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*Final Draft*

*as Recommended by HWE Committee on 9/6/16*

COUNTY of MONTGOMERY )  
NO. \_\_\_\_\_

This Ordinance shall be known and referred to as the MONTGOMERY COUNTY ANIMAL CONTROL ORDINANCE.

**WHEREAS**, the Montgomery County Board has determined that it is in the best interest of Montgomery County that an Ordinance be established providing for animal control in concurrence with the State of Illinois Animal Control Act; the Humane Care for Animals Act, and the Animal Welfare Act; and

**WHEREAS**, Illinois Compiled Statutes, Chapter 55, Para, 5/5-1071 gives the County the power to regulate and prohibit the running at large of dogs in certain areas of the County; and

**WHEREAS**, Illinois Compiled Statutes, Chapter 510, Para, 5/1 et seq. required the County to effectuate a program for stray animal control and rabies prevention and through Public Act 094-0639 the spaying, neutering and sterilization of dogs and cats; and

**WHEREAS**, the Montgomery County Board desires to establish an Animal Control Program and adopt by Ordinance the provisions of an Animal Control Act for the State of Illinois set forth in Chapter 510, Section 5/1 et seq. of the 1992 Illinois Compiled Statutes.

**NOW, THEREFORE, BE IT ORDAINED** by the Montgomery County Board as follows:

1. That provisions of the Animal Control Act set forth in Chapter 510, Section 5/1 et seq. of the 1992 Illinois Compiled Statutes, and the Humane Care for Animals Act set forth in Chapter 510 ILCS Section 70/1 et seq. and the Animal Welfare Act, Chapter 225, Section 605/1 et seq. as now exists or as may be amended from time to time hereafter are hereby adopted by the Montgomery County Board and incorporated herein by reference thereto.

Revisions of the Animal Control Ordinance Approved and Adopted this \_\_, Day of \_\_\_\_\_ 2016

ATTEST:

\_\_\_\_\_  
Roy Hertel, Montgomery County Board Chairman

\_\_\_\_\_  
Sandy Leitheiser, Montgomery County Clerk & Recorder

*Highlighted areas =*

*Yellow* - *Changes made a few months ago.*

*Blue* - *Changes made with Citizen input couple months ago.*

*Pink* - *HWE changes made on 9/6/16 page 6 + 10*

- Also "Facility" changed to describe Animal Control Bldg.*
- Mission Statement + Job Descriptions taken out of ordinance*

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## **Definitions**

As used in this Act, unless the context otherwise requires, the terms specified in the Sections following this Section and preceding Section 3 have the meanings ascribed to them in those Sections.

**Altered** means for a female having had the ovaries and uterus surgically removed; and for a male having had the testicles surgically removed.

**Animal** means every living creature, other than man, which may be affected by rabies. *State Law References: Similar Provisions 510 ILCS 5/2.02*

**Animal Control Facility** means any facility operated by or under contract for the State, county, or any municipal corporation or political subdivision of the State for the purpose of impounding or harboring seized, stray, homeless, abandoned or unwanted dogs, cats, and other animals. "Animal control facility" also means any veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under the Veterinary Medicine and Surgery Practice Act of 2004 which operates for the above mentioned purpose in addition to its customary purposes. *State Law References: Similar Provisions 225 ILCS 605/2*

**Animal Control Officer** means any person appointed by the County Animal Control Administrator and approved by the board to perform the duties assigned by the County Animal Control Administrator to effectuate the Animal Control Act. *State Law References: Similar Provisions 510 ILCS 70/2.01g*

**At Large** means off the owner's property and not under the control of the owner, or competent person, either by leash, chain, or other means of restraint.

**Attack** means any action by an animal which places a person or companion animal in reasonable apprehension of immediate bodily harm.

