

ORDINANCE # 65-5

AN ORDINANCE OF THE CITY OF McCAMEY, TEXAS, ESTABLISHING GENERAL REGULATIONS FOR THE CONTROL OF ANIMALS WITHIN THE CITY; ESTABLISHING A HUMANE OFFICER; ESTABLISHING PROCEDURES OF APPEAL; REQUIRING VACCINATIONS AND REGISTRATIONS OF DOGS AND CATS; PROHIBITING ANIMALS FROM RUNNING AT LARGE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE, EXCEPT WHERE A DIFFERENT PENALTY HAS BEEN ESTABLISHED BY STATE LAW FOR SUCH OFFENSE, OR FOR ANY VIOLATION OF ANY PROVISION WHICH GOVERNS PUBLIC HEALTH OR SANITATION WHICH SHALL BE PUNISHED BY PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00); PROVIDING FOR PUBLICATION; AND PROVIDING EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF McCAMEY, UPTON COUNTY, TEXAS:

Section 1. Definitions.

In this ordinance the following words and terms shall have the following meanings ascribed to them unless the context indicates otherwise:

“Abandon” shall mean to dump, desert, or leave any animal on public or private property with the intent of terminating any further responsibility for said animals and shall also mean failing to properly redeem any animal impounded or quarantined by the City.

“Animal” for this ordinance shall mean dogs and cats.

“Animal Control” shall mean the department of the City which will enforce this Ordinance.

“Cat” shall mean a domesticated animal that is a member of the felidae (feline) family but does not include a lion, tiger, bobcat, jaguar, panther, leopard, cougar, or other wild animal of this family or hybrids.

“City” shall mean the City of McCamey, Texas.

“Dangerous Dog” shall mean a dog that:

- Makes an unprovoked attack on a person or other animal that causes bodily injury and occurs in a place other than an 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
- Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts caused a person to reasonably believe that the dog will attack and cause bodily injury to that person.

“Dog” shall mean a domesticated animal that is a member of the canidae (canine) family but does not include a wolf, jackal, fox or other wild animal of this family or hybrids.

“Enforcement” shall mean by the Humane Office of the City of McCamey and/or Upton County Sheriff’s Office (who serves as law enforcement for the City of McCamey under an Interlocal Government Agreement).

“Hybrid” shall mean the product of the mating of two different species of animals regardless of the number of generations born since that original mating.

“Licensed Veterinarian” shall mean a person licensed to practice veterinarian medicine.

“Owner” shall mean any person owning, keeping or harboring an animal.

“Person” shall mean an individual, firm, partnership, association, corporation or other legal entity.

“Prohibited Animals” shall mean any animal, other than a common domestic species and regardless of state or duration of captivity, that poses a potential physical or disease threat to the public or that is protected by international, federal or state regulations. Prohibited animal does not mean a bird kept in a cage or aviary that is not regulated by international, federal, or state law or gerbil, hamster, guinea pig.

“Running at Large” shall mean not completely confined by a building, wall or fence of sufficient strength or construction to restrain the animal, except when such animal is either on a leash, or held in the hands of the owner or keeper, or under the direct supervision of the owner within the limits of the owner’s private property. Any animal confined within an automobile or other vehicle shall not be deemed running at large.

“Secure enclosure” means a fenced area or structure that is locked, capable of preventing the entry of the general public, including children; capable of preventing the escape or release of a dog; clearly marked as containing a dangerous dog and conforms with the requirements for enclosures established by the Animal Control Department.

“Serious bodily injury” means any physical injury that involves a substantial risk of death, disfigurement, or impairment of any part of the body including, but not limited to, a broken bone or a laceration requiring either multiple stitches or cosmetic surgery.

“Tag” means current rabies vaccination tag and City pet license tag.

“Unprovoked” means action by an animal that is not in response to being tormented, abused, or assaulted by any person or is protecting itself or its food, kennel, immediate territory or nursing offspring.

“Wild animal” shall mean any animal except the common domestic species of dogs and cats.

Section 2 : Enforcement.

Humane Officer appointed by City Council of the City of McCamey shall enforce this Ordinance and any state laws regulating animal control.

