

## **ORDINANCE #2023-06**

**AN ORDINANCE OF THE CITY OF THORNDALE, TEXAS ADOPTING AN UPDATED ANIMAL CONTROL ORDINANCE TO BE APPLIED WITHIN THE CITY LIMITS; PROVIDING ENFORCEMENT AND PROVIDING A PENALTY FOR FAILURE TO COMPLY WITH SUCH ORDINANCE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Thorndale, a type A general-law municipality, (the “City”) is permitted by State law to establish ordinances that protect the health, safety, and general welfare of its residents; and

**WHEREAS**, the City Council finds that the existing Animal Control Ordinance does not comply with current State Law and does not require the use of leashes or other restraint within the City limits of the City.

**WHEREAS**, unrestrained animals can be a nuisance which detracts from the health, safety, and general welfare of residents of the City of Thorndale; and

**WHEREAS**, the City seeks to continue to promote health, safety, and general welfare within the City limits by providing for a new and updated Animal Control Ordinance:

**NOW, THEREFORE, BE IT ORDAINED BY CITY COUNCIL OF THE CITY OF THORNDALE:**

**Section 1.0. Findings of Fact.** The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions, and requirements of this ordinance are reasonable and necessary to protect the public health, safety, and quality of life.

**Section 2.0. Severance.** Should any section, paragraph, sentence, clause, phrase, or word of this ordinance be declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby

**Section 3.0. Definitions.** For the purposes of this chapter, the following words and phrases shall have the meanings herein ascribed to them:

**Abandoned animal:** Any animal that has not been provided with one (1) or more of the necessities of life, including air, food, water, or protection from the sun and other elements of nature, or has been left in the custody of another person without their consent.

**Adult animal:** An animal that is six (6) months of age or older.

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

**Animal control authority:** The municipal or county animal control office with authority over the area referenced in this ordinance. For the purposes of this chapter, the animal control authority is the City. The animal control authority shall designate a veterinarian, licensed in the state, to represent and act for the city in the impoundment and disposition of any animals found in violation of any animal regulation.

*Animal control enforcement officer:* *All officers of the City police department and/or any person or persons designated by the City to enforce animal control authority.*

*Animal control officer:* The chief of police, any city employee licensed by the state as an animal control officer, and any police officer of the city.

*Animal shelter:* Any facility operated by a humane society, or municipal agency, or its authorized agents, or a veterinarian licensed in the state for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

*At large:*

- 1) *Off-premises.* Any animal which is not restrained by means of a leash of sufficient strength to control the actions of such animal while off the Owner's property.
- 2) *On-premises.* Any animal not confined on the premises of the Owner by a fence of sufficient strength and height to prevent the animal from escaping therefrom.

*Bite:* Any abrasion, scratch, puncture, tear or piercing of the skin actually or suspected of being caused by an animal.

*Bodily injury:* Physical damage to a person's body.

*Cat:* A domestic feline of either sex, including one neutered or sterilized.

*City:* The City of Thorndale, Texas.

*Dangerous animal:* Any animal that inflicts bodily injury on any person or animal, subject to the further provisions hereof.

*Dog:* A domestic canine of either sex, including one neutered or sterilized.

*Harboring:* The act of keeping and caring for an animal or of providing a premises to which the animal returns for food, shelter or care for a period of two (2) days or longer.

*Impoundment:* For an animal to be housed by the city, at the owner's expense, in a City-owned or City-designated facility or at the office of an area veterinarian approved by the animal control authority.

*Leash:* A strong cord or chain attached to collar or harness capable of restraining the animal on which it is used and which is being held by the owner.

*Owner:* Any person who has the right of property in an animal or who harbors an animal or allows an animal to remain about their-premises for a period of two (2) days or longer.

*Pet animal:* Shall include dogs and cats.

*Public nuisance:* Any animal or animals which trespasses on or damages school grounds, private or public property, or barks, whines or howls in an excessive, continuous or untimely fashion.

*Rabies vaccination:* The vaccination of a dog, cat or other domestic animal with an anti-rabies vaccine approved by the department of state health services and administered by a veterinarian licensed by the state.

*Restraint:* Any animal secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

*Running at-large:* Not completely confined by a building, wall, chain 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.

*Stray animal:* Any animal for which there is no identifiable owner or harbinger.

