

Ordinance No. 1214-2009-04

AN ORDINANCE AMENDING ORDINANCES 121800 AND 010980, PERTAINING TO ANIMAL CONTROL WITHIN THE CITY LIMITS OF THE CITY OF MERKEL, TEXAS, AND DECLARING A PENALTY.

WHEREAS, prior City Councils have deemed it necessary to control animals within the city limits in order to further the safety and welfare of the citizens as well as the animals; and

WHEREAS, the Council is aware that providing protection for the citizens and animals is fundamental to ensure safety for both the citizens and animals; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MERKEL, TEXAS:

PART 1: That the Code of Ordinances of the City of Merkel is amended by adding Chapter ___ as set forth in Exhibit "A," attached hereto and made a part of this Ordinance for all purposes.

PART 2: That if any provision or any section of this Ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a class "C" misdemeanor, and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper.

PASSED ON FIRST READING this 14th day of December, 2009.

PASSED ON SECOND READING this _____ day of _____, _____.

ATTEST:

Jane Helton
City Secretary

SIGNED:

Rusty Waters
Mayor

APPROVED:

Candice Clark
City Attorney

Exhibit A

Animal Control

ARTICLE I. IN GENERAL

Sec. 1-1. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them:

Animal: Any live, vertebrate creature, domestic or wild.

At large: Any animal off the property of its owner and not under the control of a competent person.

City: The City of Merkel

Domestic animals: Those animals which are naturally tame and gentle or which by long association with man have become thoroughly domesticated and are now reduced to such a state of subjection to his will that they no longer possess a disposition or inclination to escape.

Kennel: A business enterprise authorized by permit from the City of Merkel where more than six (6) dogs or more than six (6) cats, or any combination of cats and dogs where the total exceeds six (6) animals over the age of ten (10) weeks, and where said animals are raised, trained, boarded, harbored or kept.

Necessary veterinary care: Veterinary medical attention appropriate to the circumstances, whenever an animal is known or suspected to have suffered an injury, accidental or deliberate, or exhibits signs of disease process such as shock, temperature fluctuations, tremors, swelling, broken bone, open wounds, inability to eat or drink, blistering, irregular or abnormal breathing, partial or local paralysis, abnormal discharge or bleeding, mange, or other signs of health problems.

Owner: The actual owner of an animal and/or the person who has the care, custody or control of such animal.

Restraint: An animal shall be deemed to be restrained when it is:

- (a) Confined on the premises of the owner within a fence or enclosure, or
- (b) Fastened or picketed by a lead, rope or chain so as to keep the animal on the premises, or
- (c) Under the control of a person by a leash, or
- (d) On or within a vehicle being driven or parked, or
- (e) At heel beside a competent person and obedient to that person's command.

Wild animal: Those animals of wild nature or disposition so as to require to be reclaimed and made tame by art, industry, or education, or else must be kept in confinement to be brought within the immediate control of the owner.

Sec. 1-2. Violations--Citing to appear.

- (a) When an animal is found in violation of a provision of this chapter and its ownership is known to the agent of the City, such animal need not be impounded by the agent. The agent may, if the owner agrees to sign a citation, issue a citation which shall require the person to appear in court within ten (10) days to answer a charge of a violation of this chapter.
- (b) Signing the citation shall only be a promise to appear and is not an admission of guilt.
- (c) It shall be unlawful for any person upon being issued any citation to give the animal control employee a false name or address.
- (d) It shall be unlawful to fail to appear in municipal court within ten (10) days of the signing of the citation.

Sec. 1-3. Same--Impoundment.

- (a) When an animal is found in violation of a provision of this chapter and its ownership is known to the agents of the City and the owner cannot be located or refuses to sign a citation, the agent may impound the animal or file a complaint against the owner in municipal court.
- (b) When an animal is found in violation of a provision of this chapter and its ownership is not known to the agent of the City, such animal shall be impounded.

Sec. 1-4. Interference with department.

No person shall interfere with, hinder or molest any agent of the City in the performance of any duty of the agent, or seek to release any animal in the custody of the City, or its agents.

Sec. 1-5. Records.

It shall be the duty of the City to keep, or cause to be kept, accurate and detailed records of:

- (a) Impoundment and disposition. Impoundment and disposition of all animals coming into its custody.
- (b) Bite cases. All bite cases reported to it and its investigation of same.
- (c) Monies received. All monies received under this chapter.