**Bite** means the act of an animal seizing flesh with its teeth so as to tear, pierce, or otherwise injure the flesh.

**Business Day** means any day including holidays that the animal control facility is open to the public for animal reclaims. *State Law References: Similar Provisions 510 ILCS 5/2.03a*

**Breeder** means any person owning/using dogs or cats for breeding purposes.

**Cat** means *felis domesticus* of either sex, altered or unaltered. *State Law References: Similar Provisions 510 ILCS 5/2.04a*

**Companion Animal** means an animal that is commonly considered to be, or is considered by the owner to be, a pet. "Companion animal" includes, but is not limited to, canines, felines, and equines. *State Law References: Similar Provisions 510 ILCS 70/2.01a*

**Companion Animal Hoarder** means a person who (i) possesses a large number of companion animals; (ii) fails to or is unable to provide what he or she is required to provide under Section 3 of this Act; (iii) keeps the companion animals in a severely overcrowded environment; and (iv) displays an inability to recognize or understand the nature of or has a reckless disregard for the conditions under which the companion animals are living and the deleterious impact they have on the companion animals' and owner's health and well-being.

*State Law References: Similar Provisions 510 ILCS 70/2.10*

**Competent Person** means a human being over the age of eighteen years that is capable of controlling and governing the companion animal in question, and to whose command the companion animal is obedient.

**Confined** means restriction of an animal at all times by the owner, or his agent, to an escape-proof building, house, or other enclosure away from other animals and the public. *State Law References: Similar Provisions 510 ILCS 5/2.05*

**Control** means any animal that is either secured by a leash or within the property of its owner, or confined within a cage or crate, or confined within a vehicle, or on the property of another person with the consent of that property owner.

**County Animal Control Administrator** means a veterinarian licensed by the State of Illinois and appointed pursuant to this Act, or in the event a veterinarian cannot be found and appointed, a non-veterinarian may serve as County Animal Control Administrator under this Act. In the event the County Animal Control Administrator is not a veterinarian, the County Animal Control Administrator shall defer to the veterinarian regarding all medical decisions. *State Law References: Similar Provisions 510 ILCS 5/2.01*

**County Animal Facility** means any premises designed by Montgomery County for the purpose of impounding and caring for animals that are either found to be at-large, to be stray, or that are otherwise subject to impoundment in accordance with the provisions of this Ordinance.

**Dangerous Dog** means

- (i) Any individual dog anywhere other than upon the property of the owner or custodian of the dog and unmuzzled, unleashed, or unattended by its owner or custodian that behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or a companion animal or
- (ii) A dog that, without justification, bites a person and does not cause serious physical injury.

*State Law References: Similar Provisions 510 ILCS 5/2.05a*

**Department** means the Department of Agriculture of the State of Illinois. *State Law References: Similar Provisions 510 ILCS 5/2.06*

**Department Investigator or Approved Humane Investigator** means a person employed by or approved by the Department to determine whether there has been a violation of this Act or an animal control warden or animal control County Animal Control Administrator appointed under the Animal Control Act. *State Law References: Similar Provisions 510 ILCS 70/2.03*

**Deputy County Animal Control Administrator** means a veterinarian licensed by the State of Illinois, appointed by the County Animal Control Administrator. *State Law References: Similar Provisions 510 ILCS 5/2.07*

**Dog** means a *Canis familiaris* of either sex, altered or unaltered. *State Law References: Similar Provisions 510 ILCS 5/2.11*

**Enclosure** means a fence or structure of at least 6 feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a dangerous dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the dangerous dog within the enclosure. The enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, it cannot have direct ingress from or egress to the outdoors unless it leads

directly to an enclosed pen and the door must be locked. A dangerous dog may be allowed to move about freely within the entire residence if it is muzzled at all times. *State Law References: Similar Provisions 510 ILCS 5/2.11a*

**Feral Cat** means a cat that

- (i) Is born in the wild or is the offspring of an owned or feral cat and is not socialized,
- (ii) Is a formerly owned cat that has been abandoned and is no longer socialized, or
- (iii) Lives on a farm

*State Law References: Similar Provisions 510 ILCS 5/2.11b*

**Female in Heat** means any female dog that is in estrous or a period of reproductive fertility so as to be attractive to male dogs.

