

**ORDINANCE NO. 334**

**AN ORDINANCE OF THE CITY OF SOUTHMAYD, TEXAS REPEALING ORDINANCE NUMBERS 154 AND 235; ESTABLISHING STANDARDS FOR THE OWNERSHIP, CONTROL, AND CARE OF ANIMALS IN THE CITY; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Southmayd, Texas, has the authority to regulate and provide standards for the ownership, control, and care of animals in the city, and has determined that the following Ordinance is necessary to protect the health, safety, and welfare of the public.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOUTHMAYD, TEXAS, THAT:**

**Section 1. FINDINGS INCORPORATED**

The findings set forth above are found to be true and correct and are hereby incorporated into the body of this Ordinance for all purposes as if fully set forth herein.

**Section 2. REPEAL OF ORDINANCE NUMBERS 154 AND 235 OF THE CITY**

Ordinance Numbers 154 and 235 of the City of Southmayd, Texas, are repealed in their entirety.

**Section 3. STANDARDS FOR THE OWNERSHIP, CONTROL, AND CARE OF ANIMALS IN THE CITY**

**ARTICLE 1 PURPOSE; DEFINITIONS; AND CLASSIFICATIONS**

**Sec. 1.1 Purpose**

It is the purpose of this Ordinance to provide regulations for the control and care of animals, to prevent and control the transmission of rabies to human beings and domestic animals, to reduce the number of stray dogs and cats in the city and the attendant health risks such animals pose, to encourage responsible animal ownership, to prevent nuisances, and to protect the health, safety, and welfare of the public.

**Sec. 1.2 Definitions**

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adopt or adoption*, with respect to animals, means the purchase of a dog or cat from the city to be kept as a pet.

*Animal* means any living creature, including, but not limited to, dogs, cats,

cows, horses, birds, fowl, fish, mammals, reptiles, insects, and livestock, but specifically excluding human beings.

*Animal services officer* means an individual designated by the city to represent and act for the city in impounding animals, controlling animals running at large, and as otherwise provided by this Ordinance, and includes individuals acting under the authority, direction, or supervision of the animal services officer.

*Animal control facility* or *animal shelter* means a facility operated by the city for the purpose of impounding and caring for animals held under the authority of this Ordinance or state law.

*Approved enclosure* means an enclosure constructed of metal fabric or wall, with four sides and a top, constructed in a manner that prevents a dangerous animal from escaping.

*At large* or *running at large* refers to an animal that is not: (1) confined to the premises of its owner by a fence of sufficient strength and height to prevent the animal from escaping therefrom; (2) confined within a house, building, or other enclosure; or (3) secured on said premises by a leash of sufficient strength to prevent the animal from escaping from the said premises, and so arranged that, when the leash is stretched to full length in any direction, the animal will remain upon said premises and not be able to reach a roadway, right-of-way, sidewalk, alleyway or common-use area. An animal shall not be considered at large when confined within a vehicle or when held and controlled by an individual by means of a leash, cord, chain, or rope of proper strength and length to control the action of the animal.

*Bite* means any abrasion, scratch, puncture, tear, or piercing of skin actually or suspected of being caused by an animal.

*Breeder* means a residence or kennel in which one or more specific breeds of dogs or cats are bred and raised for sale.

*Cat* means all domestic species or varieties of the *felis catus*, male or female, alive or dead.

*Circus* means a commercial variety show featuring animal acts for public entertainment that has received city approval for its performances.

*Commercial animal establishment* means any pet shop, auction, riding school or stable, zoological park, circus, recurring animal exhibition, kennel, grooming shop, or other establishment in which animals are kept or used to generate revenue or financial profit.

*Confined* or *confinement*, with respect to an animal, means confined within a house, building, or other enclosure, or within a fenced yard or premises, so that the animal cannot escape from said house, building, other enclosure, or fenced yard or premises without human assistance.

*Dangerous animal* means an animal that:

- (1) without provocation, has attacked or bitten any individual;
- (2) without provocation and while outside its enclosure, has attacked or bitten any animal causing death or serious bodily injury;
- (3) is determined by the animal services officer or a veterinarian appointed by the city to have dangerous propensities; or
- (4) the animal services officer has reason to believe has dangerous propensities or a dangerous disposition likely to be harmful to humans or animals, regardless of whether it has attacked, bitten, or injured an individual or animal.

*Dangerous propensities* means, without provocation, any one, or a combination of, the animal behaviors of biting, snarling, charging aggressively toward an individual or animal, growling with curled lips, popping of teeth, or barking with raised hackles.

*Dewormed* means that a dog or cat has been effectively treated for roundworms, hook worms, and tape worms within the immediately preceding 12-month period.

*Dog* means all domestic species or varieties of the *canis familiaris*, male or female, alive or dead.

*Fowl* means any bird, wild or domesticated, including, but not limited to, chickens, ducks, geese, peacocks, pheasants, quail, and turkeys, but excluding large birds such as ostriches and emus and excluding birds commonly kept as household pets, such as parakeets, parrots, and the like.

*Guard dog* means any dog that is specially trained to attack to protect persons or property.

*Harboring* means the act of keeping and caring for an animal or providing a premises to which the animal returns for food, shelter, or care for a period of at least three days, or taking control of an animal for at least 72 consecutive hours.

*Humane manner* means the care of an animal to include, but not be limited to, providing adequate heat, space, ventilation, sanitary shelter, and wholesome food and water consistent with the normal requirements of the animal's size, species, and breed.

*Hybrid* means an animal produced by breeding one animal species or subspecies with another, or with another genus.

*Impound* means apprehending, catching, trapping, netting, tranquilizing, confining, or, if necessary, destroying any animal by the animal services officer.

*Inoculated* means:

(1) when referring to a dog, a dog that has been injected for prevention of parvo and distemper within the immediately preceding 12-month period; and

(2) when referring to a cat, a cat that has been injected for prevention of infectious feline diseases, panleukopenia, viral rhino tracheitis, and calicivirus within the immediately preceding 12-month period.

*Isolated* means to be kept separated and protected from all other animals or humans.