Such records shall be open to inspection at reasonable times by persons responsible for similar records of the City, and shall be audited by the City auditor in the same manner as other City records which are audited.

Sec. 1-6. Noise.

It shall be unlawful for any person to own, keep or be in control of any animal which causes unreasonably loud or unnecessary noise that causes material distress, or discomfort to persons, or persons of ordinary sensibilities in the immediate vicinity.

Sec. 1-7. Keeping certain animals--Prohibited.

It shall be unlawful for any person to harbor or maintain within the City limits the following animals:

- (a) Bats;
- (b) Skunks;
- (c) Poisonous reptiles;
- (d) Any wild animal whose normal mature weight exceeds forty (40) pounds;
- (e) Any "dangerous wild animal" as defined in Chapter 822, Health and Safety Code; and

- (f) Swine, goats, and sheep (except as authorized for a Merkel School District or 4-H project).

Sec. 1-8. Same--Exceptions.

The provisions of section 1-7 shall not apply to or prohibit the keeping of wild animals by the following:

- (a) A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity.
- (b) Publicly or privately maintained circus, traveling show or rodeo which does not remain in this City longer than thirty (30) days out of each year.
- (c) Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals.
- (d) Licensed wildlife rehabilitation facility.

Sec. 1-9. Restraint of wild animals.

It shall be the duty of each owner of a wild animal in the City to keep the same under restraint at all times.

Sec. 1-10. Keeping certain animals restricted.

- (a) No person who is the owner of any swine, goats, or sheep or any person who has any swine, goats, or sheep under his management or control, shall keep the same or allow the same to remain in any pen or in any other place within the City.
- (b) This section shall not apply to or prohibit the keeping of swine, sheep, or goats by the following:
 - (1) A publicly or privately owned zoo maintained or operated by a nonprofit organization or governmental entity.
 - (2) Publicly or privately maintained circus, traveling show or rodeo which does not remain in the City longer than thirty (30) days out of each year.
 - (3) Slaughterhouses.
 - (4) Any person, persons, organization or corporation keeping swine in an agricultural open space district as provided by the City of Merkel zoning ordinance and said swine is kept no closer than six hundred (600) feet from residential district, church or school.
 - (5) Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals.
 - (6) Merkel Independent School District maintained facility or authorized 4-H facility.
 - (7) A student keeping such animal(s) for FFA or 4-H purposes so long as the acreage requirements of Section 6-67 are met.

Sec. 1-11. Running at large generally.

If any animal, other than dogs, cats or other domesticated pets, is found at large within the City limits, the owner thereof shall be guilty of a misdemeanor and subject to a fine of up to \$500.

Sec. 1-12. Herding.

The driving of herds of animals, other than dogs, cats or other domesticated pets, along or upon any street, avenue or alley of the City is hereby prohibited. This section shall not apply to or prohibit the herding of animals along or upon any street, avenue or alley of the City by:

- (a) Publicly or privately maintained circus, traveling show or rodeo which does not remain in this City longer than thirty (30) days out of each year.
- (b) Any officer, agent or employee of the federal, state or local government or agencies thereof, if such herding is done in the performance of its official duties.

Sec. 1-13. Dead animals--Leaving carcass exposed a nuisance.

No person shall place or deposit the exposed carcass of any animal or fowl on any street, alley, highway or public place or upon private property or shall stand or permit to stand any truck or other vehicle containing such carcass on any street, alley, highway or public place or on private property within the City. The term "exposed" as used in this section is meant the exposure of the carcass of an animal so that putrefying odors may escape therefrom and contaminate the air.

The exposure of the putrefying carcass of a beast so that noxious or disagreeable odors may escape therefrom and contaminate the air shall be a public nuisance, and the health officer or any police officer may summarily remove such carcass to a point outside the City or may bury or burn the same, and the expense of such disposal shall be included in the fine collected from the person so violating this section.

Sec. 1-14. Same--Removal by owner.

No person shall allow or permit any animal or fowl which has died and which at the time of death was owned or controlled or kept by such person to lie in or upon any street, alley, lot or other place in this City. Such person or persons shall cause the carcass of such animal or fowl to be disposed of as the health officer may direct.

Sec. 1-15. Same--Removal and disposal service, fees.

The fees and charges for services furnished by the City, shall be determined from time to time and placed on file in the office of the City secretary.

Sec. 1-16. Care and humane treatment of animals.

