

ORDINANCE NO. 2014-101

AN ORDINANCE OF THE CITY OF MILANO, TEXAS, ADOPTING ANIMAL CONTROL REGULATIONS DESIGNED TO PROTECT THE PUBLIC HEALTH AND SAFETY; PROVIDING FOR IMPOUNDING AND DISPOSITION OF ANIMALS RUNNING AT LARGE OR OTHERWISE IN VIOLATION OF THIS ORDINANCE; PROVIDING FINES AND PENALTIES; REPEALING ALL PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

Whereas, the proper care, regulation and control of animals, fowl and livestock running at large is necessary for the health, safety and quality of life of the citizens of the City of Milano, Texas (herein the "City");

Whereas, the establishment of reasonable requirements for the care and control of dogs, cats, animals, fowl and livestock is necessary to protect such animals and the general public;

Whereas, it is necessary for the City to adopt requirements and regulations which will enable the officers and employees of the City to respond in a manner consistent with State law to unusual circumstances and conditions that arise from time to time with respect to animals at large and the keeping, impoundment, care and control animals; and

Whereas, the rules, regulations and requirements established by ordinance may not be inconsistent with State law;

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

Section 1. 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. Animal Control Regulations Adopted. The City Council hereby adopts the following animal control regulations within the City of Milano to read as follows.

Animals Running at Large. (a) *Responsible Party.* It shall be unlawful for any person who owns, keeps, harbors or otherwise has control over any animal within the City to allow or permit such animal to run or be at large within the City. An animal shall be considered to be at large if it is not under the control of its owner by either a leash, chain, cord or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord or fence.

(b) Impoundment. The Animal Control Officer, police officer or designee for the City (hereinafter "The Animal Control Officer") may impound any animal, including stray animals, observed to be at large, whether the animal is on public or private property, subject to the applicable provisions of the law. If the Animal Control Officer observes an animal on property which is owned by a person other than the owner of the animal, and observes the animal return to property of its owner, the Animal Control Officer may impound the animal and/or issue a citation for the animal running at large. In the event the animal is on private property or property of the animal's owner, the Animal Control Officer may enter the property, other than a private dwelling, for the purpose of impoundment or issuance of a citation, or both, subject to the applicable provisions of the title and law.

Proof that an animal was found at large in violation of this Ordinance, together with proof that the defendant was the owner of such animal at the time, shall constitute prima facie evidence that the defendant allowed or permitted the animal to be at large. In any prosecution charging a violation of this Ordinance, proof that the particular property described in the complaint was the premises upon which the animal resided, was harbored or maintained and a violation of any Section of this Ordinance occurred involving said animal, together with proof that the defendant named in the complaint was, at the time of such complaint or at the time when the animal was in violation of this Ordinance, the registered owner of such animal or the person with legal rights to reside on said property, shall constitute in evidence a prima facie presumption that the registered owner of such animal or the person with legal rights to reside on said property was the owner of the animal and the person who failed to comply with this Ordinance.

The owner of any animal impounded in accordance with this Ordinance may reclaim, on any workday, such animal upon showing satisfactory proof of ownership and paying all impoundment related fees and any other expenses incurred by the City or its agent in keeping the animal or attempting to locate the owner of the animal. Owners of impounded animals are required to pay all fees related to the impoundment. If the owner does not pay such fees, or some other alternate fee arrangement, the animal may be sold or otherwise disposed of by the City or its agent.

All animals within the City shall be marked by some type of identifying license, tag, band, tattoo or brand by which the animal's owner can be identified.

(c) Dogs and Cats with No Identification. All dogs and cats impounded by the Animal Control Officer or brought to the animal shelter by a person, other than the harbinger or owner of that animal, shall be held for a minimum of 72 hours during which time period the owner may present proof of ownership at the shelter. After paying all applicable fees, that owner may reclaim the dog or cat. In the event that the dog or cat is not claimed after 72 hours in the shelter, the dog or cat shall become the property of the City.

(d) *Dogs and Cats with Identification.* Unless earlier claimed by the owner, all dogs and cats impounded by the Animal Control Officer, or brought to the animal shelter by a person other than the harbinger or owner of that animal, that are wearing traceable identification, or where an owner is known, shall be held in the shelter for a minimum of seven (7) complete days from the time the animal enters the facility, during which time the Animal Control Officer will notify the owner, when known, of the impoundment. Unless the owner has notified the Animal Control Officer in writing of their intentions to claim the dog or cat after that date, listing a date by which time that owner will reclaim the dog or cat and satisfy all applicable fees and this arrangement has been approved by the Animal Control Supervisor, the animal shall become the property of the City on the eighth day.