*Kennel* means any premises wherein a person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.

*Large Livestock* means livestock such as cattle, horses, miniature horses, ponies, mules, donkeys, jacks, jennets, asses, swine, pigs, hogs, ostriches, emus, llamas, and animals of the same approximate size and weight.

*Livestock* means animals commonly associated with farming, ranching, or recognized commercial production, including, but not limited to, cattle, horses, mules, donkeys, jacks, jennets, asses, sheep, goats, pigs, hogs, swine, potbelly pigs, poultry, fowl, emus, llamas, and ostriches.

*Occupied building* means a building occupied by any individual on a regular or ongoing basis.

*Owner* means a person that has a property right or interest in an animal, harbors an animal, or allows an animal to remain on a premises for a period of at least 72 hours.

*Person* means any individual, partnership, firm, public or private corporation, association, trust, estate, or other legal entity.

*Performing animal exhibition* means any spectacle, display, act, or event, other than a circus, in which performing animals are used.

*Pet or pet animal* means a dog, cat, ferret, rodent, bird, reptile, domestic rabbit, and any other species of animal that is sold or kept for pleasure rather than utility, but does not include skunks, non-human primates, or any other species of wild, exotic, or carnivorous animal that is restricted by this Ordinance or state law.

*Pet shop* means a business enterprise, except for a licensed kennel, that buys, sells, boards, or grooms animals.

*Quarantine* means a period of time in which an animal is isolated and

under close observation for signs of rabies or other zoonotic diseases in accordance with state law and applicable regulations of the Texas Department of State Health Services.

*Restraint* means a method of securing an animal to prevent it from running at large.

*Residential premises* means a house or other building in which one or more individuals reside and includes the lot or other property tract upon which the house or other building is located.

*Riding school or riding stable* means any place that has one or more horses, ponies, donkeys, mules, or burros available for hire or riding instruction, or provides boarding services for any such animals for a fee.

*Secure enclosure* means a fenced area or structure that:

- (1) is kept locked;
- (2) prevents the entry of the general public, including children;
- (3) prevents the escape or release of an animal;
- (4) is clearly marked as containing a dangerous animal; and
- (5) conforms to all other requirements established by the local animal services authority for a secure enclosure.

*Small Livestock* means small and miniature livestock such as goats, sheep, lambs, and animals of the same approximate size and weight

*Stray* means any animal that is impounded or brought to an animal shelter and is not wearing a collar or harness with a license tag, vaccination tag, or identification tag, and does not have an identification tattoo or microchip implant.

*Tag* means a metal tag issued by the city or the administering veterinarian when an animal is vaccinated, and that contains the name of the veterinary clinic, the tag number, and the year of issuance.

*Unprovoked or without provocation* means not in:

- (1) response to being tormented, abused, or assaulted by an individual;
- (2) response to pain or injury; or
- (3) protection of itself or its food, eating or sleeping area, or nursing offspring.

*Vaccination or vaccinated* means an injection of rabies vaccine licensed

for use in that species by the United States Department of Agriculture, properly injected at intervals prescribed by the Texas Department of State Health Services, and that has been administered by or under the direct supervision of a veterinarian.

*Vaccination certificate* means a document, issued by the person administering a vaccination, containing:

- (1) a unique registration number as required by the jurisdiction in which the record of the vaccination is kept;
- (2) the species, breed, name, color, and gender of the animal receiving the vaccination;
- (3) the name and address of the owner of the animal; and
- (4) the date of the vaccination.

*Veterinarian* means a doctor of veterinary medicine who holds a valid license to practice veterinary medicine.

*Veterinary hospital* or *veterinary clinic* means any establishment maintained and operated by a veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

*Wild animal* means an animal that commonly exists in a natural, unconfined state and is not domesticated, or was domesticated but has become feral, regardless of the circumstances or duration of captivity. Examples of wild animals include, but are not limited to, live monkey, raccoon, skunk, fox, lion, tiger, bobcat, cougar, panther, leopard, cheetah, bear, javelina, wolf, coyote, elephant, Gila monster, water moccasin, coral snake, rattlesnake, copperhead, king cobra, other poisonous snakes and reptiles, python, boa constrictor, crocodile, and alligator. This definition includes hybrids.

*Zoological park* means any facility, other than a pet shop or kennel, displaying or exhibiting to the public one or more species of nondomesticated animals.

*Zoonotic diseases* means those diseases that can be transmitted from animals to humans under normal conditions.

## **ARTICLE 2 APPLICATION; ENFORCEMENT; COLLECTION OF FEES**

### **Sec. 2.1 Application**

This Ordinance does not apply to educational institutions or to veterinarians unless otherwise provided herein.

## **Sec. 2.2 Enforcement**

(a) Enforcement of this Ordinance shall be the responsibility of the animal services officer, who shall be approved by the City Council, any other person authorized by the city council, or any police officer.

(b) The enforcement officers shall have the authority to issue citations for any violation of this Ordinance. If the person being cited is not present, the officer issuing the citation may send the citation to the alleged offender by certified mail, return receipt requested.

(c) It is unlawful for a person to interfere with an enforcement officer in the performance of the officer's duties.

(d) Enforcement officers are authorized to pursue animals running at large onto private property while enforcing the provisions of this Ordinance.

## **Section 2.3 Collection of Fees**

The finance department shall be responsible for collecting all fees established and levied in accordance with this Ordinance.

## **ARTICLE 3 VACCINATION OF ANIMALS CAPABLE OF TRANSMITTING RABIES**

### **Sec. 3.1 Vaccination Required**

(a) Every owner of a dog or cat three months of age or older shall have such animal vaccinated. All dogs and cats vaccinated at three months of age or older shall be revaccinated at one year of age and thereafter either annually with one-year rabies vaccine or every three years with three-year rabies vaccine. A person moving into the city from a location outside the city shall comply with this section within five days after having moved into the city. If the dog or cat has bitten an individual or animal within the ten days immediately prior to moving into the city, the owner of said dog or cat shall report such fact to the animal services officer, who shall then comply with the provisions of section 3.3. No vaccination shall be administered to the dog or cat until after the expiration of any quarantine period ordered under that section.