**Has Been Bitten** means has been seized with the teeth or jaws so that the person or animal seized has been nipped, gripped, wounded, or pierced, and further includes contact of saliva with any break or abrasion of the skin. *State Law References: Similar Provisions 510 ILCS 5/2.12*

**Humanely Euthanized** means the painless administration of a lethal dose of an agent or method of euthanasia as prescribed in the Report of the American Veterinary Medical Association Panel on Euthanasia published in the Journal of the American Veterinary Medical Association, March 1, 2001 ( or any successor version of that Report), that causes the painless death of an animal. Animals must be handled prior to administration of the agent or method of euthanasia in a manner to avoid undue apprehension by the animal. *State Law References: Similar Provisions 510 ILCS 70/2.09*

**Intact Animal** means an animal that has not been spayed or neutered. *State Law References: Similar Provisions 510 ILCS 5/2.11c*

**Impounded** means taken into the custody of the public animal control facility in the city, town, or county where the animal is found or brought to. *State Law References: Similar Provisions 510 ILCS 5/2.12a*

**Inoculation Against Rabies** means the injection of an anti-rabies vaccine approved by the Department by a Licensed Veterinarian. *State Law References: Similar Provisions 510 ILCS 5/2.13*

**Leash** means a cord, rope, strap, or chain which shall be securely fastened to the collar or harness of a dog or other animal and shall be of sufficient strength to keep such dog or other animal under control. *State Law References: Similar Provisions 510 ILCS 5/2.14*

**Licensed Veterinarian** means a veterinarian licensed by the State in which he engages in the practice of veterinary medicine. *State Law References: Similar Provisions 510 ILCS 5/2.15*

**Microchip** means an implant under the skin of a domestic animal as a means of identification.

**Owner** means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his/her care, or acts as its custodian, or who knowingly permits an animal to remain on any premises occupied by him/her for (10) days or more. "Owner" does not include a feral cat caretaker participating in a trap, spay/neuter, return or release program. In the event that the owner of an animal is younger than eighteen (18) years old, the parent or guardian of such owner shall be held liable for non-compliance with the provisions of this ordinance. *State Law References: Similar Provisions 510 ILCS 5/2.16*

**Person** means any individual, firm, corporation, partnership, society, association or other legal entity, any public or private institution, the State of Illinois, municipal corporation or political subdivision of the State, or any other business unit. *State Law References: Similar Provisions 510 ILCS 5/2.17*

**Potentially Dangerous Dog** means a dog that is unsupervised and found running at large with 3 or more other dogs. *State Law References: Similar Provisions 510 ILCS 5/2.17c*

**Pound or Animal Control Facility** may be used interchangeably and means any facility approved by the County Animal Control Administrator for the purpose of enforcing this Act and used as a shelter for seized, stray, homeless, abandoned, or unwanted dogs or other animals. *State Law References: Similar Provisions 510 ILCS 5/2.18*

**Registration Certificate** means a printed form prescribed by the Department for the purpose of recording pertinent information as required by the Department under this Act. *State Law References: Similar Provisions 510 ILCS 5/2.19*

**Registration Tag** means serially numbered tag of suitable and durable material furnished by Montgomery County Animal Control.

**Rural** means the unincorporated area of the county which has not been subdivided for residential purposes.

**Serious Physical Injury** means a physical injury that creates a substantial risk of death or that causes death, serious disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or plastic surgery. *State Law References: Similar Provisions 510 ILCS 5/2.19a*

**Service Animal** means an animal trained in obedience and task skills to meet the needs of a person with a disability. *State Law References: Similar Provisions 510 ILCS 70/2.01c*

**Adoption of State Statute**

**Montgomery County adopts the Illinois Animal Control Act, Chapter 510, Section 5/1 et seq. of the Illinois Compiled Statutes, as it may be amended from time to time as allowed by said Division.**

**Montgomery County adopts the Illinois Domestic Animals Running At Large Act, Chapter 510, Section 55/1 et seq. of the Illinois Compiled Statutes, as it may be amended from time to time as allowed by said Division.**

