

Ordinance #500-011
AN ORDINANCE REGULATING ANIMALS WITHIN THE CITY OF HEWITT

The City Council of the City of Hewitt does hereby ordain:

SECTION 1: Dogs and Cats

1.01 Running at Large prohibited: It shall be unlawful for the dog or cat of any person who owns, harbors or keeps a dog or cat within the City of Hewitt, to run at large. A person who owns, harbors or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control of a responsible person, so as to be effectively restrained by command as by a leash, shall be permitted in streets or on public land unless the City has posted an area with signs reading "Dogs and Cats Prohibited."

1.02 License Requirements: All dogs over the age of six (6) months kept, harbored or maintained by their owners within the City of Hewitt, shall be licensed and registered with the City. Dog licenses shall be issued by the City Clerk upon payment of the license fee as established by the Master Fee Schedule within this City Code, as that Master Fee Schedule may be amended from time to time. The owner shall state, at the time application is made for the license and upon forms provided by the Clerk, his or her name and address, the name, breed, color, sex and date of birth of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated. It shall be the duty of each owner of a dog subject to this section to pay the City Clerk the license fee established in the Master Fee Schedule within this City Code, as may be amended from time to time.

Upon payment of the license fee as established in the Master Fee Schedule within this City Code, as may be amended from time to time, the Clerk shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year in which issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn.

In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk. A charge shall be made for each duplicate tag, as established by the Master Fee Schedule within this City Code, as may be amended from time to time. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license for any reason, including but not limited to the death of the dog or the owner's leaving the City before the expiration of the license period.

The City may, by a majority vote of the City Council, impose a limit on the number of dogs kept in any one residence.

The licensing provisions of this Section shall not apply to dogs whose owners are nonresidents of the City temporarily within the City, nor to dogs brought into the City for the purpose of participation in a dog show. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for seeing eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, the the license fee shall be waived.

The funds received by the City Clerk from all dog licenses and metallic tag fees as established by the Master Fee Schedule within this City Code, as may be amended from time to time, shall first be used to defray any costs incidental to the enforcement of this Ordinance.

1.03 Cats: Cats shall be included as controlled by this division insofar as running-at-large, pickup, impounding, boarding, licensing and proof of anti-rabies vaccine is concerned. All other provisions of this Section shall apply to cats unless otherwise provided.

1.04 Vaccination: All dogs and cats kept, harbored maintained or transported within the City shall be vaccinated at least once every three years by a licensed veterinarian for rabies and distemper. A certificate of vaccination must be kept on which is stated the date of the

vaccination, owner's name and address, the animal's name (if applicable), sex, description, weight and signature of the veterinarian. Upon demand made by the City Clerk, the Animal Control Officer or a police or peace officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificate(s) are not presented, the owner or keeper of the animal(s) shall have seven (7) days in which to present the certificate(s) to the Clerk or officer. Failure to do so shall be deemed a violation of this section and punishable by penalties as set forth in Ordinance #100-004 within this City Code, as may be amended from time to time.

SECTION 2: Non-Domestic Animals: It shall be illegal for any person to own, possess, harbor or offer for sale any non-domestic animal within the City of Hewitt. Any owner of a non-domestic animal at the time of adoption of this code shall have thirty (30) days in which to remove the animal from the City, after which time the City may impound the animal as provided for in the Ordinance of this City Code.

SECTION 3: Farm Animals: Farm animals shall only be kept in an agricultural district of the City, or on a residential lot of at least ten (10) acres in size. An exception will be made only by making application to the City Council for an exemption and having such exemption granted, in writing, by the City Council, and abiding by all conditions and restrictions required by Council in the written exemption.

SECTION 4: Impounding:

4.01 **Running at Large:** Any animal running at large is hereby declared a public nuisance. Any Animal Control Officer, peace officer or police officer may impound any dog or other animal found and running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. In case the owner is unknown, the officer shall give notice to the City Clerk and the City Clerk shall post notice at the City office that if the dog or other animal is not claimed within ten (10) days from the date of posting, it will be sold or otherwise disposed of.

4.02 **Biting Animals:** Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten a person, wherein the skin has been punctured or the services of a doctor are required, shall be confined to the City pound for a period of not less than ten (10) days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the Todd County, State of Minnesota, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If the animal has been inoculated with a live modified rabies vaccine and the owner of the dog has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or animal to the owner's property.

4.03 **Reclaiming:** All animals conveyed to the pound shall be kept, with humane care, at least ten (10) days unless sooner claimed by their owners or keepers as provided by in this Ordinance within this Code. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this Ordinance within this Code, as may be amended from time to time by resolution of the City Council:

1. Payment of the release fee and receipt of a release permit provided by the City Clerk;
2. Payment of maintenance costs, as provided by the pound, per day or any part of a day while the animal is in the pound; and
3. If a dog is unlicensed, payment of a regular license fee as established in the Master Fee Schedule within this City Code, as may be amended from time to time, and proof of all required documentation as provided for in this Ordinance within this City Code.