(b) At the time an animal is vaccinated, a vaccination certificate shall be issued to the owner of the animal. The owner shall retain the vaccination certificate until the vaccination is renewed. A tag shall also be issued at the time of vaccination that must be worn by the animal at all times.

### **Sec. 3.2 Local Rabies Control Authority**

The animal services officer is the local rabies control authority. He may delegate the duties described herein to a police officer. Among other duties, the local rabies control authority shall enforce the following:

(a) Chapter 826 of the Texas Health and Safety Code and the rules

adopted by the Texas Department of State Health Services that comprise the minimum standards for rabies control and any other applicable state and federal laws related to zoonotic diseases.

(b) The ordinances of the city governing the control of rabies.

(c) The rules adopted by the Texas Department of State Health Services under the area rabies quarantine provisions of chapter 826 of the Texas Health and Safety Code and any other applicable state and federal laws related to zoonotic diseases.

(d) It shall be the duty of the owner or harbinger of any animal and the duty of all veterinarians to report to the animal services department all suspected cases of rabies. The report shall be made immediately upon diagnosis or suspicion of rabies in an animal.

(e) If a potential outbreak of rabies within the city is suspected and the danger to the public from rabid animals is reasonably imminent, the Mayor is authorized to issue a quarantine proclamation, which shall be published in a local newspaper, ordering persons owning, keeping, or harboring dogs or other animals to confine them to the owners' premises unless they are effectively muzzled and under the control of an adult by leash, cord, chain, or rope. Any animal found at large in violation of this subsection may be destroyed by the animal services officer or a police officer if such officer is unable, with reasonable effort, to apprehend such animal for impoundment.

### **Sec. 3.3 Bites by Animals; Quarantine**

(a) The animal services department shall investigate reports in which animals have bitten individuals. It shall be the responsibility of the animal services officer to obtain details on a bite report and conduct a follow-up investigation of the biting animal to determine whether it is infected with rabies.

(b) Any animal suspected of biting an individual or animal shall be placed under a quarantine watch to determine if the animal is infected with rabies. This quarantine shall be for a period not less than ten days after the biting of such individual or animal. The length of the quarantine shall be determined by the investigating animal services officer.

(c) The owner of the animal shall surrender the animal to the animal services officer immediately or otherwise arrange for the animal services officer to pick up and retain such animal in isolation at the animal shelter for the period of the quarantine. After the animal has been released from quarantine, the owner may claim the animal from the animal shelter by payment of the fees prescribed in this Ordinance.

(d) An approved alternative to animal quarantine at the animal shelter is for the animal to be placed in quarantine observation in a veterinary clinic approved by the city.

(e) In lieu of quarantine at the animal shelter, the animal services



officer may authorize the animal to be retained on the owner's premises provided that the animal had been vaccinated at least 30 days before the date of the bite and, at the time of the bite, the vaccination was current and the animal was not running at large.

(1) When quarantined at home, the animal must be restrained and removed to an area where it will not come in contact with any individuals or animals outside of the household.

(2) The animal must be made available to the animal services officer for periodic inspection.

(3) The owner will observe the animal for any signs of illness or personality changes and report such changes to the animal services officer.

(4) The animal may not be removed from the known quarantine location without prior notification and approval of the animal services officer.

(5) The animal will remain under quarantine until the owner is notified that the final health inspection has been made and that the animal has been cleared by the animal services officer. Contact will be made by phone, personal service, or certified mail.

(6) The animal may not receive a vaccination for rabies during the quarantine period.

(7) Failure to comply with all conditions of residence quarantine will result in the animal being impounded at the animal shelter for the duration of the quarantine period.

(f) It is unlawful for a person to interfere with the enforcement of this section or to fail or refuse to surrender to the animal services officer any animal involved or suspected of being involved in a bite case, or to otherwise fail or refuse to provide for the quarantining of animals as may be authorized by this Ordinance.

#### **ARTICLE 4    IMPOUNDMENT OF ANIMALS**

##### **Sec. 4.1    Authority to Impound Animals**

The animal services officer is authorized to impound any animal running at large or found to otherwise be in violation of this Ordinance.

##### **Sec. 4.2    Impoundment Fees**

The following fee schedule shall apply to every impounded animal.

### Schedule of Animal Shelter Fees

Dogs, Cats, and Other Small Animals	First Day	Each Additional Day
1 <sup>st</sup> Offense	\$30.00	\$10.00
2 <sup>nd</sup> Offense	50.00	10.00
3 <sup>rd</sup> Offense	75.00	10.00
4 <sup>th</sup> Offense	100.00	10.00

Large or Dangerous Animals	First Day	Each Additional Day
Each Offense	\$100.00	\$20.00

<b>Quarantine Observation (in Addition to Animal Shelter Fees)</b>	\$100.00
--	----------

In the event that outside assistance is required, the cost of the outside assistance shall be in addition to the above fees. Any part of a calendar day shall be considered one day for the purposes of determining the total fee.

#### **Sec. 4.3 Release or Destruction of Impounded Animals**

(a) No animal impounded under the provisions of this article shall be released to its owner, keeper, or harbinger until all animal shelter fees have been paid and all permits, licenses, and registrations required by this Ordinance have been obtained and paid.

(b) All impounded animals not claimed within 72 hours after impoundment may be destroyed in a humane manner or made available for adoption or rescue as provided by article 2.2000.

(c) Any impounded animal that has been seriously injured, is seriously ill, or is incapable of feeding itself may be immediately destroyed in a humane manner to prevent suffering. The animal services department has no duty to provide veterinary care for a sick or injured animal impounded at the animal shelter and shall not be liable for not providing such care.

(d) If, after making a diligent effort to capture an animal running at large, the animal services officer or police officer is unable to capture the animal, he is authorized to tranquilize or destroy the animal if he believes the animal poses a danger to any individual.