It shall be unlawful for an owner or other person to:

(a) Fail to provide an animal with sufficient good and wholesome food and water, adequate housing consisting of a three-sided structure with a cover or roof, and a floor that is sufficient to keep the animals dry and ensure that they do not have to lay in water, shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment;

(b) Beat, torment, abuse, overload, seriously overwork, maim, disfigure, burn or scald, mutilate, or torture an animal;

(c) Carry or transport an animal in any vehicle or other conveyance in a cruel or inhumane manner;

(d) Cruelly confine an animal;

(e) Crop a dog's ears, dock a tail, remove dew claws, or perform other surgical procedures on a dog or cat, except as provided by the Veterinary Licensing Act;

- (f) Use steel jaw or leg-hold traps or snares;
- (g) Abandon an animal, including abandoning an animal in the owner's custody without making reasonable arrangements for the assumption of custody by another person;
- (h) Instigate or permit any dog fight, cock fight, or other combat between animals or between animals and humans;
- (i) Leave any animal in a standing or parked vehicle in such a way as to endanger the animal's health, safety, or welfare;
- (j) Tie or tether a dog or other animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian.

"Unhealthy situation" shall include, but not be limited to:

- (a) Tethering an animal in such a manner as to permit the animal access upon any public "right-of-way;"
- (b) Tethering an animal in such a manner as to cause the animal injury or pain;
- (c) Tethering an animal in such a manner that does not permit the animal to reach shelter, food, or water;
- (d) Tethering an animal in such a manner that it is subject to attacks by persons or other animals, stinging bites from outdoor insects, or other similar hazards that pose an unreasonable threat of injury to the animal;
- (e) Failing to remove waste from the tethered area on a daily basis;
- (f) Using a choke-type collar to tether the animal.

It shall be minimally required that the tether used must be at least ten (10) feet in length, equipped with swivel ends, positioned in such a manner as to prevent the animal from becoming entangled with any obstruction, from partially or totally jumping any fence, or from leaving any part of its owner's property, and that is secured to the animal using a properly fitted collar or harness.

- (g) Kill an animal, except as allowed by law;
- (h) Expose an animal to any poisonous substance, whether mixed with food or not, so that the poison is likely to be ingested by an animal. Provided, however, it shall not be a violation of this section for a person, on his own property, to expose rats or mice to common rat poison intended for the purpose of exterminating the rats or mice;
- (i) Cause any of the enumerated acts (a)--(l) to be done.
- (j) Owner, as defined in section 1-1, means the actual owner of an animal and/or the person who has the care, custody or control of such animal.

Sec. 1-17. Removal of animal in immediate danger and veterinary medical attention.

- (a) Any animal observed by a peace officer or agent of the City that appears to be in immediate danger may be removed from such situation by the quickest and most reasonable means available.
- (b) In the event the animal removed requires veterinary medical attention, the peace officer or agent of the City removing the animal is authorized to take the animal to a licensed veterinarian as soon as practicable for veterinary medical treatment. The owner will be responsible for reimbursing the City for the cost of any veterinary medical treatment, and must pay the bill before redeeming the animal, in the event the animal is allowed to be returned to the owner. If a person other than the owner is found to have violated section 1-16, that person will be responsible for reimbursing the City for the amount of the veterinary medical bills. Such reimbursement is required before the animal will be released to the owner.
- (c) If the veterinarian determines that the animal is too severely injured, or is too ill, to have a reasonable chance of recovery, the City is authorized to have the animal humanely destroyed. Any costs incurred as a result of the humane destruction of the animal may be recovered from the owner or other person who is found to have violated section 1-16.

Sec. 1-18. Impoundment, release, and disposition of animal.