**SECTION I – COUNTY ANIMAL CONTROL ADMINISTRATOR, COUNTY BOARD, & PERSONNEL (Job descriptions were deleted)**

*State Law References: Similar Provisions 510 ILCS 5/3*

- 1.1 **The County Board shall** appoint a licensed veterinarian as County Animal Control Administrator. In the event the appointed County Animal Control Administrator is not a licensed veterinarian, the board shall appoint a licensed veterinarian as deputy County Animal Control Administrator. Appointments shall be made as necessary to keep this position filled at all times. The County Animal Control Administrator may appoint as many deputy County Animal Control Administrators and animal control wardens to aid him/her as may be authorized and appointed by the board. The compensation of the County Animal Control Administrator, deputy County Animal Control Administrators, and animal control wardens shall be fixed by the board. The County Animal Control Administrators, deputies, and animal control wardens may be removed from office by the board for cause. The Board shall provide necessary

personnel, training, equipment, supplies, and facilities, and shall operate pounds or contract for their operation as necessary to effectuate the program. The Board shall be empowered to utilize monies from their General Corporate Fund to effectuate the intent of county ordinances. *State Law References: Similar Provisions 510 ILCS 5/8*

**The County Board is authorized by ordinance to require the registration and may require microchipping of dogs and cats. The Board shall impose an individual dog or cat registration fee with a minimum differential of \$10 for intact dogs or cats. Ten dollars of the differential shall be placed either in a county animal population control fund or in the State's Pet Population Control Fund. If the money is placed in the county animal population control fund, it shall be used to**

- (i) Spay, neuter, or sterilize adopted dogs or cats or
- (ii) Spay or neuter dogs or cats owned by low income county residents who are eligible for the Food Stamp Program.

All persons selling dogs or cats or keeping registries of dogs or cats shall cooperate and provide information to the County Animal Control Administrator as required by Board Ordinance, including sales, number of litters, and ownership of dogs and cats. If microchips are required, the microchip number may serve as the county animal control registration number. *State Law References: Similar Provisions 510 ILCS 5/8*

It is the duty of the County Animal Control Administrator, subject to the general supervision and regulations of the department, to enforce the provisions of this article and to inoculate dogs and cats or have the work done by his/her deputies or by licensed veterinarians. The County Animal Control Administrator, his/her deputies, and animal control wardens are, in accordance with the Act and for the purpose of enforcing it, clothed with power of the police officers in the county and within such county are peace officers in the enforcement of the provisions of this Act, including issuance and service of citations and orders, and, as such peace officers have the power to make arrests on view or on warrants for violation of the Act. The Sheriff and his/her Deputies and Municipal Police Officers shall cooperate with the County Animal Control Administrator in carrying out the provisions of this Act. *State Law References: Similar Provisions 510 ILCS 5/8*

## **SECTION II - ANIMAL CONTROL FEES/FINES/CONTRIBUTIONS**

- 2.1 All fees, fines, and contributions collected by animal control shall be remitted to the County Treasurer, who shall place the monies in an Animal Control Fund. This fund shall be set up for the purpose of paying costs of the Animal Control Program. *State Law References: Similar Provisions 510 ILCS 5/7***

## **SECTION III - RABIES CONTROL**

*State Law References: Similar Provisions 510 ILCS 5/8*

### **3.1 Inoculation of Dogs and Cats**

- a. Every owner of a dog or cat four (4) or more months of age shall cause such dog or cat to be inoculated against rabies by a licensed veterinarian annually or at such intervals as hereafter may be promulgated by the department. Evidence of such inoculation shall be entered upon a certificate, the form of which shall be approved by the County Board, and the certificate shall be signed by the licensed veterinarian administering the vaccine.
- b. The veterinarian administering the vaccine shall cause the certificate of inoculation to be distributed as follows:
  - i. One copy shall be given to the owner at the time of inoculation;

- ii. One copy shall be filed with the office of the County Animal Control Administrator, or such a place as the county board shall designate, within thirty (30) days after the date of inoculation;
- iii. One copy shall be retained by the veterinarian administering the inoculation for a period of five (5) years, or such a period as set by the department or the county board.
- iv. The type and brand of rabies vaccine used shall be licensed by the U.S. Department of Agriculture and approved by the department.
- v. Every owner of a dog or cat shall comply with the provisions in this ordinance. Each day a person fails to comply constitutes a separate offense. If an animal is not inoculated and registered after its owner has been found to be in violation of this section or sections on (a) inoculation tags; (b) confinement of animal which has bitten someone; or (c) duties of owners of rabid or biting animals, two (2) times within a twelve-month period, said animal shall be impounded by the County Animal Control Administrator or his/her delegate and may be redeemed or disposed of in accordance with the provisions of this Code.
- vi. Any owner of a dog or cat that is not listed in the County rabies database with a current vaccination and registration tag will be issued a citation in the amount of \$50 and will be given 30 days to comply. If compliance is met within the 30 days, the \$50 citation will be null/void. If compliance is not met within the 30 days, the \$50 citation will remain in effect with 14 days to pay and provide proof of vaccination and registration. If payment is not received within the allotted time, a court date and court costs may be assessed.