### **ARTICLE 5 KENNELS**

#### **Sec. 5.1 Kennel Permit for Dogs and Cats**

(a) A person may apply for a permit to own, harbor, or keep a combination of more than ten dogs and cats. The application shall be submitted to the Planning and Zoning Board, approved by the City Council and must meet

the requirements of the comprehensive zoning ordinance, as well as the following requirements, to be granted a kennel permit:

(1) all dogs and cats on the kennel premises must be vaccinated, inoculated, and dewormed;

(2) puppies and kittens shall be inoculated and dewormed beginning no later than six weeks of age;

(3) the kennel premises must be of sufficient size and in a sanitary condition to allow for healthy conditions and treatment of the dogs and cats;

(4) the applicant must agree to a minimum of three site inspections by the animal services officer, or more if the animal services officer deems necessary;

(5) the kennel must be located in accordance with the zoning ordinance and shall be located no closer than 200 feet to a residence, not including the owner's residence; and

(6) the applicant must complete the application forms required by the animal services officer and pay the kennel permit fee.

(b) The animal services officer shall inspect the applicant's premises and facilities. If the applicant meets the requirements of this article, and the premises are of a sufficient size and in sanitary condition to allow for the healthy keeping of the dogs and cats, the animal services officer shall issue a kennel permit.

(c) A kennel permit shall be valid for a period of one year from the date of issuance.

(d) A kennel permit is nontransferable and the permit fee is nonrefundable.

## **Sec. 5.2 Denial or Revocation of Kennel Permit for Dogs and Cats**

(a) The animal services officer shall deny a kennel permit if:

(1) the applicant does not meet the requirements of section 5.1; or

(2) the applicant or an individual who resides with the applicant has been convicted of an offense under section 42.09 of the Texas Penal Code (cruelty to animals), or has been convicted of four or more separate violations of an animal-control ordinance of a municipality of this state within any 12-month period.

(b) The animal services officer shall revoke a kennel permit if:

- (1) the permit holder fails to comply with the provisions of this article;
- (2) the permit holder fails to adequately care for or protect the dogs and cats;
- (3) the permit holder fails to meet any requirement specified in the kennel permit; or
- (4) the dogs and cats become a nuisance as described in article 23.

### **Sec. 5.3 Kennel Permit Appeals**

If the animal services officer denies or revokes a kennel permit, he shall give written notice to the applicant or permit holder by personal service or certified mail, return receipt requested. The applicant or permit holder may appeal the decision to deny or revoke the permit by filing written notice with the Mayor or his designee within five days after receipt of notice. The Mayor, at least five days before the date of the hearing of the appeal, shall give written notice of the time and place of the hearing to the applicant or permit holder by personal service or certified mail, return receipt requested. The Mayor or his designee shall decide the appeal based on a preponderance of the evidence presented at the hearing. The decision of the Mayor or his designee shall be final.

## **ARTICLE 6 WILD ANIMALS**

### **Sec. 6.1 Prohibition Against Keeping or Harboring Wild Animals**

- (a) No person shall keep or harbor any wild animal for sale, display, or exhibition, regardless of whether a fee is charged by the person.
- (b) Subsection (a) does not apply to zoological parks, performing animal exhibitions, or circuses.
- (c) No person shall keep or harbor any wild animal as a pet.

### **Sec. 6.2 Temporary Approval**

- (a) The animal services officer may issue temporary approval for the keeping, care, or protection of an injured newborn or immature wild animal native to this area that the animal services officer determines is incapable of caring for itself.
- (b) The animal services officer may revoke the temporary approval and order the animal removed from the city at any time, and shall revoke the temporary approval and order the animal removed from the city when the animal services officer determines that the animal is capable of caring for itself or that it poses a danger to the health, safety, or welfare of the public.

## **ARTICLE 7    LIVESTOCK**

### **Sec. 7.1        Staking or Grazing of Livestock**

It is unlawful for a person to stake any livestock for the purpose of grazing.

### **Sec. 7.2        Where Livestock Prohibited**

It is unlawful for a person to keep livestock, other than chickens, turkeys, ducks, geese, pigeons, or other fowl, or small livestock on any premises in an area zoned SF-1, SF-2, MH-1, or MH-2 under the comprehensive zoning ordinance.

### **Sec. 7.3        Keeping Cattle, Horses, and Other Large Livestock**

(a) It is lawful to keep large livestock on any premises in an area zoned A or SF-E under the comprehensive zoning ordinance, providing that (a) the overall area of the premises contains at least one acre of enclosed pasture land for each such animal kept, and (b) the total number of large livestock on the premises can be cared for under sanitary conditions and not create a public nuisance.

(b) The number of large livestock permitted shall not at any time exceed one adult per acre of enclosed pasture for a single tract of land, plus foals or calves of those adults up to six months of age.

(c) The provisions of this article apply regardless of whether the large livestock is owned by the owner or tenant of the premises or by another person. The owner or tenant of the premises may not, however, keep any large livestock owned by another person for business purposes in violation of the zoning ordinance.

### **Sec. 7.4        Fencing Requirements**

Any enclosure, corral, or restrictive area for large livestock shall consist of a solid wall stretching from the ground to at least four feet above the ground that does not sway or give way when tested by the animal services officer or consist of a fence.

### **Sec. 7.5        Sheltering Livestock Near Residence Restricted**

It is unlawful for a person to shelter large livestock closer than 50 feet from the inhabited residence of any individual other than the livestock's owner or keeper.

### **Sec. 7.6        Livestock Running at Large**

(a) It is unlawful for a person who owns, keeps, or is in charge of livestock to allow or permit the livestock to run at large.

(b) Livestock found running at large within the city shall be impounded by the sheriff's department according to the procedures and guidelines of the sheriff's department. Written notice of impoundment shall be given to the owner of the livestock, if known. In the event the animal services officer is unable to determine the owner of the impounded livestock, he shall post the written notice at city hall.

**Sec. 7.7 Keeping Livestock Near Residential Areas Restricted**

All livestock kept in a stable, shed, pen, or shelter shall be at least 25 feet from every adjoining lot in a residential district and at least 50 feet from every residential structure.