- (a) Any peace officer or any agent of the City may seize and impound any animal that appears to have been cruelly treated in violation of section 1-16.
- (b) If the animal is not in need of immediate veterinary medical attention as provided in section 1-17, the animal shall be held by the City while an investigation is conducted to determine whether there is sufficient evidence to proceed against the owner or other person for a violation of section 1-16.
- (c) If at the conclusion of the investigation the City determines that there is not enough evidence to proceed against the owner or other person for a violation of section 1-16, or other law prohibiting cruelty to animals, the animal shall be returned to the owner upon payment of any veterinary medical bills as provided in section 1-17, and payment of impound fees and compliance with the associated requirements set forth herein. Payment of the veterinary medical bills and impound fees is required before the animal will be released.
- (d) If at the conclusion of the investigation the City determines that there is enough evidence to proceed against the owner or other person for a violation of section 1-16, the City may initiate a proceeding in the municipal court to:
 - (1) Prosecute the owner or other person for a violation of section 1-16;
 - (2) Determine the appropriate disposition of the animal;
 - (3) Assess the appropriate amount of impound fees and veterinary medical bills required to be paid by the owner or other person found to have violated section 1-16; and
 - (4) Impose a fine in accordance with this ordinance.
- (e) If, after prosecution for an offense under section 1-16, the municipal court finds the owner or other person prosecuted for a violation of section 1-16 not guilty, the owner or other person prosecuted is still responsible for payment of any veterinary medical bills as provided in section 1-17, and payment of any impound fees and compliance with the associated requirements set forth hereafter. Full payment of veterinary medical bills and impound fees, and compliance with this ordinance is required before the animal will be released to the owner.
- (f) Nothing in this article shall be construed to prevent the election by the City to pursue criminal

charges against the owner or other person for violations of the applicable animal cruelty provisions of the Texas Penal Code.

ARTICLE II. PETS

DIVISION 1. GENERALLY

Sec. 2-19. Exemption.

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this article, except as otherwise stated.

Sec. 2-20. Vaccination.

No person shall own, keep or harbor a dog or cat over the age of four (4) months within the City limits unless the dog or cat has been vaccinated by a licensed veterinarian with an anti-rabies vaccine. Said animal shall be vaccinated periodically at one year intervals from the initial date of vaccination.

Sec. 2-21. Restraint of dogs.

Every person who owns, keeps or is in charge of a dog shall restrain his dog at all times.

Sec. 2-22. Special confinement requirement for fierce, dangerous, vicious dogs.

The owner shall confine within a building or a secure enclosure a fierce, dangerous or vicious dog and not take such dog out of such building or secure enclosure as defined by state law unless such dog is securely muzzled.

DIVISION 2. LICENSE

Sec. 2-23. Required.

No person shall own, keep or harbor a dog or cat over the age of four (4) months within the City unless a license has been obtained for the animal. **A valid rabies tag/certificate shall constitute a license.**

Sec. 2-24. Issuance.

Dog and cat tags shall be issued by authorized veterinarians licensed in the state.

Sec. 2-25. Collar, tag to be worn.

Every person who owns, keeps or is in charge of or in control of a dog or cat within the City shall provide and place on such dog or cat a collar or harness which shall be worn by said dog or cat at all times when off the premises of said person, and shall attach to the collar or harness the metal license tag obtained pursuant to this division.

Sec. 2-26. Transfer.

Each dog or cat license issued under this division shall be restricted to the animal for which the same was issued and shall not be transferred.

DIVISION 3. DANGEROUS DOGS

Sec. 2-27. Authorization.

The general laws of the state, except as specifically provided through proper ordinances and regulations of the City, shall control the handling of dangerous dogs. There is adopted as part of this chapter all of the provisions of Title 10, Chapter 822, Subchapter D of the Texas Health and Safety Code insofar as applicable.

Sec. 2-28. Definitions.

For the purposes of this article, the following words and/or phrases shall have the meanings respectively ascribed to them by the statute except as provided below:

"Dangerous dog" as defined in § 822.041 of the Texas Health and Safety Code, is amended to include the additional definition of:

- (C) makes an unprovoked attack on a domestic animal that causes serious bodily injury or death 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.

Sec. 2-29. Seizure.

(a) If a person reports an incident described by § 822.041(2) of the Texas Health and Safety Code as codified and amended by this ordinance, the City shall seize and impound the dog pending investigation of the incident.

(b) The City shall release the dog to the owner if the City has not made a determination that the dog is a dangerous dog before the 6th working day after the seizure and impoundment of the dog, and if all fees have been paid as required under subsection (d). Release of the dog does not prohibit the City from receiving more information and subsequently declaring the dog a dangerous animal.

(c) If the City determines the dog is a dangerous dog, it shall continue to impound the dog until the owner complies with § 822.042 of the Texas Health and Safety Code, or until such time as the dog may legally be destroyed.

(d) The owner shall pay any cost or fee assessed by the City related to the seizure, acceptance, impoundment, or destruction of the dog. In the event that the dog is returned to the owner, all fees must be paid prior to release of the dog.