(e) *Estray and Other Livestock.* It is unlawful for any owner or person in control of any horse, mule, jack, jennet, cattle or similar such bovine, hog, pig, goat, sheep or fowl or similar such estray animal to permit any such animal to run at large on land not their own or under their control, or on any street, alley or other public place in the City. The Animal Control Authority, upon receipt of a report or upon discovery of an estray, within the City, shall as soon as possible, notify the sheriff of the County and report the presence of the animal and the location where the animal can be found. If circumstance permits, the Animal Control Officer shall refer the matter in its entirety to the sheriff. If circumstance does not permit or the sheriff seeks the assistance or defers the matter to the Animal Control Authority, the Animal Control Officer may cause the impoundment of any and all estray and other livestock that may be found in and upon any street, alley or upon any unenclosed lot in the City, or otherwise to be found at large, and to confine such estray or other livestock for safe keeping. Upon impounding, the Animal Control Officer shall prepare a file or report to include:

(1) The name and address of the person who notified the Animal Control Officer of the estray or other livestock;

(2) The date, time and location of the estray or other livestock when found and the owner of such estray or other livestock, if known;

(3) The location of the estray or other livestock until disposition; and

(4) A description of the animal including its breed, color, sex, age, size, all markings of any kind and other identifying characteristics.

When an estray or other livestock has been impounded by the Animal Control Authority, the Animal Control Officer shall make a diligent search of the register of recorded brands in the County for the owner of the estray or other livestock. If the search does not reveal the owner, the Animal Control Officer shall advertise the impoundment of the estray in a newspaper of general circulation in the County at least twice during the next 15 days following

impoundment, or as soon as practicable taking into consideration newspaper publication, and post a notice of the impoundment of the estray or other livestock on the public notice board of City Hall.

The owner of an estray or other livestock may recover possession of the animal at any time before the animal is sold under the terms of this Ordinance if:

(a) The owner has provided the Animal Control Officer with an affidavit of ownership of the estray or other livestock containing at least the following information.

1. The name and address of the owner,
2. The date the owner discovered that the animal was missing,
3. The property from which the animal strayed,
4. A description of the animal including its breed, color, sex, size, all markings of any kind and any other identifying characteristics;

(b) The Animal Control Officer has approved the affidavit; and

(c) The owner has paid all handling, impoundment, advertising and related fees to those entitled to receive them.

(f) *Sale of Estray and Livestock.* If the ownership of an estray or other livestock is not determined within 14 days, or as applicable taking into consideration newspaper publication, following the final advertisement required by this Ordinance, ownership of the estray or other livestock rests with the City and the Animal Control Officer shall then cause the estray or other livestock to be sold at a public auction. If there are not any bidders, ownership is forfeited to the City.

(a) Title shall be deemed vested in the Animal Control Officer for purposes of passing a good title, free and clear of all claims to the purchaser at the sale.

(b) The disposition of the proceeds derived from the sale at public auction will be as follows:

1. Pay all handling fees to those entitled to receive them;
2. Execute a report of sale of impounded stock;

3. The net proceeds remaining from the sale of the estray or other livestock after the handling fees have been paid shall be delivered by the Animal Control Officer to the City Secretary. Such net proceeds shall be subject to claim by the original owner of the estray or other livestock as provided herein;

4. If the bids are too low, the Animal Control Officer shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.

(g) *Recovery by Owner of Sale Proceeds.* Within 12 months after the sale of an estray or other livestock under the provisions of this Ordinance, the original owner of the estray may recover the net proceeds of the sale that were delivered to the City Secretary if:

1. The owner has provided the Animal Control Officer with an affidavit of ownership; and

2. The Animal Control Officer has accepted the affidavit of ownership.

After the expiration of 12 months from the sale of an estray or other livestock as provided by this Ordinance, the sale proceeds shall escheat to the City. If an animal was forfeited to the City due to no bidders at auction, then City is not to be liable to owner for any proceeds of sale, since no proceeds were received.

Section 3. Amendment of Conflicting Ordinances. All ordinances or parts of ordinances in conflict with this Ordinance are hereby amended to the extent of a conflict herewith. In the event of a conflict between another ordinance of the City and this Ordinance, this Ordinance shall control.

Section 4. Savings Clause. All rights and remedies of the City of Milano are expressly saved as to any and all violations of the provisions of any ordinances affecting animals, licensing and registration within the City which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 5. Powers and duties of citizens. Any person who finds an animal which he does not own on property that he owns or exercises control over or on public property may take control of said animal if it is running at large and may deliver the animal to an Animal Control Officer, the animal shelter, or an animal emergency medical facility. If the animal is not delivered to an Animal Control Officer, the animal shelter, or an animal emergency medical facility, the person must report that he had taken control of the animal to an Animal Control Officer or the animal shelter within seventy-two (72) hours. If animal is wearing a tag of any kind or has a tattoo,

brand, or other identifying mark, that information shall be included in the report to the Animal Control Officer or animal shelter.

Section 6. Penalty. (a) Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of five hundred dollars (\$500.00). Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(b) A person commits an offense if, with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this Ordinance to an Animal Control Officer or other person authorized to enforce provision of this Ordinance.


Section 7. Effective Date. This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Tex. Loc. Gov't. Code.

Section 8. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining 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 invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

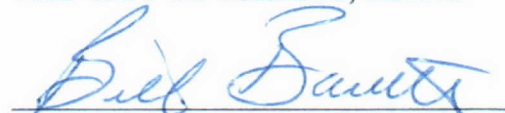
Section 9. Open Meetings. It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on this 21st day of July, 2014.

ATTEST:


Carolyn Vinton, City Secretary

THE CITY OF MILANO, TEXAS


Billy Barnett, Mayor