**Sec. 7.8 Keeping Small Livestock, Sheep, and Goats**

It is unlawful for a person to keep, harbor, or raise a sheep, goat or small livestock in a pen or enclosure situated closer than 50 feet from the inhabited residence of any individual other than the owner or keeper of the animal.

**Sec. 7.9 General Regulations for Livestock**

It is unlawful for a person to keep livestock, other than large livestock subject to section 7.2, within the city where the area containing such livestock is less than 21,780 square feet of enclosed pasture for the first animal kept and one acre for each additional animal.

**Sec. 7.10 Permit Required for Livestock**

(a) A person commits an offense if he owns, possesses, exhibits, or harbors livestock within the city without a valid livestock permit.

(b) There is no fee for a livestock permit. The permit shall be updated when the status or number of livestock changes..

(c) The premises where the livestock are kept must be open to inspection by the animal services officer or other governmental officials.

(d) The name, address, and telephone number of the permittee will be provided to the animal services officer, police department, and sheriff's department.

(e) The permittee must provide the number and type of animals at the premises, along with information regarding any brands, tags, or identification microchips.

(f) The animal services officer may deny or revoke a permit for any violation of this Ordinance.

(g) A person keeping livestock shall keep a perimeter livestock fence around the entire property on which the livestock is kept. The livestock fence shall be capable of preventing the escape of all livestock and shall be maintained

in good condition at all times. Where a property on which livestock are kept has a fence in disrepair, the animal services officer may, after proper notice to the property owner, have any fence repairs made that are necessary to prevent the escape of livestock. The city shall bill the property owner for the full cost of the fence repair plus a \$50.00 administrative fee. If a fence repair bill is not paid in full, or satisfactory arrangements made for payment, within 30 days after the date the bill is sent, a lien shall be filed against the property in the Grayson County real property records.

#### **Sec. 7.11 Livestock Permit Appeals**

If the animal services officer denies or revokes a livestock permit, he shall give written notice to the applicant or permit holder by personal service or certified mail, return receipt requested. The applicant or permit holder may appeal the decision to deny or revoke the permit by filing written notice with the Mayor or his designee within five days after receipt of notice. The Mayor, at least five days before the date of the hearing of the appeal, shall give written notice of the time and place of the hearing to the applicant or permit holder by personal service or certified mail, return receipt requested. The Mayor or his designee shall decide the appeal based on a preponderance of the evidence presented at the hearing. The decision of the Mayor or his designee shall be final.

### **ARTICLE 8 CARE AND PROTECTION OF PETS AND OTHER ANIMALS**

#### **Sec. 8.1 General Standards**

(a) The standards and requirements in this article are established for pet and animal care and are not intended to contravene the provisions for animal cruelty contained in the Texas Penal Code.

(b) No person shall fail to provide his 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.

#### **Sec. 8.2 Abuse and Abandonment**

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

(b) No owner of an animal shall abandon such animal.

#### **Sec. 8.3 Accidents Involving Motor Vehicles**

(a) Any individual who, as the operator of a motor vehicle, strikes a domesticated animal shall stop at once and render such assistance as may be possible and, if the owner can be identified and located, shall immediately report such injury or death to the animal's owner. In the event the identity or location of the owner cannot be ascertained, the motor-vehicle operator shall at once report

the accident to the animal services officer or the police department.

(b) In addition to the provisions of subsection (a), any individual who, as the operator of a motor vehicle, strikes any animal shall report the accident to the police department within a reasonable amount of time if the animal stricken is on or near the roadway so that it constitutes a potential traffic hazard. If the accident occurs while the operator is responding to an emergency, a report of the accident is considered to be within a reasonable amount of time if it is reported as soon as possible.

#### **Sec. 8.4 Restraint of Dogs**

(a) A person shall not leave a dog outside and unattended except when using a proper restraint, or a fence in good repair:

(b) It is unlawful for a person to leave a dog outside and unattended at any time using a restraint that unreasonably limits the dog's movement. A restraint unreasonably limits a dog's movement if the restraint:

(1) uses a pinch-type, prong-type, or choke-type collar, or a collar that is not properly fitted to the dog;

(2) is of a length shorter than the greater of:

(A) five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or

(B) ten feet;

(3) is in an unsafe condition; or

(4) causes or is capable of causing, by the manner of its use, injury to the dog.

(c) It is unlawful for a person to keep or harbor a dog within a fenced enclosure in which the fence is in a state of disrepair.

#### **Sec. 8.5 Shelter for Animals Kept Outside**

A person who owns or harbors an animal that is kept outside of any structure occupied by humans must provide the animal with a shelter consisting of at least three sides, a roof, and a floor, with the opening facing away from the north. The shelter must be of sufficient size to accommodate all animals using it and allow the animals to stand upright and turn inside it.

#### **Sec. 8.6 Other Prohibited Acts**

(a) Chickens, ducklings, other fowl, or rabbits younger than eight weeks of age may not be sold in quantities of less than ten to a single purchaser.

(b) No person shall give away any animal as a prize for or as an



inducement to enter any contest, game, or competition, or as an inducement to enter a place of amusement, or offer such animal as an incentive to enter into any business establishment whereby the offer was for the purpose of attracting trade.

(c) It is unlawful to color, dye, stain, or otherwise change the natural color of any chickens, ducklings, other fowl, or rabbits, or to process for the purpose of selling or giving away any such animals that have been so colored.

(d) No person shall knowingly expose any known poisonous substance, whether mixed with food or not, whereby the substance can be consumed by any pet or domestic animal; provided, however, that persons and licensed pest control operators may use registered pesticides in compliance with the directions for approved use of the pesticides.

(e) No person shall give away or offer for sale any animal on public property or a commercial parking lot at any time, unless done in conjunction with a commercial animal establishment currently registered with the city and after obtaining a permit from the animal services department for such purpose.

## **ARTICLE 9     RUNNING AT LARGE**

### **Sec. 9.1     Running at Large Prohibited**

It is unlawful for any owner to cause, permit, suffer, or allow any dog or other animal possessed, kept, or harbored by him to run at large.