ARTICLE III. IMPOUNDMENT

DIVISION 1. GENERALLY

Sec. 3-30. Authorized.

Any peace officer or any agent of the City shall take up and impound any animal found in violation of this chapter. This Division I shall pertain to livestock and other animals not defined as a "Pet."

Sec. 3-31. Pets.

The impoundment of dogs, cats or any other domestic pet shall be as provided hereafter in "Pets" Section of Division 2.

Sec. 3-32. Confinement by private citizen.

If any animal is found upon the premises of any person, the owner or occupant of the premises shall have the right to confine such animal temporarily until he can notify the City. When notified, it shall be the duty of the department to impound such animal as provided in this chapter.

Sec. 3-33. Pound fees.

The fees and charges for services furnished by the City, shall be determined from time to time and placed on file in the office of the City secretary.

Sec. 3-34. Disposition at City's discretion.

If any animal impounded is found to be affected with rabies, or if the animal is seriously injured, or if the City has determined it is not saleable, or if it cannot be sold as provided in the preceding section, it shall forthwith be destroyed or otherwise disposed of. All decisions as to the condition or saleability of the animals shall be made by the City.

Sec. 3-35. Redemption before sale.

The owner of any animal not affected with a contagious disease and impounded under the provisions of this chapter may redeem the same before it is sold, by paying the required pound fees.

Sec. 3-36. Sale of impounded animals.

The City shall sell animals impounded under the provisions of this article at public auction for cash after having held the animal for at least ten (10) days and after having published public notice of the items, terms and place of sale in a daily newspaper published in the City, which notice shall appear one time at least five (5) days prior to the sale and shall describe the animals impounded and state that the animals will be sold to defray cost if not reclaimed and the cost paid before the date of sale. If not reclaimed by such date, it shall sell the animal at public auction between the hours of 10:00 a.m. and 4:00 p.m. at such date to the highest bidder.

After deducting all the expenses of the sale and taking up and keeping of the animals, the City shall return the balance of proceeds, if any, to the owner of the animals. If the owner is unknown, the balance shall be paid into the City treasury. Any time within thirty (30) days after the sale, the owner may apply to the City and upon satisfactory proof of his ownership, he shall be entitled to receive the balance of proceeds, which shall be the money deposited after deducting all the expenses of the sale and taking up and keeping of the animals, paid into the City treasury on account of such sale.

Sec. 3-37. Redemption after sale.

The owner of any impounded animal sold under the provisions of this chapter may redeem it by paying to the purchaser double the amount paid by him for such animal and his reasonable expenses for keeping it; provided, that the owner shall redeem the animal within thirty (30) days after the date of sale, otherwise the animal becomes the absolute property of the purchaser.

Sec. 3-38. Records of impoundment.

The City shall keep a record for at least one year giving the description of all animals impounded, the date of impoundment, the date of sale, the amount realized for such animal, and the name and

address of the purchaser.

DIVISION 2. PETS

Sec. 3-39. Authorized.

It shall be unlawful for any citizen to keep more than six (6) pets over the age of ten (10) weeks within the City at any one time. This total may be 6 dogs or 6 cats or any combination thereof so long as the total number of pets at a residence does not exceed six (6) pets over the age of 10 weeks.

The agents of the City are authorized to take up:

- (1) All dogs found not restrained by their owners;
- (2) All cats or dogs which do not have a vaccination tag herein; and
- (3) Any dogs or cats over the age of 10 weeks at a residence where such is necessary to reduce the number of pets to six as allowed above.

Sec. 3-40. Vaccinated dogs.

(a) Period of confinement: A vaccinated dog impounded as authorized herein shall be confined in a humane manner for a period not less than three (3) working days.

(b) Notice: Upon impounding a dog found with current vaccination tags, the agents of the City shall make a reasonable effort to notify the owner his animal has been impounded and the conditions whereby he may regain custody of such animal.

Sec. 3-41. Unvaccinated dogs and cats.

Dogs and cats impounded under this division without a vaccination tag shall become the property of the City after the expiration of two (2) working days.

Sec. 3-42. Fees.

The fees and charges for services furnished by the City, shall be determined from time to time and placed on file in the office of the City secretary.

Sec. 3-43. Redemption generally.

The owner shall be entitled to resume the possession of any impounded dog or cat except as hereinafter provided in case of certain dog or cat, upon compliance with the provisions of sections 31 and 51 and the payment of the impoundment fees as set forth herein.