### 3.2 Registration Tags

- a. The owner of a dog or cat shall, within ten (10) days after such dog or cat has been inoculated against rabies, procure an inoculation tag from the county. The cost of the tag shall be determined and set by the county board.
- b. A licensed veterinarian shall procure serially numbered inoculation tags from the county, at a fee set by the board, and issue one tag with each inoculation certificate at the time of inoculation. A licensed veterinarian shall collect such tag fee from the owner at the time the inoculation tag is dispensed.

### 3.3 Registration fees

The registration fee to be charged to the owner of animals in the county shall be:

1. For an annual registration, ten dollars (\$10.00) for each animal which is neutered or spayed
2. For an annual registration, ten dollars (\$10.00) for each animal under 6 months of age.
3. For an annual registration, twenty dollars (\$20.00) for each animal which is not neutered or spayed.
4. For a 3-Year registration, twenty-five dollars (\$25.00) for each animal which is neutered or spayed.
5. For a 3-Year registration, fifty-five dollars (\$55.00) for each animal which is not neutered or spayed.

### 3.4 Confinement of Animal that has Bitten Someone.

*State Law References: Similar Provisions 510 ILCS 5/13*

- a. When the County Animal Control Administrator receives information that any person has been bitten by a dog or other animal, the County Animal Control Administrator, or his/her authorized representative, shall have such dog or other animal confined under the observation of an animal control facility or a licensed veterinarian for a period of ten (10) days. Such veterinarian shall report the clinical condition of the dog or other animal

immediately, with confirmation in writing to the County Animal Control Administrator within twenty-four (24) hours after the dog or other animals is presented for examination, giving the owner's name, address, the date of confinement, the breed, description, age, and sex of such dog or other animal, on appropriate forms approved by the department. The County Animal Control Administrator shall notify the attending physician or responsible health agency. At the end of the confinement period, the veterinarian shall submit a written report to the County Animal Control Administrator advising him/her of the final disposition of such dog or other animal on appropriate forms approved by the department.

- b. When evidence is presented that such dog or other animal was inoculated against rabies within the time prescribed by law, it may be confined in the house of its owner, or in a manner which will prohibit it from biting any person for a period of ten (10) days, if the County Animal Control Administrator declares such confinement satisfactory. At the end of the confinement period, such dog or other animal shall be examined by the County Animal Control Administrator, or another licensed veterinarian.

**3.5 Duties of Owners of Rabid or Biting Animals**      *State Law References: Similar Provisions 510 ILCS 5/12*

a. The owner of any dog or other animal which exhibits symptoms of rabies and any dog or other animal in direct contact with such dog or other animal, whether or not such dog or other animal has been vaccinated, shall immediately notify the County Animal Control Administrator, and shall promptly confine such dog or other animal, or have it confined, under suitable observation, for a period of at least ten (10) days, unless officially authorized by the County Animal Control Administrator, in writing, to release it sooner.

b. It is unlawful for any person having knowledge that any person has been bitten by a dog or other animal to refuse to notify the County Animal Control Administrator promptly. It is unlawful for the owner of such dog or other animal to euthanize, sell, give away, or otherwise dispose of any such dog or other animal known to have bitten a person, until it is released by the County Animal Control Administrator, or his/her authorized representative.

c. It is unlawful for the owner of such dog or other animal to refuse or fail to comply with the written or printed instructions made by the County Animal Control Administrator, or his/her authorized representative. If such instructions cannot be delivered in person, they shall be mailed to the owner of such dog or other animal by regular mail, postage prepaid. The affidavit or testimony of the County Animal Control Administrator, or his/her authorized representative, delivering or mailing such instructions is prima facie evidence that the owner of such dog or other animal was notified of his/her responsibilities.

d. Any expense incurred in the handling of any dog or other animal under this section shall be borne by the owner.

e. For the purpose of this section, the word "immediately" means by telephone, in person, or by other than use of mail.

f. The owner of a biting animal must also remit to Animal Control, for deposit into the Pet Population Control Fund, a \$25 public safety fine within 7 days after notice.

g. Any dog or cat that bites a person will be microchipped before the animal is released to the owner

j. or if the animal is already vaccinated and quarantined at home, the animal will need to be microchipped after the 10 day quarantine period is finished. The owner is responsible for the microchip expense. If owner doesn't comply, the dog or cat will be impounded and the owner charged for the impoundment fee, any boarding fees, and the microchip fee.