## **ARTICLE 10    ANIMAL WASTE**

### **Sec. 10.1    Unsanitary Conditions Prohibited**

It is unlawful and a public nuisance for a person to allow any pen enclosure, yard, or similar place used for keeping animals to become unsanitary, offensive by reason of odor, or disagreeable because of flies or other insects to individuals of ordinary sensibilities residing in the vicinity thereof. Any condition injurious to public health caused by improper waste disposal is a violation of this Ordinance.

### **Sec. 10.2    Removal of Animal Waste Required**

A person having custody or control of any dog shall remove immediately any feces left by such dog on any public property, including parks, streets, rights-of-ways, and sidewalks, or on any other person's lawn or property, and dispose of the feces in a sanitary manner.

## **ARTICLE 11 ANIMAL NOISE**

### **Sec. 11.1 Unreasonable Noise Prohibited**

It is unlawful and a public nuisance to keep or harbor any animal that, by causing frequent or long continued barking or noise, disturbs any individual of ordinary sensibilities in the vicinity.

## **ARTICLE 12 TRAPS**

### **Sec. 12.1 Use of Traps**

Humane traps may be used for capturing animals running at large. The use of steel-jaw traps to apprehend animals is unlawful; provided, however, that a city-approved professional trapper may use snares or leg-hold traps to capture wild animals or other animals that have been determined by the animal services officer to be a danger to individuals or property.

## **ARTICLE 13 KEEPING NUMEROUS DOGS AND CATS**

### **Sec. 13.1 Limitations on Number of Dogs and Cats**

(a) A person commits an offense if he owns or harbors any combination of dogs and cats totaling more than ten on residential premises.

(b) It is a defense to prosecution under this section that the person holds a kennel permit for the premises.

## **ARTICLE 14 FOOD ESTABLISHMENTS**

### **Sec. 14.1 Animals Prohibited in Food Establishments**

No owner of a dog, cat, or other animal and no manager, clerk, owner, or operator of a commercial place where food is exposed, served, sold, or processed for human consumption shall permit a dog, cat, or other animal to enter or remain in a commercial place where food is exposed, served, sold, or processed for human consumption, other than a dog certified to provide assistance to an individual with a vision or hearing impairment while providing such assistance.

## **ARTICLE 15 DANGEROUS ANIMALS**

### **Sec. 15.1 Dangerous Animals**

(a) Any dangerous animal or animal exhibiting dangerous propensities running at large may be destroyed by the animal services officer or

any police officer in the interest of public safety.

(b) The animal services officer may order the owner of any dangerous animal to immediately and permanently remove the animal from the city limits. If so ordered, the animal shall be removed immediately following receipt of the order, even if the order is appealed.

(c) If the animal services officer finds that an animal is a dangerous animal, but further finds that, under the circumstances of the case, it is appropriate to allow the animal to remain in the city conditioned on the animal owner's compliance with subsection (e), which will ensure the safety, peace, and repose of residents, the animal services officer may so order.

(d) The owner may appeal in writing an order issued under this section to the municipal court of the city within ten days of the date of the order. The municipal court may affirm or reverse the order of the animal services officer, or, in cases in which the animal control officer has ordered the animal removed from the city, the municipal court may, if the municipal court finds it appropriate under the circumstances, modify the order to allow the animal to remain in the city conditioned on the animal owner's compliance with subsection (e), which will ensure the safety, peace, and repose of residents. If the municipal court affirms the order of the animal services officer to remove the animal, the owner is prohibited from bringing the animal back or allowing it to be brought back inside the city limits.

(e) If an order is entered under subsection (c) or (d) allowing a dangerous animal to remain in the city conditioned on the animal owner's compliance with this subsection, the owner shall:

(1) register the dangerous animal and the address where it is to be kept with the animal services department, and pay an annual registration fee of \$50.00;

(2) notify the animal services department in writing of a change of the address where the animal is kept within three days after the animal is moved to the new address;

(3) restrain the animal within an approved enclosure;

(4) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous animal;

(5) affix an approved sign on the secure enclosure, visible from a public place, which states "Dangerous Animal";

(6) have a veterinarian, at the owner's cost, either implant a microchip in the dangerous animal or tattoo the word "Dangerous" on its abdomen, and register any such microchip with the manufacturer of the microchip; and

(7) affix a dangerous-animal registration tag, provided by the animal services department, to a collar to be kept on the dangerous animal at all times.

(f) If the owner of a dangerous animal that has been ordered removed from the city fails or refuses to remove the animal or allows the animal to return to the city, the animal may be impounded or destroyed by the animal services officer.

(g) A dangerous animal that has been ordered removed from the city shall not be released from the animal shelter until the owner has provided, in writing, a plan for removing the animal from the city that has been approved by the animal services officer and a veterinarian has, at the owner's cost, either implanted a microchip in the dangerous animal or tattooed the word "Dangerous" on its abdomen to facilitate future identification.

(h) The animal services officer is authorized to obtain a search and seizure warrant if the animal services officer has probable cause to believe that a dangerous animal that has been ordered removed from the city has not been so removed or a dangerous animal previously removed from the city has been brought back into the city.

(i) A person commits a Class C misdemeanor if the person fails to comply with any provision of or order issued under this section.

#### **Sec. 15.2 Attack by Dangerous Animal**

(a) A person commits an offense if the person is the owner of a dangerous animal and the animal, without provocation, attacks or bites an individual outside the animal's enclosure and thereby causes bodily injury to the individual.

(b) An offense under this section is a Class C misdemeanor unless the attack or bite causes serious bodily injury or death, in which case the offense is a Class A misdemeanor.

(c) If a person is found guilty of an offense under this section, the court may order the dangerous animal destroyed by the animal services officer.

(d) In addition to criminal prosecution, a person who violates this section may be ordered by the court to pay a civil penalty in an amount not to exceed \$10,000.00.