Sec. 3-44. Redemption of unvaccinated animal.

The owner of any animal over the age of four (4) months, which has not been vaccinated as required by this chapter, upon satisfactory proof of ownership, shall pay to the City applicable fees to cover the cost of rabies vaccination and City tag for the animal before the animal can be redeemed. Upon payment of the fee, a receipt for the shots shall be given to the owner to be honored by the veterinarian designated by the owner. The owner of the animal shall have seventy-two (72) hours from the time the receipt is issued to take the animal and receipt to the veterinarian for vaccination. Failure to vaccinate within the stated time period will result in forfeiture of the rabies vaccination

and City tag fees to the City. Each month all veterinarians shall turn in all receipts that they have received and the City shall reimburse them for the full value of each receipt.

Sec. 3-45. Placement with competent person or humane society.

The City may place any animal, held at its animal shelter, in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this chapter.

Sec. 3-46. Destruction of unredeemed animals.

The City may humanely destroy any animal, which has not been redeemed as provided in this division.

Sec. 3-47. Destruction of donated, sick, injured animals.

The City may destroy any animal by a humane method if it has been donated to the City with the request that it be destroyed or if the animal is so sick or injured that its cure is considered by the City to be impractical or if death is imminent. In either of such events, such destruction may be done immediately without notice or any waiting period.

ARTICLE IV. RABIES CONTROL

DIVISION 1. GENERALLY

Sec. 4-48. Report of rabies suspect by veterinarian.

It shall be the duty of every licensed veterinarian to report to the City his diagnosis of any animal observed by him as a rabies suspect.

Sec. 4-48. Report of bites or scratches by physicians.

It shall be the duty of every physician or other practitioner to report to the City the names and addresses of persons treated for bites or scratches inflicted by animals, together with such other information as will be helpful in rabies control.

Sec. 4-49. Killing or removing rabid animal from the City.

No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies or any animal which has bitten a human or suspected of having bitten a human, except as herein provided, nor remove same from the City limits without written permission from the City.

Sec. 4-50. Surrender of carcass.

The carcass of any dead animal suspected of having been exposed to rabies shall upon demand be surrendered to the City.

Sec. 4-51. Disposition of rabid animals.

The City shall direct the disposition of any animal found to be infected with rabies.

Sec. 4-52. Duty to surrender animal.

No person shall fail or refuse to surrender any animal for quarantine, destruction or disposal as required herein when demand is made therefor by the City.

DIVISION 2. QUARANTINE OF SPECIFIC ANIMAL

Sec. 4-53. Authorized; minimum time.

Upon being presented a sworn affidavit that an animal has bitten or scratched a person, the animal control superintendent shall quarantine the animal so identified for a period of ten (10) days.

Sec. 4-54. Places.

Quarantine of an animal which has bitten or scratched a person shall be at the following:

- (a) Animal shelter;
- (b) A licensed veterinarian hospital in the City at the expenses of the owner, upon the owner's request;
- (c) Home quarantine: Home quarantine is permissible when the animal control superintendent agrees that home quarantine is warranted and believes the following requirements are satisfied:
 - (1) The owner of the animal is a resident of this City and agrees to keep the animal at his residence in this City; and,
 - (2) The animal was properly restrained at the time the bite occurred; and,
 - (3) The animal was properly protected by rabies vaccination.

Animals of unknown ownership will be quarantined at the animal shelter.

Sec. 4-55. Surrender by owner.

Upon the demand made by the City, it shall be unlawful for the owner to fail to surrender any animal which has bitten or scratched a human being or which is suspected of having been exposed to rabies, for quarantine, which expenses shall be borne by the owner.

Sec. 4-56. Released to owner.

The quarantined animal may be reclaimed by the owner if adjudged free of rabies, upon payment of the fees set forth herein and upon compliance with the vaccination provisions set forth herein.

Sec. 4-57. Pathological examination--Death during quarantine.

When an animal under quarantine diagnosed by a licensed veterinarian as being rabid or suspected of being rabid dies while under observation, the City shall immediately send the head of such animal to the health department for a pathological examination. The City shall notify the proper health officer of reports of human contacts and then diagnosis made of the suspected animal after the pathological examination has been made.

Sec. 4-58. Same--Emergency situation.

When an animal bites or scratches a person so that the City's authorized agent believes that the quarantine observation period cannot be observed because of the danger of developing rabies, the City's agent shall order that the City immediately forward the animal's head for pathological examination.

