vaccination and city license.
- 5) The location where the dogs will be housed.
- 6) Any other information that the Animal Control Officer deems necessary by rule and regulations.

Permit holders shall notify the Animal Control Officer, or his designee, of any changes to the information on the Permit Application, during the course of the period for which the permit is issued. An Animal Control Officer shall inspect the facilities where the guard dog is to be used and housed when the guard dog permit is applied for or renewed.

Section IV - Foster Home and/or Sanctuary Permits

Written application for foster home and/or sanctuary permits shall be made to the Animal Control Officer, or his designee, which shall include; name and address of applicant; name of the animal welfare organization owning the animals; point of contact for the animal welfare organization; contact information for a licensed veterinarian authorized to treat all animals belong to the organization; and no more than six (6) maximum number of animals to be fostered on the premises at anyone time. All foster home and/or sanctuary permits shall be approved by City Council.

All animals on the premises of the foster home must wear identification tags at all time.

Proof of vaccination for rabies must be maintained on the foster home and/or sanctuary premises and be available for review by the Animal Control Officer, or his designee, at all times.

The City of Marion shall promulgate regulations for the issuance of foster home and/or sanctuary permits, and shall include requirements for the humane care of all animals, and for compliance with the provisions of this Ordinance, and other applicable laws. The City of Marion may amend such regulations, from time to time, as deemed desirable for public health and welfare, and for the protection of the animals.

Section V -License and Permit Issuance and Revocation

The City of Marion may revoke any permit or license if the person(s) holding the permit or license refuses, or fails, to comply with this Ordinance, or any law governing the protection of animals, or creates a health hazard or public nuisance.

Any person whose permit or license is revoked shall, within ten (10) days thereafter, humanely dispose of all animals owned, kept or harbored by such person under such permit or license. No part of the permit or license fee shall be refunded.

It shall be a condition of the issuance of any permit or license that the City of Marion shall be permitted to inspect all animals and the premises where animals are kept at any reasonable time of day and shall, if permission for such inspection is refused revoke the permit or license of the refusing owner named on the permit or license.

If the applicant has withheld or falsified any information on the application, their permit or Licenses may be revoked or refused.

No person(s) who has been convicted of cruelty to animals shall be issued a permit. Any person having been denied a permit or license may not re-apply for a period of one hundred and twenty (120) days.

ARTICLE IV - Restraint and Animal Care

Section I - Restraints

All animals shall be kept under restraint and not allowed to run at large

All animals on or off premises, not within a secured area, shall be on a leash restrained by a person physically able to control the animal, and shall not guide or take animals onto the yards or driveways of property not owned, leased or occupied by the animal owner for the purpose to allow the animal to defecate, but shall keep the animal in the public right-of-way, and shall carry a container with implement for the sanitary removal of the animal's fecal matter from the public sidewalk and public right-of-way adjacent to any property with a structure or other improvements thereon.

No person shall fail to exercise proper care and control of his animal(s) to prevent him or her from becoming a public nuisance.

Every dangerous or vicious animal, as determined by the Animal Control officer, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner. The owner shall post a sign on his premises warning that there is a dangerous animal on the property. This sign shall be visible and capable of being read from the public street.

Any dog within an automobile, or other vehicle of its owner, shall not be considered unrestrained or at large. At all times, a dog or other animal shall be confined to the realty or premises of the owner of such dog or other animal by a fence of sufficient strength and height to prevent such dog or other animal from escaping there from; or inside a house on such premises. or in an enclosure of sufficient strength and size that the animal cannot go over, under, or through. The fence must have a gate that can be locked, must be chain link, wood privacy, or brick privacy. Enclosure shall be no less than 150 square feet. Agricultural fencing is not permitted. Animal Control Officer must approve all fences.

Animals shall not be tethered to any inanimate object such as; trees, posts, buildings, or other objects.

The use of a wireless fence, which transmits a high frequency sound or pulse that is intended to train the animal to stay on the premises, is not considered restraint.

Any animal, not restrained, shall be considered dangerous to the public in general and declared a nuisance: and shall be impounded. Although cats shall be exempt from the leash requirement while on the premises of the owner, any cat straying on the property of anyone except its owner shall be deemed a public nuisance animal and will be subject to impoundment.