Humane Officer is authorized to:

1. impound any animal in violation of the Ordinance;

2. issue citations for any violation of this Ordinance or applicable state law regarding animal control within the City of McCamey.

No personal shall interfere with any Humane Officer of any authorized representative in the performance of their duties. Humane Officer may contact Upton County Sheriff Office for assistance if deemed necessary by the Humane Officer in order to carry out the provisions of this Ordinance.

Section 3. Vaccination.

The owner of a dog or cat shall have the animal currently vaccinated against rabies by a licensed veterinarian when the animal is four (4) months of age and within each subsequent twelve (12) month interval. After immunization the veterinarian shall issue to the owner of the animal a certificate of vaccination which contains the following information:

- name and address of owner;
- animal identification including species, sex, age, predominant breed and color(s);
- type of vaccination; and
- rabies tag number.

Concurrent with the issuance of the certificate of vaccination the veterinarian shall provide to the owner of the dog or cat a metal rabies tag serially numbered showing the date of vaccination, the name, address and phone number of the veterinarian which shall be securely attached to the collar or harness of the vaccinated dog and worn at all times and owner of a cat shall be able to present vaccination records and rabies tag.

A person commits an offense without regard to mental state if the person owns, keeps, or harbors a dog or cat within the City without a current rabies vaccination, and fails to display a current license tag on a dog or able to be presented for a cat.

Section 4. Registration; license.

The owner of a dog or cat four (4) months of age or older shall register the animal with the City each year. Written Pet License Receipt will be issued as license and numbered pet tag issued upon payment of a \$5.00 pet license fee at McCamey City Hall. The owner will need to provide the name and address of owner, a description of the animal and proof of a current rabies vaccination. This City pet license can shall bear an identifying number for the animal and year of issuance. The license tag shall be securely attached to the collar or harness of a dog and worn at all times or able to be presented for a cat. No license fee shall be charged for dogs trained to assist audio-or-visually-impaired persons and police dogs.

A person commits an offense without regard to mental state, if the person owns, keeps, or harbors a dog or cat over four (4) months of age without having such dog or cat currently licensed by the City.

A person commits an offense without regard to mental state, if the person owns, keeps, or harbors a dog or cat required to be licensed by this section and fails to display on the dog at all times a valid City license tag or be able to present a valid City license tag for a cat immediately upon request.

A person commits an offense without regard to mental state if the person owns, keeps, or harbors a dog or cat and displays on the animal a City license tag issued to another animal.

A person commits an offense without regard to mental state if the person owns, keeps, or harbors more than four (4) animals (dogs, cats, or both) over six (6) months of age.

Section 5. Revocation and denial of Registration.

City may deny or revoke registration for an animal owned by a person who:

- has been convicted of Texas Penal Code, Article 42.09, as amended, or four or more separate violations of this Ordinance or of an animal control ordinance of another jurisdiction within any twelve (12) month period;
- has had the same animal impounded four or more times within any twelve (12) month period; or
- has abandoned an animal.

If City revokes or denies registration of a dog or cat, a written notice of the action and of the right to an appeal shall be given to the owner. The owner may appeal the decision to the Municipal Judge to request a hearing.

Within fifteen (15) calendar days after receipt of a notice of revocation or denial of registration, or upon order of Municipal Judge, a dog or cat owner shall remove the affected animal from the City limits. The owner shall provide the City with a sworn statement confirming the removal of the animal.

A person commits an offense without regard to mental state, if the person owns, keeps, or harbors a dog or cat within the City during a period when registration for the animal has been revoked or denied, or fails to remove a dog or cat when required by this section.

Section 6. Running at Large.

It shall be unlawful for an owner of an animal without regard to mental state, to fail to keep the animal from running at large as defined in this Ordinance.

Section 7. Impoundment.