*Vaccination:* An injection of the United States Department of Agriculture approved rabies vaccine

administered as prescribed by the State Board of Health and in accordance with this chapter, by a licensed veterinarian.

Wild animal: Shall include all species of animals which exist in a natural unconfined state and are usually not domesticated. Any poisonous or dangerous reptile, or any other animal which can normally be found in the wild, not normally capable of being domesticated, in particular deer, and also including, but not limited to, skunks, foxes, leopards, panthers, tigers, lions, lynx, ferrets, or any other animal for which there is no approved rabies vaccine.

#### **Section 4.0. Violations**

Any person, firm or corporation violating any of the provisions of this chapter commit a Class C misdemeanor and upon conviction in the Municipal Court of Thorndale, Texas shall be subjected to a fine not to exceed Five Hundred Dollars (\$500.00) for each offense, except where a different penalty has been established by state law for such offense, and/or for any violation of any provision(s) which governs public health or sanitation, and that shall be punishable by a penalty of a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense. Each and every day any violation is continued shall be deemed to constitute a separate offense and may be charged as such.

#### **Section 5.0. Interference with the animal control officer**

The chief of police and any police officer of the city shall have the right to enforce any of the provisions of this chapter, and the chief of police is hereby delegated authority to appoint any person or persons to aid and assist him in the carrying out and enforcement of this chapter. The chief of police and any police officer of the city or any other person or persons appointed to aid and assist him is hereby authorized to enter upon any unfenced lot, tract or parcel of land for the purpose of seizing and impounding any animal running at large thereon or for the purpose of otherwise enforcing any other provision of this chapter. It shall be unlawful for any person to interfere with, molest, hinder, or prevent the animal control officer or his authorized representatives in the discharge of their duties as herein prescribed, or to violate any of the provisions of this chapter.

**Section 6.0. Public Nuisances.** It shall be unlawful for any person to keep an animal or animals that cause a public nuisance.

#### **Section 7.0. Nuisances.**

- (a) Unsanitary or offensive conditions. It shall be unlawful and constitute a public nuisance for any person to maintain any animal in such a manner or allow any pen, enclosure, yard, or similar place used for the keeping of animals to become unsanitary, or offensive by reason of odor, or create a condition that is a breeding place for fleas or other vectors and which is offensive to persons of ordinary sensibilities residing in the vicinity thereof or is determined to be a public nuisance by any enforcement officer.
- (b) Animals at large. It shall be unlawful and constitute a public nuisance for any person to maintain any animal which repeatedly roams at large in violation of this chapter on public or private property, attacks another animal(s), or damages public or private property.
- (c) Removal of animal waste. It shall be unlawful and constitute a public nuisance for the owner of any animal to allow any excreta deposited by their animal to remain on public or private property. The creation of any condition injurious to public health caused by the lack of or improper disposal of animal waste will also be considered a violation of this section.
- (d) Noisy animals. It shall be unlawful and constitute a public nuisance to keep any animal which, by causing frequent or long-continued barking, howling, crowing, meowing, or other noise, shall disturb any person of ordinary sensibilities residing in the vicinity of the premises where the animal is kept, house, or harbored.

- (e) Allowing animals to remain nuisance. It shall be unlawful for any owner or person to allow any animal to remain a public nuisance as defined herein. The enforcement officer shall provide information and/or advise an owner or person of available resources to assist in abating the nuisance

## **Section 8.0. Injured Animals.**

Animals injured on public property may be impounded and given adequate veterinary medical treatment pending notification of the owner. If the injured animal is treated and/or impounded, the owner of such animal shall be liable for all expenses of the treatment and/or the impoundment.

## **Section 9.0. Cats and Dogs.**

### **Section 9.01. Prohibition against dogs running at large**

It shall be unlawful for any dog possessed, keep, or harbored to run at-large anywhere in the city. All dogs must be restrained by a leash or if on private property a fence of sufficient size and strength. This regulation shall apply to all public places and to all private property. Leaving an unattended dog fastened to a leash, chain, or trolley of sufficient strength to restrain the dog shall meet the requirements of this section as long as sufficient good and wholesome food and water, proper shelter and protection from the weather are provided. The animal control officer or designee is authorized to impound any dog found to be running at-large.

**State law references**—Animals at large, V.T.C.A., Local Government Code, sec. 215.026; authority to regulate the capture and impoundment of animals, V.T.C.A., Local Government Code, sec. 215.026(c).