Section II-Impoundment

Any animal found in the incorporated areas of the City of Marion in violation of this Ordinance may immediately, be impounded by the Animal Control Authority and transferred to the New Braunfels Humane Society for a period of 72 hours, after which time the animal becomes the property of the City or its designee. The animal shall then be humanely euthanized, or placed for adoption in a suitable home according to policies and procedures of the New Braunfels Humane Society.

The owner of any animal impounded under this order shall be allowed to take such animal from the place where impounded upon the following conditions:

1. The owner shall pay all impounding and daily boarding fees as established by City Council and set forth in Article XII of this order.
2. If the animal is not wearing a collar or harness with valid vaccinations and license tags attached, the owner must present a certificate showing that the animal has been vaccinated prior to its release from impoundment and must further produce or secure a valid license tag for said animal; and
3. Provide the animal with a collar or harness to which the license and rabies tags are attached.

Section III -Care

No owner shall fail to provide his animal(s) with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

Every dog or cat in the City of Marion above 3 months of age to vaccinated against rabies at least once a year. A certificate of such vaccination must be kept by the owner and presented to the Animal Control Officer upon request.

No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between animals or between animals and humans.

No person shall abandon an animal.

Only a licensed veterinarian shall crop a dog's ears or dock, clip, or cut a dog's tail.

No person shall attach or permit to be attached to any animal belonging to him, or in his possession, any loud sounding, noisy, or audibly disturbing object or instrument.

As prescribe by Texas Penal Code 42.09 Cruelty to animal is a Class A misdemeanor except that the offense is a State jail felony if the person has previously been convicted two times under Chapter 42.09

Section IV - Feces Disposal

Before more than a total or a combination of three (3) dogs or cats can be licensed to be kept on any premises in the City Limits of Marion, the premises must have a facility for the storage of all feces from the dogs or cats. Such facility will be an impervious (concrete) bin with an impenetrable tightly fitting cover of at least 30 cubic feet.

Any person who keeps more than three (3) dogs or cats on a premise in the City of Marion must make a daily collection of all feces before 10:00 A.M. and place the collection of all feces in the storage bin and treat such feces collected immediately with a solution of Hellebore or Borax. The formulas for either solution are as follows:

Hellebore - Mix one pound of powder in twenty gallons of water and let stand for 24 hours. Apply as a spray to the manure in the bin at the rate of one gallon of solution to each square foot of the surface of the pile of manure in the bin.

Borax - Either mix one pound of the powdered chemical in four gallons of water and apply to the pile at the rate of one quart per square foot of surface or apply two ounces of powder Borax of each square foot of surface of the pile and thoroughly wet with water.

On a weekly basis, the manure storage bin shall be completely cleaned out and the manure transported outside the City Limits for disposal. It is suggested that disposal be on a farm or ranch where the manure can be used as fertilizer.

Section IV- Vaccinations

Pursuant to Texas Health and Safety Code 826.021, the owner of any animal shall have the animal vaccinated for rabies at three (3) months of age and once every twelve (12) months thereafter.

Upon vaccination, the veterinarian shall furnish to the owner of the animal a certificate upon a form furnished by the veterinarian. The veterinarian shall retain a duplicate copy. Such certificate shall contain the following information:

1. The name, address, and telephone number of the owner of the animal.
2. The date of vaccination
3. The type of rabies vaccine used.
4. The year and number on rabies tag; and
5. The breed, age, color, and sex of the animal.

ARTICLE V- Controlling and Quarantining of Animals

Section I - Enforcement

The Animal Control Officer and/or any law enforcement officer shall direct the owner of a suspected animal involved in a biting incident to have it examined for rabies by a licensed veterinarian within twenty four (24) hours of the incident and submit proof of examination to the Animal Control Officer. The animal shall be impounded for ten (10) days. The animal shall be isolated from other animals or possible victims. Animals involved in a biting incident for which an owner cannot be readily identified and/or contacted expeditiously, will be impounded by the Animal Control Officer or law enforcement officer. The Animal Control Officer will insure that the animal is examined within twenty four (24) hours by a veterinarian and quarantined. The animal shall be impounded for ten (10) days. The animal will be isolated from other animals or possible victims. All expenses incurred due to the incident are the owner's responsibility.

The Animal Control Officer shall impound all un-inoculated animals involved in a biting incident at the owner's expense for a period of ten (10) days. A licensed veterinarian before their release at owners' expense shall inoculate all un-inoculated animals.