The following animal may be impounded:

- Dog and cats not exhibiting evidence of vaccination or registration;
- Any animal kept under conditions which can endanger the public or animal health;

- Any animal that has rabies or symptoms thereof or that a person could reasonably suspect of having rabies or that bites, scratches or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal, or that requires observation for rabies as determined by the Humane officer.
- Any animal running at large.
- Any animal treated in a manner determined to be in violation of Texas Penal Code, Article 42.09, as amended.
- Any animal in violation of any provision of this Ordinance.
- Any animal reasonably suspected of having inflicted bodily harm on any human being or animal that poses a threat to public safety or constitutes a public nuisance.

The City shall establish and maintain facilities for the impoundment, quarantine, maintenance and have a policy in place for destruction of animals.

Reasonable effort shall be made by the Humane Officer to contact the owner of any animal impounded which is wearing a current registration tag. However, the final responsibility for an impounded animal is that of the owner.

Section 8. Redemption of Animal.

The owner may redeem an impounded animal upon payment of all applicable impoundment fees, handling fees, or other cost incurred by the City for the impoundment, care and welfare of the animal and upon proof of compliance with the vaccination/registration requirements of this Ordinance. Any animal being held under quarantine or observation for rabies shall not be redeemed until released from quarantine.

Impounded animals shall be held for three (3) days after the date of impoundment except any animal wearing a current registration and/or vaccination tag shall be impounded for seven (7) days. If the owner of an impounded animal does not redeem it within three day period of impoundment, disposition will be in accordance with the Ordinance.

Section 9. Disposition of Animals.

Except as provided here, any animal not redeemed within the above stated time periods after impoundment, or release from quarantine shall become the property of the City and shall at the direction of the Humane Officer be transferred to a bona fide humane society or humanely destroyed.

Any nursing baby animal impounded without the mother or where the mother cannot or refuses to provide care for the baby may be immediately destroyed to prevent further suffering. Any impounded animal that appears to be suffering from extreme injury or illness may be immediately destroyed to prevent further suffering.

City will not take responsibility for an owner who no longer wishes to keep an animal or believes the animal to be ill or injured. The owner of such animal shall be responsible for taking the animal to a veterinarian for treatment or euthanasia at the owner's expense.

Section 10. Animal Quarantine.

Any animal that has rabies or symptoms which could reasonably indicate rabies or that bites, scratches or otherwise creates a condition which may expose or transmit the rabies virus to a human being or other animal shall be impounded immediately. Upon notification, the owner shall surrender the animal to the Humane Officer for quarantine at the City's designated animal shelter, or with approval from the Humane Officer deliver the animal to a state-approved veterinarian quarantine facility for quarantine at the owner's expense. Quarantine shall be for a minimum of ten (10) days beginning on the date the incident occurred or longer as the Humane Officer may deem necessary. Animal quarantine shall be in accordance with any applicable rules and regulations adopted by the Texas Department of Health. Owner shall be responsible for payment of all fees due City for pick-up and daily boarding fees for holding the animal in the quarantine facility.

Quarantine shall be subject to the following conditions:

- Animal in quarantine showing clinical signs of rabies shall be immediately destroyed and the head submitted to the nearest Texas Department of Health Laboratory for testing.
- Animal placed in quarantine shall not be released without prior notification to and written approval from the Humane Officer.

Humane Officer may allow Home Quarantine at the residence of the owner, but owner must be able to satisfy the following conditions:

- Provide secure facility that will be inspected and approved by the Humane Officer;
- Animal is currently vaccinated against rabies;
- Owner will have a licensed veterinarian observe the animal on the first and last days of the quarantine period and provide written notification of observation to the Human Officer;
- Owner shall notify Human Officer immediately if the animal escapes, becomes or appears to become sick, or dies; and, in case of death of the animal while under quarantine, shall immediately surrender the dead animal to the Humane Officer for diagnostic purposes.
- Animal was not running at large at the time of the incident;
- Animal will be isolated from all other animals, and human beings other than the individual(s) who own the animal during the quarantine period.

Any person shall immediately report to the Humane Officer, knowledge or information regarding any animal that has:

- Exhibited symptoms of rabies, or
- has been exposed to rabies, or

- bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal.
- The report shall include the name and address of the victim and owner of the animal, if known, and any other information relating to the incident or animal.