### **Section 9.02. Confinement during estrus**

Any unspayed female dog or cat in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure and said area of enclosure shall be so constructed that no other dog or cat may gain access to the confined animal. Owners who do not comply shall be ordered to remove the animal in heat to a boarding kennel or veterinary hospital. All expenses incurred as a result of the confinement shall be paid by the owner. Failure to comply with the removal order of the animal control officer shall be a violation of this section and the dog or cat will then be impounded as prescribed in this chapter.

### **Section 9.03 Animal bites**

Any person having knowledge that a dog or cat has bitten a human or another animal shall immediately report the incident to the City health officer, animal control officer or the police department, as well as Milam County Health District.

## **Section 10.0. Rabies Control**

### **Sec. 10.01. Vaccination**

Every owner of a dog or cat four (4) months of age or older shall have such animal vaccinated against rabies with an anti-rabies vaccine approved by the department of state health services and administered by a veterinarian licensed by the state. All dogs or cats vaccinated at four (4) months of age or older shall be revaccinated within one (1) year and annually thereafter. Any person moving into the city from a location outside of the city shall comply with this division within thirty (30) days after having moved into the city. If the dog or cat has inflicted a bite on any person or another animal within the last ten (10) days, the owner of said dog or cat shall report such fact to the veterinarian, and no rabies vaccine shall be administered until after the ten-day observation period.

### **Section 10.2. Certificate of vaccination**

Upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat as evidence thereof, a certificate of vaccination. 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 vaccinated dog or cat;
- (2) The date of vaccination;
- (3) The type of rabies vaccine used;
- (4) The year and number of the rabies tag; and
- (5) The breed, age, color and sex of the vaccinated dog or cat.

### **Section 10.03. Rabies Tags**

Concurrent with the issuance and delivery of the certificate of vaccination referred to in section 10.02 the owner of the dog or cat shall cause to be attached to the collar or harness of the vaccinated dog or cat a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance and the name of the veterinarian or his business name. Such tag shall be worn by the dog or cat at all times.

### **Section 10.04. Duplicate tags**

In the event of loss or destruction of the original tag provided in section 10.03 the owner of the dog or cat shall obtain a duplicate tag.

### **Section 10.05. Proof**

It shall be unlawful for any person who owns or harbors a vaccinated dog or cat to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this chapter.

### **Section 10.06. Harboring unvaccinated animals**

It shall be unlawful for any person to harbor any dog or cat which has not been vaccinated against rabies, as provided herein, or which cannot be identified as having a current vaccination certificate.

### **Section 10.07. Authority**

It shall be the duty of the chief of police to act as the rabies control authority and perform such duties as required by the laws of the state in accordance with Health and Safety Code, chapter 826

## **Section 11.0. Animal Care**

### **Section 11.01. Food, water, shelter, and treatment**

- (a) No owner shall fail to provide his/her animals 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.
- (b) No owner of an animal shall abandon such animal.
- (c) No owner of livestock shall cause or permit such livestock to be hitched, tied, or staked in any public park or square, or upon any private property or structure. Animals shall be kept within secure fencing. (Ordinance adopting Code)

**State law reference**—Health and safety of animals, V.T.C.A., Health and Safety Code, ch. 821 et seq.

### **Section 11.02. Striking with motor vehicle**

Any person who, as the operator of a motor vehicle, strikes a domestic animal shall stop at once and render assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency.

### **Section 11.03. Poison**

No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to expose on his own property common rat poison mixed only with vegetable substances. (2004 Code, sec. 2.1003)

**State law reference**—Cruelty by poisoning livestock animals, V.T.C.A., Penal Code, sec. 42.09(a)(5); cruelty by poisoning non-livestock animals, V.T.C.A., Penal Code, sec. 42.092(b)(2).

### **Section 12.0. Dangerous dogs**

Dangerous dogs, as defined in V.T.C.A., Health and Safety Code, section 822.041, shall be regulated in accordance with the provisions of V.T.C.A., Health and Safety Code, chapter 822, subchapter D.

**State law reference**—Authority of city to regulate the keeping of dangerous dogs, V.T.C.A., Health and Safety Code, sec. 822.041 et seq.

### **Section 12.01. Dangerous animals**

(a) No person shall own or harbor a dangerous animal within the city. Such an animal shall be impounded as a public nuisance. If impoundment of said animal running at large cannot be made with safety to the animal control officer or other persons, the animal may be destroyed without notice to the owner or harborer.