Section II - Reports of Exposure to Rabies

Any persons who suspects that an animal within the city limits of the City of Marion is rabid, or a person having knowledge of an animal bite or scratch or other attack on an individual that the person could reasonably foresee capable of transmitting rabies or an animal that the person suspects is rabid, shall report the incident immediately to the Marion Police Department and/or the Animal Control Officer of the City of Marion.

If a quarantined animal is found to be rabid the Animal Control Officer shall have the animal to be humanely euthanized. If the animal dies in quarantine, the Animal Control Officer shall cause the head of the animal removed and submit it to the Texas Department of Health for testing.

If the quarantined animal is found to be free from rabies, the Animal Control Officer shall release it to the owner following the quarantine period, after all costs have been paid.

Animals not claimed by the owner within 72 hours after the quarantine period has ended will be released to the New Braunfels Humane Society for adoption, subject to the rules and procedures of the New Braunfels Humane Society.

Immediately after acquiring knowledge that his animal has been bitten by a rabid animal, it shall be the duty of the owner or keeper to cause such animal to be given anti-rabies treatment, and to impound such animal for six (6) months in a place approved by the Animal Control Officer or to euthanize such animal in a humane manner.

Section III - Unrestrained Animals

Unrestrained animals may be taken by the Animal Control Officer or his designee and impounded in an animal shelter and there confined in a humane manner. Impounded animals and livestock shall be kept for not fewer than 72 hours unless claimed by the owner. Sick or injured animals wearing no apparent identification through which ownership can be determined may be disposed of at the Animal Control Officer's discretion.

If by a license tag or other means, the owner of an impounded animal can be found and identified, the Animal Control Officer or his designee shall immediately upon an impoundment, notify the owner by direct contact, telephone, mail, or other reasonable means.

An owner reclaiming an impounded animal shall pay all impounding fees and licensing fees according the Fee Schedule. Dogs and Cats must be vaccinated before being released or proof of vaccination must be given.

No sick impounded animal shall be released to the owner until the Animal Control Officer is satisfied that arrangements have been made for proper treatment of the sick animal.

In addition to, or in lieu of, impounding an animal found at large, the Animal Control Officer or his designee may issue a known owner of such dog a citation for violation of this ordinance.

Section IV - Authority to Dispose of Animals

If any animal found at large cannot be safely taken up and impounded, such animal may, if deemed necessary, be destroyed by any Law Enforcement Officer or Animal Control Officer.

Any unredeemed impounded animal, after 72 hours, may be disposed of by sale, euthanasia, or adoption, by the Animal Control Officer or his designee.

ARTICLE VI - Fowl and Other Small Animals

Section I - At Large

Chickens, Turkey, Geese, Guinea, Duck, Pigeon, Pheasant, Quail, or other Fowl shall be kept in a pen, lot, or enclosure, enclosed with "chicken wire" and they cannot be permitted to run at large.

Section II-Space

Fowl pens, coops, or enclosures shall be at least fifty (50) feet from any building or structure used for living, sleeping or dining by humans and shall be kept in such manner as not to become a Public Nuisance to adjacent neighbors or to the public. No more than-twenty-five (25) fowl may be maintained by anyone (1) residents.

Section III Rabbit and other similar small animals.

No more than six (6) rabbits may be kept at a single residents. Such animals will be kept in enclosures, which are at least twenty-five (25) feet from any building or structure used for living, sleeping, or dining by humans. Each such enclosure shall keep in a sanitary condition and shall be kept in such manner as not to become a Public Nuisance to adjacent neighbors or to the public.

ARTICLE VII- Livestock

Section 11 - Space and Separation Requirements

No person shall keep livestock within the limits of the City of Marion unless it is a Youth Organization Project and only one (1) large animal (calf) per one acre or two small animals (goats) per one acre and with City Council approval. No large or small animal of this nature are to roam or be housed any closer then 100 feet from any building or structure used for living, sleeping, or dining by humans.

ARTICLE VIII- Dogs and Cats

SECTION I - Limiting the Number of Dogs and Cats

It shall be unlawful for any person to possess, own or otherwise keep a total of more than three (3) animals (dogs and/or cats or any combination there of), within the city limits of Marion, unless otherwise mentioned in this order to be lawful.