DIVISION 3. CITY-WIDE QUARANTINE

Sec. 4-59. When authorized.

A City-wide quarantine may be invoked for a period of thirty (30) days by the City council upon the recommendation of the City after it has been notified by the health department of a positive diagnosis of rabies of an animal or after an investigation has determined there exists an immediate threat of rabies.

Sec. 4-60. Extension of time.

In the event there are additional positive cases of rabies occurring within the thirty (30) day period of the City-wide quarantine, such period of quarantine shall be extended for additional reasonable period of time.

Sec. 4-61. Destruction of bitten animals.

During a period of City-wide rabies quarantine, every animal bitten by a rabid animal shall be destroyed.

Sec. 4-62. Confinement of animals.

It shall be unlawful for any person to take or permit any animal in the streets or any other public place during the period of quarantine.

ARTICLE V. TRAPS

Sec. 5-63. Placement and baiting prohibited on streets and alleys.

It shall be unlawful for any person to place and bait or to permit the placing or baiting and placing of any trap, designed for trapping animals, in any highway, street, alley, or other public place within the corporate limits of the City unless prior authorization has been obtained from the City Manager.

Sec. 5-64. Prohibited within City limits; exception, areas zoned agricultural open space.

It shall be unlawful for any person to set or bait or permit the setting or baiting or placing of any steel-jawed, killer-type, toothed trap designed in such a fashion as to reasonably ensure the cutting, slicing, tearing, or otherwise traumatizing of entrapped prey and commonly known as a "bear trap, wolf trap, or coyote trap" in any zoning district within the City limits, except in those districts zoned agricultural open space. In agricultural open space districts, any trap must be more than three hundred (300) yards from the nearest district zoned for residential, commercial, or industrial use.

Sec. 5-65. When declared abandoned; impoundment.

Any traps mentioned herein found upon any public property shall be and the same are hereby declared to be abandoned property and any animal control agent/police officer is hereby authorized and directed to impound any such trap and process the same as abandoned property in accordance with the appropriate provisions of this Code.

Sec. 5-66. Animal trapping.

It is hereby specifically provided that the City is exempted from any provision of these animal

trapping sections in the performance of its lawful duties.

ARTICLE VI. HORSES/HOOFED ANIMALS

DIVISION 1. REQUIRED ACREAGE

Sec. 6-67 Acreage required

(a) No person who is the owner of any horse or other hoofed animal or any person who has any such hoofed animal under his management or control, shall keep the same or allow the same to remain in any pen or in any other place within the City unless said owner or manager provides at least one acre per animal kept. Each horse or hoofed animal shall have a pen of no less than one acre, and no additional horse or hoofed animal shall share that one acre. For further explanation of this requirement and as an example, an owner/manager with two (2) horses shall provide two (2) acres for those two (2) animals.

Ordinance No. 0513 - 2010

AN ORDINANCE AMENDING ORDINANCES 121800, 010980, AND 1214200904 PERTAINING TO ANIMAL CONTROL WITHIN THE CITY LIMITS OF THE CITY OF MERKEL, TEXAS, TO ALLOW A NECESSARY EXCEPTION.

WHEREAS, the Council adopted an Animal Control Ordinance for the benefit of the citizens of the community; and

WHEREAS, certain exceptions were granted in that ordinance; and

WHEREAS, the Council is aware that an additional exception is necessary; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MERKEL, TEXAS:

1. That Section 1-10 of the Animal Control Ordinance is amended by adding a provision (8) to the list of exceptions with said (8) reading as follows: "*Sheep and goats used for brush, weed, and grass control in a non-residential area of no less than 1.25 acres, provided that said animals are given adequate food, water, and shelter, secured with proper fencing, are sexually intact males under 6 months of age, females, or neutered males, with no more than ten (10) animals allowed per acre at any one time, and any animals are allowed only for so long as such animals visibly are needed for brush, weed, and grass control.*"
2. That upon passage of this amendment, the City Secretary be, and is hereby authorized and directed to have said amendment published in the Merkel Mail, a weekly newspaper of general circulation in the City of Merkel

PASSED on the 13 day of May, 2010.

ATTEST:

Dawn Hetsel
CITY SECRETARY

SIGNED:

Rusty Watts
MAYOR

APPROVED:

Claudia Clinton
CITY ATTORNEY