An owner shall submit an animal for quarantine to the Humane Officer or Upton County Sheriff Officer, if such animal is reported to have, or if the owner knows or suspects the animal to have:

- Rabies or symptoms thereof, or
- been exposed to rabies, or
- bitten, scratched or otherwise created a condition which may have exposed or transmitted the rabies virus to any human being or animal.
- If the animal dies prior to quarantine, the owner shall submit the animal to the Humane Officer for rabies diagnosis.

The body of an animal that has died of rabies or that dies or is destroyed while in quarantine shall be disposed of only as directed by the Humane Officer.

The owner of a quarantined animal shall pay all reasonable cost of the quarantine and disposition of the animal including charges for shipment of animal tissues sent to the Texas Department of Health Laboratory for testing.

An animal that has been quarantined may be released by the Humane Officer after a licensed veterinarian determines that the quarantined animal does not show clinical signs of rabies and under the following conditions:

- At the end of the observation period upon proof of vaccination prior to release from quarantine.
- When all applicable fees have been paid.
- If the animal is not being held for legal proceedings.
- If appropriate City license registration has been obtained.

It shall be unlawful for any person to interrupt the observation period or otherwise interfere with quarantine.

It shall be unlawful for any person to destroy or remove from the City any animal that has bitten a person or other animal or that has been placed under quarantine.

The carcass of a dead animal exposed to rabies or suspected of having been rabid, shall, upon demand, be surrendered to the Humane Officer.

Wild animals shall not be placed in quarantine. Wild animals shall be humanely destroyed in such a manner the brain is not mutilated. The tissues will then be submitted within the guidelines of the Texas Department of Health laboratory for testing.

No person shall fail or refuse to surrender an animal for quarantine or for destruction when ordered by the Humane Officer.

Section 11. Animal Nuisances.

The following shall be considered a public nuisance and shall be unlawful:

- The keeping of an animal in such a manner as to endanger the public health, by the accumulation of animal waste which causes foul and offensive odors considered to be a hazard to other animals or human beings.
- To permit or allow an animal to defecate upon private or public property other than the property of the owner of said animal; and to fail to remove and dispose of in a sanitary manner any feces left by such animal.
- Property not kept free from carrion or other putrescible material.
- The keeping of any animal which causes loud and unusual or frequent barking, howling or other noise that disturbs the peace and quiet of any person of ordinary sensibilities.

Section 12. Wild; Wild-Hybrid; Prohibited Animals.

It shall be unlawful to own, possess, keep or harbor any wild, wild-hybrid, or prohibited animal within the City.

Section 13. Dangerous Dogs

Nuisance Declared: It is hereby declared to be a public nuisance that an owner harbors, keeps or maintains a dangerous dog in the City unless the owner complies with the requirements of this section, and State statutes regulating dangerous dogs.

Requirements for Owner of Dangerous Dog:

- 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 City of McCamey;
 2. restrain the dangerous dog at all times on a leash in the immediate control of a person or 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 injury to a person.
- For purpose of this section, a person learns that the person is the owner of a dangerous dog when:
 1. the owner knows of an attack described in the definition of “Dangerous Dog”; or
 2. the owner is informed by the Humane Officer that the dog is a dangerous dog.
- If a person reports an incident described in the definition of “Dangerous Dog”, the Humane Officer may investigate the incident. If, after receiving sworn statements of any witnesses, the Humane Officer determines the dog is a dangerous dog, it shall notify the owner of that fact.

- The 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, may appeal the determination of the Humane Officer to the Municipal Court. An owner may appeal a decision of the Municipal Court in the same manner as appeal for other civil cases.
- The determination of the Humane Officer is final if the owner does not timely appeal.
- The Municipal Judge shall provide notice of the date, time and location of the hearing to the owner of the dangerous dog and to any complainant. Notice may be delivered in person or by certified mail, 5 day return receipt requested.