ARTICLE IX - Wild Animals and Performing Animal Exhibitions

Section I - Keeping of Wild (non-domesticated) Animals

No person shall keep on his premises any wild or vicious animal within the City Limits of Marion. This section shall not be construed to apply to zoological parks, performing animal exhibitions, circuses, and veterinary hospitals.

No person shall keep or permit to be kept any poisonous or otherwise dangerous reptiles, as a pet, unless licensed to do so by the Texas Parks and Wildlife Department.

The City of Marion may issue a temporary permit for the keeping, care and protection of an infant animal native to this area, which has been deemed to be homeless. The Animal Control Officer shall have the power to release or order the release of any animal kept under such permit, which is deemed capable of survival.

Section II - Performing Animal Exhibitions

No performing animal exhibition or circus shall be permitted in which animals are induced or encouraged to perform through chemical, mechanical, electrical, or manual devices in a manner which will cause, physical injury or suffering. All equipment used on a performing animal shall fit properly and be in good working order. Such exhibition or circus must apply for and receive a permit from the City in order to operate within the City

ARTICLE X - Adoption

Section I -Inoculation before Adoption

All dogs and cats adopted from the City of Marion control facility or its designee shall be inoculated before adoption.

Section II - Examination by a Veterinarian

All dogs and cats, adopted from the City of Marion control facility or its designee, shall be examined by a veterinarian, for health conditions, before adoption.

Section II- Fees Passed On

All costs, debts, and/or fees created by this Article shall be passed on to the adopter and must be paid prior to receiving custody of the animal(s). License fee will be waived for adopted animals, only during the current license period. However, a proper tag and registration must be issued in accordance with Article III.

ARTICLE XI

SECTION I. Violations

A person who owns, or keeps custody or control, of a dangerous dog commits an offense if the person fails to comply with this Section. An offense under this section is a Class C Misdemeanor.

SECTION II. Defense to Prosecution

(a) It is a defense to prosecution, under this Section, that the person is a veterinarian, or a person employed by a recognized animal shelter, or a person employed by the state, or by a political subdivision of the state, to deal with stray animals and has temporary ownership, custody or control of the dog in connection with that position.

(b) It is a defense to prosecution, under this Section, 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 correction purposes.

(c) It is a defense to prosecution under this Section that the person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Security Agency's Act.

SECTION III. Requirements for Owner of Dangerous Dog

(a) Not later than the 30th day after a person learns that the person is the Owner of a dangerous dog, the person shall:

(1) Register the dangerous dog with the animal control officer;

(2) Restrain the dangerous dog in a secure enclosure;

(3) Obtain liability insurance coverage, or show financial responsibility in an amount of at least \$100,000.00, to cover damages resulting from an attack by the dangerous dog, causing bodily injury to a person. Such liability insurance coverage must be provided along with the registration of the dangerous dog to the animal control officer; and

(4) Restrain the dangerous dog from all streets, avenues, highways, alleys, sidewalks, parkways, parks and other public places.

(b) For purposes of this section, a person learns that the person is the owner of a dangerous dog, when the owner knows of an attack or act described in this Section or the animal control officer informs the owner that the dog is a dangerous dog.

(c) If a person reports an incident described by this Section, the animal control officer shall investigate the incident. If after receiving the sworn statements of any witnesses, the animal control officer determines the dog is a dangerous dog, the animal control officer shall notify the owner of that fact.

(d) An owner, not later than the 30th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, the owner may appeal the determination of the animal control officer to a justice or municipal court of competent jurisdiction.

An owner may appeal the decision of the justice or municipal court in the same manner as appealed for other civil cases.

During all such appeals, the owner of the dog in question must restrain the dog at all times in a secure enclosure. Failure to comply with this subsection, during the appeal of the determination of the animal control officer, will be grounds for the removal of the dog from the custody and control of the owner, for the remainder of the appeal process. All costs associated with the failure of the owner to comply with this subsection, including impoundment fees and costs for caring for the dog, may be charged against the owner.

SECTION IV. Registration

(a) The animal control officer annually registers a dangerous dog if the owner presents proof of:

- (1) Liability insurance or financial responsibility, as required by this Section
- (2) Current rabies vaccination of the dangerous dog;
- (3) The secure enclosure in which the dog will be kept;
- (4) A signed statement that he will take care of the dog, providing it with meals and ensuring that the secure enclosure is clean and of adequate size to ensure the animal's well-being;
- (5) Pays an annual registration fee as established by the City Council and set forth in Article XII; and
- (6) Licenses the animal under Article III of this order.