**3.6 Reimbursement to Animal Bite Victims:**

a. The county is not obligated to pay to any person or resident of the county from the animal control fund any amount for the purchase of human rabies antiserum, the purchase of human vaccine, any costs for the administration of the serum or vaccine or any amount for medical care which may have been provided to human bite victims.

## **SECTION IV –IMPOUNDMENT AND REDEMPTION OF STRAYING ANIMALS**

*State Law References: Similar Provisions 510 ILCS 5/9*

### **4.1 Running At Large**

Any dog found to be running at large contrary to the provisions of this chapter may be apprehended and impounded at the animal control facility. A dog actively engaged in the legal hunting activity, including training, is not considered to be running at large if the dog is on land that is open to hunting or on land for which the person has obtained permission to hunt or to train a dog.

A dog found running at large a second or subsequent time must be spayed or neutered within 30 days at the owner's expense after being reclaimed unless already spayed or neutered; failure to comply shall result in impoundment of the animal.

When dogs or cats are apprehended and impounded by the County Animal Control Administrator, they must be scanned for the presence of a microchip. The County Animal Control Administrator shall make every reasonable attempt to contact the owner as soon as possible. The County Animal Control Administrator shall give notice of not less than seven business days to the owner prior to disposal of the animal. Such notice shall be mailed to the last known address of the owner. Testimony of the County Animal Control Administrator, or his or her authorized agent, who mails such notice shall be evidence of the receipt of such notice to the owner of the animal.

### **4.2 Redemption**

In case the owner of any impounded dog or cat desires to make redemption thereof, they may do so on the following conditions:

Present proof of current rabies inoculation, and registration, if applicable; and

- A. Pay for the rabies inoculation of the dog or cat and registration, if applicable; and
- B. Pay for any medical treatment or inoculations, if applicable; and
- C. Pay the animal control facility a rate of \$5 per day for the period it was impounded;
- D. Pay the \$50 impoundment fine; the fine shall be refunded if it is the dog's or cat's first impoundment and the owner has the animal spayed or neutered within 30 days;
- E. Pay for the microchipping and registration if not already done;
- F. If the animal is not currently vaccinated against rabies, a pre-paid vaccination/registration voucher must be purchased upon release of the animal. Vaccination is to be given by any of the participating Veterinarians in Montgomery County. The registration tag will be issued by the vaccinating facility.
- G. If an intact animal has been impounded a second time, a pre-paid spay/neuter voucher must be purchased upon release of the animal. Spay/Neutering is to be done at any of the participating Veterinarians in Montgomery County.

The payments required for redemption under this section shall be in addition to any other penalties invoked under this ordinance and the Illinois Public Health and Safety Animal Population Control Act.

### **4.3 Authority to impound straying animals and to enter onto private property.**

For the purpose of making inspections hereunder, the County Animal Control Administrator, or his or her authorized representative, or any law enforcement officer may enter upon private premises, provided that the entry shall not be made into any building that is a person's residence, to investigate alleged or suspected violations of this chapter, to apprehend an animal which has reportedly bitten a person, to apprehend a straying dog or other animal, a dangerous dog or other animal, or an animal thought to be infected with rabies. If, after the request thereof, the owner of the dog or other animal shall refuse to deliver the dog or other animal to the officer, the owner shall be in violation of this chapter.

#### **4.4 Montgomery County and enforcement officers not responsible for accident or disease**

Montgomery County, the County Animal Control Administrator, manager, deputy County Animal Control Administrators, animal control officers or anyone enforcing the provisions of this article shall not be held responsible for any accident or disease that may happen to any animal.