### **ARTICLE 16 GUARD DOGS**

#### **Sec. 16.1 Authority of Animal Services Officer and Police Officers**

It shall be unlawful to place or maintain any guard dog 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. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letters not less than two inches high which state that a guard dog is present. Such signs must be posted at all entrance points to the area, premises, or building in which the guard dog is confined.

## **ARTICLE 17 COMMERCIAL BUSINESSES INVOLVING ANIMALS**

### **Sec. 17.1 Permit Required**

(a) No person shall conduct the commercial business of buying, selling, grooming, breeding, showing, exhibiting, or boarding of animals without a valid permit from the animal services department.

(b) Every person engaged in the business of buying, selling, grooming, breeding, showing, exhibiting, or boarding of animals, and all persons who conduct animal club shows, must comply with all existing regulations governing said business or show and shall maintain said animals in compliance with this Ordinance so as not to endanger the public or animal health or safety or create a nuisance.

(c) Applications for permits shall be made to the animal services officer on forms furnished by the animal services department. The application shall not be approved until certification has been received from appropriate city officials that the zoning, construction, and facility comply with existing ordinances for such businesses. If the permit application is approved by the animal services officer, he shall issue the permit upon payment of the appropriate fee. The animal services officer shall make any inspections necessary to assure compliance with this article. Animals shall be kept under sanitary conditions so as not to endanger the public or animal health or create a public nuisance.

(d) All permits issued under this section shall be valid for 12 months from the date of issuance and shall be renewed annually thereafter by written application and payment of the then-applicable fee. No permit issued under this section shall be renewed without the approval of the animal services officer. Permits to show or exhibit animals (rodeos, circuses, and the like) shall be valid only for the 30-day period immediately following issuance. Permits are not transferable.

### **Sec. 17.2 Permit Fees**

(a) The following permit fees shall be charged:

- (1) show or exhibition - \$10.00;
- (2) grooming salon - \$50.00;
- (3) dealer (retail or wholesale distributor) - \$25.00; and
- (4) commercial (not covered by dealer) - \$25.00.

(b) Persons applying for more than one permit shall pay the applicable fee for each permit.

### **Sec. 17.3 Exceptions**

(a) In cases involving a scientific or educational program, or a show, exhibition, or event sponsored by a nonprofit organization or the city, the animal services officer, in his discretion, may waive the requirements of this article concerning permits, fees, or conditions.

(b) This article does not apply to veterinarians and veterinary clinics.

### **Sec. 17.4 Display, Revocation, and Appeals**

(a) All businesses must display the required permits in public view at the business premises.

(b) The animal services officer may revoke any permit for failure to comply with this Ordinance. If the animal services officer revokes a permit, he shall give written notice to the permit holder by personal service or certified mail, return receipt requested. The permit holder may appeal the decision to revoke the permit by filing written notice with the Mayor or his designee within ten days after receipt of notice. The Mayor, at least five days before the date of the hearing of the appeal, shall give written notice of the time and place of the hearing to the permit holder by personal service or certified mail, return receipt requested. The Mayor or his designee shall decide the appeal based on a preponderance of the evidence presented at the hearing. The decision of the Mayor or his designee shall be final.

## **ARTICLE 18 FOWL AND SMALL ANIMALS**

### **Sec. 18.1 Enclosures for Fowl**

A person raising or keeping chickens, turkeys, ducks, geese, pigeons, or other fowl shall keep them in a pen, coop, or enclosure at least 50 feet from every building or structure used for sleeping, dining, or living, other than the living quarters of the owner or keeper, and shall keep them in a sanitary condition and in such a manner as will be reasonably calculated not to become offensive to adjacent neighbors or the public. The pen, coop, or enclosure shall be a distance of at least 15 feet from the property line.

### **Sec. 18.2 Enclosures for Small Animals**

(a) A person raising or keeping rabbits, guinea pigs, white rats, white mice, hamsters, or other small animals shall keep such animals in a pen, coop, or enclosure at least 50 feet from every building or structure used for sleeping, dining, or living, other than the living quarters of the owner or keeper. The pen, coop, or enclosure shall be a distance of at least 15 feet from the property line.

(b) This section does not apply to veterinary hospitals or clinics for the treatment of domestic animals, or to dogs kept as domestic pets only and not for breeding or financial purposes.

### **Sec. 18.3 Fowl at Large Prohibited in City**

(a) It is unlawful for a person to keep, own, or harbor any fowl within the city unless such fowl are retained in a secure pen or enclosure for retention purposes.

(b) It is unlawful for a person to permit, suffer or allow any chicken, duck, turkey, goose or other fowl, owned, kept or possessed by him or under his control to wander in or upon or invade the premises of any other person.

## **ARTICLE 19 DESTRUCTION OF ANIMALS**

### **Sec. 19.1 Authority of Animal Services Officer and Police Officers**

(a) The animal services officer and any police officer is authorized to destroy by appropriate and available means any animal under the following circumstances:

(1) If the animal is found running at large and in the judgment of such officer, such animal constitutes an immediate threat to the health or safety of any individual, other animal, or the public.

(2) If any impounded animal appears to be suffering from extreme injury or illness, it may be destroyed or given to a nonprofit humane organization for the purpose of veterinary medical care, as determined by the animal services officer.

(3) Any nursing baby animal impounded without the mother and not having a collar and tags, or whose mother cannot or refuses to provide nutritious milk, may be immediately destroyed to prevent further suffering.

(4) This section shall apply to wild or feral cats and dogs that cannot be safely handled by the animal services officer.

(b) The animal services officer is authorized to destroy any animal not claimed by the owner within 72 hours of being impounded.

### **Sec. 19.2 Quarantine Period to Be Observed**

No animal that has bitten a human shall be destroyed before the expiration of the quarantine period, except as otherwise provided in this Ordinance; provided, however, that if the animal is stray or is released by the owner to the animal services department, and the animal services officer

believes the animal is sick or injured, it shall be destroyed and shipped to a state laboratory for testing.

## **ARTICLE 20 DEAD ANIMALS**

### **Sec. 20.1 Disposal of Dead Animals**

(a) The owner or possessor of any animal that dies within the city limits shall, within 24 hours after the death of the animal, have the animal buried, or removed at the owner's expense by the most direct route from within to outside the city limits.