(b) The Animal Control Officer shall provide the owner registering a dangerous dog with a registration tag. The dangerous dog registration tag must be attached to the dog's collar, and the collar must be maintained on the dog at all times. The owner must still comply with the licensing requirements contained in this Ordinance.

(c) If an owner of a registered dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or more, shall notify the Animal Control Officer of the new address where the dangerous dog is located. On presentation by the current owner of the dangerous dog's prior registration tag and payment of a fee as established by the City Council and set forth in Article III to this order, the animal control officer shall issue a new registration tag to be placed on the dangerous dog's collar, which collar must be worn by the dog at all times.

(d) An owner of a registered dangerous dog shall notify the animal control officer of any attacks the dangerous dog makes on people or other animals.

SECTION V. Attack by Dangerous Dog

(a) A person commits an offense if the person is the owner of dangerous dog and the dog makes an unprovoked attack on another person 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, this court may order the dangerous dog destroyed by a person qualified under Health and Safety Code 822.001 et.seq.

(d) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed \$10,000.00. The City Attorney may file suit in a court of competent jurisdiction to collect the penalty. The City shall retain penalties collected under this subsection.

ARTICLE XII - Fees Schedule

Section I - Standard Fee

A license or permit shall be issued after payment of the following fees are paid and provisions are met in accordance with this Ordinance.

Dog or Cat License annual fee-----\$2

Lost or Destroyed License-----\$10

Section II - Permit Fee

Kennel authorized to house. -----\$25

No more than a total of 3 dogs or cats

Commercial Kennel authorized ----- \$100
to house a total six (6) dogs or cats

Pet shop or Grooming shop -----\$100

Veterinary Hospital, Zoological Park

Performing Animal Exhibition or -----\$125

Circus -

Section III - Impoundment Fees

An impoundment fee must be paid per day for each animal captured or impounded for each occurrence.

Dog, Cat, Fowl and other small animals-----\$30

Livestock -----\$50.00

Zoological and/or Circus animal-----\$200

Animals taken to Vet for Rabies Vaccination-----\$40

Section IV - Boarding Fees

A boarding fee must be paid for each animal impounded per day of confinement in the Animal Control Facility.

Dog, Cat, Fowl and other small animals-----\$15

Livestock - \$25

Zoological and/or Circus animal-----\$200

ARTICLE XIII - Enforcement and Penalties Special Provisions

Section I - Enforcement

The civil and criminal provision of this Ordinance shall be enforced by those persons or agencies designated by municipal authority. It shall be a violation of this Ordinance to interfere with an Animal Control Officer in the performance of his duties.

Section II - Penalties

(a) Any person who shall violate any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, unless otherwise provided by Texas Law and upon conviction thereof shall be fined not exceeding \$500.00. Each and every day of such violation shall be deemed a separate and complete offense. Minimum fines levied per offense.

(b) The following are the minimum fines levied per offense listed. These fines do not include court cost.

Animal abandoned-----	\$98.50
No rabies vaccination-----	\$50.00
Not Licensed-----	\$50.00
No permit issued-----	\$100.00
Allowed to run at large (stray) -----	\$50.00
More than allowed animals per species per animal-----	\$40.00
Unconfined or unrestrained vicious animal-----	\$100.00
Violation of Article IV (each occurrence)-----	\$20.00

FINES DO NOT INCLUDE COURT COST.

Section III - Savings Clause

If any section part or provision of this Ordinance is declared unconstitutional or invalid, then in that event it is expressly provided, and it is the intention of the City Council in passing this Ordinance, that all other parts shall not be affected thereby and shall remain in full force and effect.


Section IV - Repealing Clause

That all ordinances specifically including but not limited to Ordinance Number 10-2004 and all part of Ordinance in conflict with the terms of this Ordinance are hereby repealed.

A COPY OF THIS ORDINANCE or an appropriate caption thereof, is to be published in the official newspaper of the City of Marion, Texas, as provided by the law of the State of Texas.


Passed and adopted by the City Council of the City of Marion, Texas, on

16th day of November, 2009.



Glenn A. Hild, Mayor

ATTEST:



Laurie J. Huebinger, City Secretary