### **SECTION V – DANGEROUS DOG DETERMINATION**

*State Law References: Similar Provisions 510 ILCS 5/14, 5/15.1, 5/15.2, 5/15.3, 5/15.4*

- A. In order to have a dog deemed "dangerous", the County Animal Control Administrator, Deputy County Animal Control Administrator, or law enforcement officer must give notice of the infraction that is the basis of the investigation to the owner, conduct a thorough investigation, interview any witnesses, including the owner, gather any existing medical records, veterinary medical records or behavioral evidence, and make a detailed report recommending a finding that a dog is a dangerous dog and give the report to the State's Attorney. The County Animal Control Administrator, States Attorney, or any citizen of the county in which the dog exists may file a complaint in the circuit court in the name of the People of the State of Illinois to deem a dog to be a dangerous dog. Testimony of a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert may be relevant to the court's determination of whether the dog's behavior was justified. The petitioner must prove the dog is a dangerous dog by clear and convincing evidence. The County Animal Control Administrator shall determine where the animal shall be confined during the pendency of the case.
- B. A dog may not be declared dangerous if the court determines the conduct of the dog was justified because:
1. The threat, injury, or death was sustained by a person who at the time was committing crime or offense upon the owner or custodian of the dog, or was committing a willful trespass or other tort upon the premises or property owned or occupied by the owner of the animal;
  2. The injured, threatened, or killed person was abusing, assaulting, or physically threatening the dog or its offspring, or has in the past abused, assaulted, or physically threatened the dog or its offspring; or
  3. The dog was responding to pain or injury, or was protecting itself, its owner, custodian, or member of its household, kennel, or offspring.

No dog shall be deemed "dangerous" if it is a professionally trained dog for law enforcement or guard duties. Dangerous dogs shall not be classified in a manner that is specific as to breed.

If the burden of proof has been met, the court shall deem the dog to be a dangerous dog.

### **SECTION VI – MISCELLANEOUS**

#### **6.1 Municipal Powers**

Nothing in this Act shall be held to limit in any manner the power of any municipality or other political subdivision to prohibit animals from running at large, nor shall anything in this Act be construed to, in any manner, limit the power of any municipality or other political

subdivision to further control and regulate dogs, cats or other animals in such municipality or other political subdivision provided that no regulation or ordinance is specific to breed. *State Law References: Similar Provisions 510 ILCS 5/24)*

## **6.2 Low-Kill Policy**

It is the policy of the Montgomery County Board and the Montgomery County Animal Control Staff that no healthy/adoptable animal be euthanized. Only animals with documented people aggression or animals with untreatable medical conditions which the County Veterinarian upon his/her recommendation shall be euthanized.

## **6.3 Third Party Contracts**

Any person who claims ownership through a contract pertaining to purchased animals or co-owned animals may claim impounded animal(s) upon payment in full for all costs incurred in care for those animal(s).

## **6.4 Feral Cats**

Montgomery County Animal Control will not accept any cats that have been trapped or would require trapping.

# **SECTION VII – BREEDER’S PERMIT**

## **7.1 Breeder Permit**

Any person breeding dogs or cats must obtain a Breeders Permit. With this permit an owner will be allowed to breed the female when she has retained proper body condition to sustain the pregnancy. The female animal will be required to have current vaccinations. All puppies or kittens will be required to be at least 8 weeks of age and must have all age appropriate vaccinations and be microchipped or tattooed before being transferred to their new owner. All microchips and tattoos must be registered with the appropriate organization. A copy of the animal's vaccination record and Breeder's Permit number shall be given to the new owner of the animal. The Breeder's Permit number must be included in any and all advertising for the puppies or kittens.

Breeders shall obtain an annual license from the County. Such license shall be obtained no later than 30 days after conception of the offspring and shall be renewed annually by January 1<sup>st</sup>. The breeder permit shall not exempt such licensee from payment of county registration fees for each dog or cat over four months of age.

## **7.2 Breeder Permit Requirements**

An applicant for a breeder permit shall consent to the inspection of the premises where his/her animals are kept or maintained. Inspections shall also be performed upon receipt of a citizen's complaint that is not anonymous. Annual inspections may be required for breeder permits prior to renewal of a permit. Such inspections may be performed by Montgomery County Animal Control staff who will take all precautions to prevent the spread of any possible diseases. Failure to reasonably comply with a request for inspection is a violation of this ordinance.