4.04 **Unclaimed Animals:** At the expiration of the times established in this Ordinance of this

City Code, if the animal has not been reclaimed in accordance with the provisions of Section 4 Subdivision 4.03, above, the officer appointed to enforce this Ordinance may let any person claim the animal by complying with all of the provisions of this Ordinance, or the Officer may cause the animal to be destroyed in a proper, humane manner and shall properly dispose if the remains thereof. Any money collected under the provisions of this Ordinance shall be payable to the City Clerk.

4.05 Nuisances:

Habitual Barking: Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. It shall be unlawful for any person to keep or harbor a dog which habitually barks. The barking must be audible off of the owner's or caretaker's property.

Damage to Property: It shall be unlawful for any person's dog or other animal to damage any personal or real property, whether or not the owner has knowledge of the damage.

Cleaning up litter: The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up the feces and other litter of the animal and disposing of the feces and other litter in a sanitary manner, whether on their own property, the property of others or on public property.

Any animals kept contrary to this section are subject to impoundment as provided for in Section 4, above.

SECTION 5: Seizure: Any police officer, peace officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the property owner, if that owner is also the owner of the animal, provided the following exist:

1. There is an identified, written and signed complaint, other than the police officer, peace officer or Animal Control Officer making a contemporaneous complaint about the animal; and

2. The officer can demonstrate that there has been at least one previous complaint of a barking dog, inhumane treatment of the animal, or that the animal was at large at this address on a prior date;

Any police officer, peace officer or Animal Control Officer may enter upon private and seize any animal without the permission of the property owner if the following exist:

1. There is an identified, written and signed complaint, other than the police officer, peace officer or Animal Control Officer making a contemporaneous complaint about the animal; and

2. The officer can demonstrate that there has been at least one previous complaint of a barking dog, inhumane treatment of the animal, or that the animal was at large at this address on a prior date;

3. The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have failed or have been ignored; and

4. The officer has obtained a warrant issued by a court of jurisdiction to search for and seize the animal.

Written notice of the seizure must be posted in a conspicuous place if personal contact with the owner of the animal is not possible.

SECTION 6: Animals Presenting A Danger to the Health and Safety of the City: If, in the reasonable belief of the Animal Control Officer, police officer or peace officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking a person, the person or officer may destroy the animal in a proper and humane way whether or not the animal is on the property of the owner. Or the person or officer may apprehend the animal and deliver to the pound for confinement. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the City for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the City, the animal may be released to the owner or keeper.

SECTION 7: Diseased Animals: No person shall keep or allow to be kept on his or her premises, or on premises occupied by him or her, nor permit to run at large within the City, any animal which is diseased so as to be a danger to the health and safety of the City. Any animal reasonably suspected of being diseased and present a threat to the health and safety of the City, may be apprehended and confined in the pound by any person, police officer, peace officer or Animal Control Officer, with or without a warrant to search for and seize the animal. The officer shall have a licensed veterinarian examine the animal. If the animal is found to be diseased and a danger or threat to the health and safety of the City or public, the officer shall order the animal to be destroyed in a humane manner and the remains to be properly disposed of. The owner or keeper of an animal destroyed under this section shall be liable to the City all costs incurred in accordance with this Section.

If the animal, upon examination by a licensed veterinarian, is not found to be diseased, the animal shall be released to the owner or keeper free of charge.

SECTION 8: Dangerous Animals: It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal, whether or not the owner is present. This Section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the animal owner's home or premises with criminal intent.

The Animal Control Officer shall have the authority to order the dangerous animal be destroyed, in accordance with the provisions of this Ordinance.

The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the animal has acted in a manner as to be classified as potentially dangerous, as provided in this Section. When an animal has been declared potentially dangerous, the officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

A record of any animal that has been declared potentially dangerous shall be kept on file with the City Clerk.

The Animal Control Officer shall designate any animal as dangerous upon receiving evidence that the animal has acted in a manner as to be classified as dangerous, as provided in this Section. When an animal has been declared a dangerous animal, the Animal Control Officer shall proceed in the following manner:

The Animal Control Officer shall cause one owner of the dangerous animal to be notified in writing that the animal is dangerous and may order the animal seized or make orders as deemed proper. The owner shall be notified as to dates, times, places and parties bitten or attacked, and shall be given fourteen (14) days to appeal this order before the City Council for a review of this determination. The City Council must hold a hearing to make such determination within thirty (30) days of the date of the appeal. If the animal is determined to be a dangerous animal as a result of the appeal hearing, the owner must immediately make available the animal to the Animal Control Officer. If Council orders the animal into custody, the animal must be seized in the manner provided in Section 5 of this Ordinance.