(b) Whenever affidavit shall be made before the judge of the municipal court that any dog has bitten or attempted to bite, or attacked or attempted to attack any person in the city, and it shall appear that the person so bitten or attempted to be bitten, or attacked or attempted to be attacked, was not at the time trespassing upon the property of the owner and not otherwise at fault, then the judge of the municipal court, shall upon proof thereof, fine the owner of said dog in accordance with the penalty provision in **Section 4.0** of this code for each and every offense. The judge of the municipal court, where it is proven that said dog has bitten any person, may direct the owner of said dog to present the dog to a veterinarian or other public health authorities for rabies observation. If such dog owner fails or refuses to do so within twenty-four (24) hours after receiving said order, this shall also be deemed an offense.

(c) It shall be unlawful to place or maintain any dog which has been specifically trained to attack, in any area for the protection of persons or property unless the dog is physically confined to a specific area, or is under complete and absolute control.

### **Section 13.0. Procedures for Dogs Causing Death or Injury**

#### **Section 13.01. Seizure of a dog causing death of or bodily injury to a person**

(a) A municipal court shall order the animal control officer to seize a dog and shall issue a warrant authorizing the seizure:

(1) On the sworn complaint of any person, including a peace officer, that the dog has caused the death of or bodily injury to a person by attacking, biting, or mauling the person; and

(2) On a showing of probable cause to believe that the dog caused the death of or bodily injury to the person as stated in the complaint.

- (b) The animal control authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.

### **Section 13.02. Hearing**

The court shall set a time for a hearing to determine whether the dog caused the death of or bodily injury to a person by attacking, biting, or mauling the person. The hearing must be held not later than the 10th day after the date on which the warrant is issued.

- (1) The court shall give written notice of the time and place of the hearing to:
  - (A) The owner of the dog or the person from whom the dog was seized; and
  - (B) The person who made the complaint.
- (2) Any interested party is entitled to present evidence at the hearing.
- (3) The court may order the dog destroyed if the court finds that the dog caused the death of or bodily injury to a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released, after quarantine, to:
  - (A) Its owner;
  - (B) The person from whom the dog was seized; or
  - (C) Any other person authorized to take possession of the dog.
- (4) The court may not order the dog destroyed if the court finds that the dog caused the bodily injury to a person [and]:
  - (A) The dog was being used for the protection of a person or person's property; the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and the injured person was at least eight (8) years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;
  - (B) The dog was not being used for the protection of a person or person's property, but the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least eight (8) years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
  - (C) The attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;
  - (D) The dog was defending a person from an assault or person's property from damage or theft by the injured person; or
  - (E) The injured person was younger than eight (8) years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight (8) years of age from entering.
- (5) The court may order the dog to be quarantined.

#### **Section 14.0. Destruction of animal**

The destruction of an animal under this division must be performed by:

- (1) A licensed veterinarian;
- (2) Personnel of a recognized animal shelter or humane society who are trained in the humane destruction of animals; or
- (3) Personnel of a governmental agency responsible for animal control who are trained in the humane destruction of animals.

#### **Section 15.0. Provocation or location of attack**

Except as provided by Section 13.02(4), this division applies to any dog that causes a person's death or bodily injury by attacking, biting, or mauling the person, regardless of whether the dog was provoked and regardless of where the incident resulting in the person's death or bodily injury occurred

**Section 16.0. Conflicting Ordinances.** Any Ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other ordinance of this City, the provisions of this ordinance shall govern.

**Section 17.0. Severability.** If any section, paragraph, sentence, clause or phrase of this Ordinance shall be adjudged to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining sections, paragraphs, sentences, clauses or phrases which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**Section 18.0. Effective Date.** This ordinance shall become effective immediately from and after its passage and publication in accordance with the provisions of the Texas Local Government Code.

**Section 19.0. Open Meeting.** It is hereby officially found and determined that the meeting in which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, and Texas Government Code.

**PASSED AND APPROVED, this, the 9th day of August, 2023, by a vote of 3 (ayes) to \_\_\_\_\_ (nays) to \_\_\_\_\_ (abstentions) of the City Council of the City of Thorndale.**

**THE CITY OF THORNDALE, TEXAS**

By: \_\_\_\_\_

George Galbreath Jr., Mayor

**ATTEST:**

By: \_\_\_\_\_

Stacy Irwin, City Secretary