Registration of Dangerous Dogs:

- Owner of Dangerous Dogs will annually register the animal with the City and will be required to present the following information for the registration;
 1. proof of liability insurance or financial responsibility in the amount of at least \$100,000.00, to cover damage resulting from an attack by the dangerous dog causing bodily injury to a person
 2. proof of current rabies vaccination of the dangerous dog.
 3. proof of a secure enclosure in which the dangerous dog will be kept.
- Pays an annual registration fee in the amount of **\$25.00**;
- Provides two color identification photographs of at least three inches by three inches of each dangerous dog with one photograph showing the frontal view and the other photograph showing the side view of each dog.
- Provides the name, general description, including sex, weight, color, predominate breed, height and length and any other discernible feature of the dangerous dog.

City will provide a Dangerous Dog registration tag which shall be placed and maintained on the dog's collar at all times.

If the owner of a dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of sale or move shall notify the City. If the dangerous dog has been sold or given away, the former owner shall provide the City with the name, address and telephone number of the new owner. If the new owner resides in the City or if the animal is kept in the City, the new owner will be notified in person or by certified mail, 7 day return receipt requested, that a determination has been made that the dog is dangerous and provide the new owner with a copy of the requirements for the owner of a dangerous dog. It shall be unlawful for the new owner to fail to comply with such requirements.

The owner of a registered dangerous dog shall notify the Humane Officer, City Office or Upton County Sheriff Office immediately if the dangerous dog is running at large, has bitten or attacked a human being or another animal or has died.

Attack by Dangerous Dog:

- A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on a person or another animal outside the dog's enclosure and causes bodily injury to a person or another animal.

- Such offense shall be a Class C Misdemeanor, unless the attack causes serious bodily injury or death to a person in which event the offense is a Class A Misdemeanor.
- If a person is found guilty of an offense under this section, the Court which hears the case may order the dangerous animal destroyed by a licensed veterinarian or a person authorized by State law.
- In addition to criminal prosecution, a person who commits an offense under this subsection 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, which shall be retained by the City.

Violations:

A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with any requirements for ownership of a dangerous dog. If the owner of any dog determined to be dangerous under this section fails or refuses to comply with requirements of this section, the dog shall be seized by the Humane Officer and humanely destroyed.

Section 14: Animal Care.

The owner or person who has custody or control of any animal shall provide:

- Sufficient nutritious and wholesome food, served to the animal in clean containers, to maintain the animal in good health;
- Clean and wholesome water, served to the animal in a clean container, such water to be available to the animal at all times.
- Adequate shelter and protection from the weather at all times;
- Protect animal from abuse from human or other animals; and
- Veterinarian care as needed to prevent suffering.

It shall be unlawful for an owner or other person having custody or control of any animal to abandon such animal.

Section 15: Health Department

City shall comply with any applicable rules and regulations adopted by the Texas Department of Health.

Section 16: Severability.

If any article, paragraph, or part of a paragraph of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, the same shall not invalidate or impair the validity, force or effect of any other article, paragraph or part of a paragraph of this Ordinance which shall remain in full force and effect.

Section 17: Repealer.

All other ordinances, parts or ordinances or resolutions in conflict with this Ordinance are hereby repealed to the extent of any such conflict.

Section 18: Penalty.

A person who violates any provisions of this Ordinance, or who fails to perform an act required by this Ordinance commits an offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted or continued.

An offense under this ordinance is punishable by a fine not to exceed \$500.00; \$2,000.00, if the provision violated governs public health or sanitation; or the amount fixed by state law if the violation is one for which the state has fixed a fine.

Section 19: Fines and Fees

Fines

Stray or loose animals with no tags:	
First offense	\$25.00
Second offense	\$35.00
Third offense	\$45.00
Plus Daily fee/Animal Shelter	\$ 5.00

Loose animals with Current Tags:	
First offense	\$20.00
Second offense	\$30.00
Third offense	\$40.00

After Hours Pickup Fee: \$20.00
 Additional \$20.00 will be added for any animal picked-up after regular business hours, on Holidays or Week-end.

No City Registration \$15.00

No Rabies Vaccinations \$20.00

Other offenses To be determined by City Judge

Any registered dangerous dog that has escaped and is picked up will have an additional \$25.00 added to the fine.

Court Cost will also be assessed for all Animal Control violations.