If no appeal is filed, the Animal Control Officer shall seize the animal as in the manner provided in Section 5 of this Ordinance, unless the animal is already in custody.

The City Council or the Animal Control Officer may order the dangerous animal to be destroyed in a humane manner, as provided in this Ordinance.

As an alternative to ordering the destruction of a dangerous animal, the City Council may require the owner or owners of the dangerous animal to comply with any or all of the following:

1. That the owner provide and maintain proper enclosure for the dangerous animal, as defined in this Section.
2. Post the front and rear of the premises with clearly visible warning signs,

including a warning symbol to inform children, that a dangerous animal is on the premises.

3. Provide and show proof annually of public liability insurance in the minimum amount of \$500,000.00.

4. The animal must have an easily identifiable standardized tag, identifying the animal as a dangerous animal and shall have a microchip implanted as provided by Minnesota Statute 347.515, as may be amended from time to time.

5. All animals deemed dangerous by the Animal Control Officer shall be registered with Todd County, State of Minnesota within fourteen (14) days after the date the animal has been declared dangerous and must provide proof of such recording to the City Clerk and the Animal Control Officer.

6. The animal must be up to date on rabies vaccination.

As authorized by Minnesota Statute 347.54, as may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements, as may be required by the City Council, within fourteen (14) days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it within the district court.

A dangerous animal seized under this provision may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to the Animal Control Officer and the City Clerk that each of the requirements in this Section, Section 8, are fulfilled. An animal not reclaimed under this section within fourteen (14) days may be disposed of as provided in this Ordinance, and the owner is liable to the City for any costs incurred in confining, impounding and disposal of the animal.

If an owner has subsequently violated the provisions of this Ordinance with the same animal, the animal must be seized by the Animal Control Officer. The owner may appeal the seizure to the City Council and request a hearing as provided in this Section. If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane way and the owner shall pay costs of confining and destroying the animal. If the person is found not to be in violation of the provisions for which the animal was seized, the owner may reclaim the animal as provided for in this Section. If the animal is not yet reclaimed within fourteen (14) days, the animal may be disposed of as provided for in this Ordinance and the owner is liable to the City for any costs incurred in confining, impoundment and destroying and disposing of the animal.

For the purposes of this Section, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

Dangerous animal:

An animal which has:

1. Caused bodily injury or disfigurement to any person on public or private property;
2. Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
3. Exhibited unusually aggressive behavior, such as an attack on another animal;
4. Bitten one or more persons on two or more occasions; or
5. Been found to be a potentially dangerous animal and/or the owner has personal knowledge of the same and the animal aggressively bites, attacks or endangers the safety of human(s) or other domestic animal(s).

Potentially dangerous animal:

An animal which has:

1. Bitten a human or domestic animal on public or private property,
2. When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property with an apparent attitude to attack; or
3. Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

Unprovoked: The condition in which the animal is not purposely excited, stimulated agitated or disturbed.

Proper enclosure: Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio or any part of a house, garage or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which windows or doors are the only barriers which prevent the animal from exiting. A pen or kennel shall meet the following minimum requirements:

1. Have a minimum overall floor size of 32 square feet;
2. Sidewalls shall have a minimum height of five (5) feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1 ¼ inch or larger steel pipe buried in the ground eighteen (18) inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen (18) inches in the ground.
3. A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall have no openings in the wire greater than two inches.
4. An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked at all times when the animal is in the pen or kennel.

SECTION 9: Basic Care: All animals shall receive from their owners, keepers or caretakers kind treatment, housing in the winter and sufficient food and water for the animal's comfort. A person not treating their pet in a humane manner will be subject to the penalties provided in this Ordinance.

SECTION 10: No person shall in any manner, hinder or interfere with any person authorized by the City Council to capture animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound or attempt to take from any agent, any animal taken up by him or her in compliance with this Ordinance, in any manner to interfere with or hinder the officer in the discharge of his or her duties under this Ordinance.

SECTION 11: Regulating Breeding of Animals: No person shall, within the City limits of the City of Hewitt, permit or allow the copulation of animals, unless within a tight enclosure at least ten (10) feet in height, and so screened that any activity taking place therein is completely obscured from the view of the public.

SECTION 12: The City Council of the City of Hewitt is hereby authorized to appoint a person designated as Animal Control Officer to enforce the provisions of this Ordinance. In the officer's duties of enforcing this Ordinance, the officer may, from time to time, with the consent of the Council, appoint designate assistants.

SECTION 13: Penalty: Each day a violation of this Ordinance is committed or permitted to continue shall constitute a separate violation. Any person violating any of the provisions of this chapter, shall upon conviction thereof, be subject to penalty as set forth in #100-004.

Passed by at least a 4/5ths majority vote of the City Council of the City of Hewitt, County of Todd and State of Minnesota, on this 24th day of February, 2009.

By: Juanita Mitchell, Mayor

Attest: Miriam A. Collom, City Clerk/Treasurer