(b) Veterinary clinics in the city will be charged a disposal fee of \$25.00 for 15 or fewer dogs and cats, and \$5.00 per animal thereafter. The clinic must assist with loading the dead animals for disposal. The fees may be waived for services and supplies provided to the city.

(c) Dogs, cats, and other domesticated animals weighing over two pounds shall not be placed in residential garbage containers, but must be disposed of pursuant to this article.

### **Sec. 20.2 Slaughter of Animals Within City Limits**

It is unlawful to slaughter any animal in plain view within the city limits. Once the process is finished, the remains of the animal shall be picked up and removed from the city immediately.

## **ARTICLE 21 FEES AND REQUIREMENTS FOR ADOPTION OF ANIMALS FROM ANIMAL SHELTER**

### **Sec. 21.1 Fees**

(a) A person who desires to adopt an animal from the animal shelter shall pay an adoption fee in the amount of \$25.00 and any other unpaid fees required by this Ordinance.

(b) The animal services officer may waive the adoption fee for an adoption by an approved rescue organization.

### **Sec. 21.2 Vaccination; Spaying or Neutering**

A person who desires to adopt an animal from the animal shelter shall:

(a) have the animal vaccinated, if not current, within five days after adoption; and



(b) have the animal spayed or neutered between ten and thirty days after adoption, provided the animal is of proper age for such procedure.

**Sec. 21.3 Final Determination; No Warranty**

The animal services officer shall make the final determination whether an animal is healthy enough and has the proper temperament for adoption. Neither the city nor the animal services officer shall be liable to any person for a decision by the animal services officer to permit adoption of a particular animal, nor shall the decision to permit adoption constitute a warranty, express or implied, of the health, age, or temperament of the animal.

**ARTICLE 22 TAMPERING WITH ANIMAL CONTROL FACILITY**

**Sec. 22.1 Prohibited Acts**

It is unlawful for a person, without proper authority, to break into, open, pull down, or make any opening into an animal control facility, animal shelter, or enclosure belonging to or used by the city for the purpose of impounding or keeping therein any animals or fowl, or to turn out, release, or assist in releasing any animal from an animal control facility, animal shelter, or enclosure.

**ARTICLE 23 PREVENTION OF PUBLIC NUISANCES**

**Sec. 23.1 Acts and Circumstances Constituting Public Nuisances**

In addition to actions and conditions provided elsewhere in this Ordinance to be public nuisances, each of the following is a public nuisance and a violation of this Ordinance:

(a) keeping or harboring any animal in such a manner as to endanger the public health or as calculated to unreasonably annoy neighbors by the accumulation of animal wastes that cause foul and offensive odors;

(b) keeping or harboring any animal, which by causing frequent or long continued barking or noise, disturbs any individual of ordinary sensibilities in the vicinity;

(c) allowing an animal pen, stable, or enclosure in which any animal may be kept or confined to become offensive to individuals of ordinary sensibilities;

(d) keeping or harboring bees in such a manner as to deny any person the uninterrupted use and enjoyment of adjacent property or endanger personal health and welfare;

(e) keeping or harboring any animal in a manner or place that endangers the public health by the accumulation of animal wastes that creates

foul and offensive odors or a breeding place for flies and mosquitoes;

- (f) allowing an animal to run at large;
- (g) keeping livestock in violation of this Ordinance;
- (h) keeping chickens or other fowl in violation of this Ordinance;
- (i) keeping a kennel in violation of this Ordinance;
- (j) keeping rabbits in violation of this Ordinance;
- (k) failing to keep fowl, rabbits, minks, or other fur-bearers not already addressed in this section in a secure pen or enclosure, which is cleaned and disinfected with sufficient frequency to prevent any unsanitary conditions, or failing to store the waste from such animals in a fly-proof container and remove the waste from the city on a weekly basis;
- (l) keeping or harboring a dangerous or wild animal in violation of this Ordinance;
- (m) releasing a wild animal to run at large;
- (n) abandoning, leaving unattended on public right-of-way, or discarding an animal, whether alive or dead;
- (o) allowing an animal to graze or go upon any street or public thoroughfare within the city, or graze or go upon any public or private property within the city, except by written permission of the owner or custodian of such public or private property;
- (p) keeping an animal when a license, permit, or registration for the animal has expired or has been denied or revoked;
- (q) failing to keep an animal under restraint as required by this Ordinance;
- (r) placing or setting out steel-jaw leg or neck traps with the intent of trapping, capturing, or catching any animal by an individual other than the animal services officer or individuals acting under his direction, an individual employed by the Texas Parks and Wildlife Department, an individual employed by the United States Animal Damage Control Service, or a professional trapper employed by the city;
- (s) without regard to mental state, tampering with a trap or hindering or interfering with a person lawfully trapping or attempting to trap an animal;
- (t) failing to provide adequate shelter or protection for any animal left outside in excess of one hour; and
- (u) failing to remove animal waste as required by this Ordinance.

**Section 4. PENALTY CLAUSE**

Any person violating the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction be subject to a penalty in accordance with the applicable state law or, if no state law applies, by a fine not to exceed \$500.00; and each day a violation exists shall be deemed a separate offense.

**Section 5. SEVERABILITY CLAUSE**

It is hereby declared to be the intention of the City Council that the words, phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional word, phrase, clause, sentence, paragraph or section.

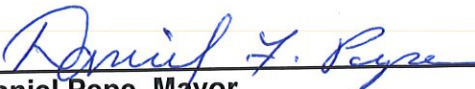
**Section 6. REPEALER CLAUSE**

Any provision of any prior ordinance of the City, whether codified or uncodified, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncodified, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**Section 7. EFFECTIVE DATE**

This Ordinance shall take effect immediately from and after its passage.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Southmayd, Texas, on this the 10<sup>th</sup> day of MAY, 2011.

  
\_\_\_\_\_  
Daniel Pepe, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Lisa Stewart, City Secretary

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Mark E. Goldstucker, City Attorney