### **Holders of breeder permits shall conform to the following requirements:**

- A. All dogs and/or cats over four months of age must be inoculated against rabies and registered pursuant to this article.
- B. All dogs and/or cats must be provided with fresh water daily, sufficient food to maintain acceptable body weight, proper shelter, protection from the weather and sufficient

veterinary care to prevent suffering in accordance with the Tufts Animal Care and Condition Scale.

- C. If the dogs and/or cats are kept or maintained within a structure or building, such building shall:
  - a. Be cleaned of feces and urine on a daily basis.
  - b. Not constitute a nuisance or danger to the health or welfare of its inhabitants nor surrounding residents.
  - c. Be well ventilated and maintain appropriate temperature to prevent suffering in accordance with the Tufts Animal Care and Condition Scale.
- D. The dogs and/or cats shall be prevented from running at large.
- E. The dogs and/or cats shall be prevented from causing a nuisance pursuant to any Ordinance.
- F. The owner's property shall be kept free of feces and urine to prevent its accumulation from constituting a health hazard or an odorous nuisance.
- G. The applicant shall not have been convicted of or received Supervision or Conditional Discharge through an agreement with the State's Attorney's Office of any violation of the Animal Control Ordinance or Humane Care for Animals Act within the previous two years from the date of application.
- H. The owner shall annually notify the Animal Control County Animal Control Administrator of any change in the breeding stock governed by the breeder permit including the rabies vaccination and registration requirement pursuant to this article.
- I. The breeder must send friendly reminders to their clients regarding follow up vaccinations.

### **7.3 Revocation of Breeder Permit**

- A. Upon conviction of a violation of the Animal Control Ordinance or Humane Care for Animals Act, the County Animal Control Administrator shall revoke the breeder permit for a period of five years. After expiration of the revocation period, the license shall not be automatically reinstated. The former permit holder must reapply for the permit and show an ability to conform to the existing ordinances before he/she may be issued a breeder permit and must submit to yearly inspections.
- B. Upon revocation of the permit, the owner shall relinquish ownership of his/her animals to the County Animal Control Administrator.

### **7.4 Impoundment of Non-Permitted Animals**

- A. The County Animal Control Administrator may impound the dogs and/or cats of any owner if such owner does not hold a breeder permit.
- B. Such animals shall be redeemed by the owner upon payment to the County Animal Control Administrator the lawful fees accrued pursuant to this chapter and after application and approval for a breeder permit.

## **SECTION VIII – OWNER'S DUTIES**

State Law References: Similar Provisions 510 ILCS 70/3

- A. **Each owner shall provide for each of his or her animals:**
  - 1. A sufficient quantity of good quality, wholesome food and water;
  - 2. Adequate shelter and protection from the weather;
  - 3. Sufficient bedding when temperatures are below 48 degrees.
  - 4. Veterinary care when needed to prevent suffering; and
  - 5. Humane care and treatment.
- B. **To lawfully tether a dog outdoors, an owner must ensure that the dog:**

1. Does not suffer from a condition that is known, by that person, to be exacerbated by tethering;
  2. Is tethered in a manner that will prevent it from becoming entangled with other tethered dogs;
  3. Is not tethered with a lead that (i) exceeds one-eighth of the dog's body weight or (ii) is a tow chain or a log chain;
  4. Is tethered with a lead that measures, when rounded to the nearest whole foot, at least 10 feet in length;
  5. Is tethered with a properly fitted harness or collar other than the lead or a pinch, prong, or choke-type collar; and
  6. Is not tethered in a manner that will allow it to reach within the property of another person, a public walkway, or a road.
- C. **Subsection (b) of this Section shall not be construed to prohibit:**
1. A person from walking a dog with a hand-held leash;
  2. Conduct that is directly related to the cultivating of agricultural products, including shepherding or herding cattle or livestock, if the restraint is reasonably necessary for the safety of the dog;
  3. The tethering of a dog while at an organized and lawful animal function, such as hunting, obedience training, performance and conformance events, or law enforcement training, or while in the pursuit of working or competing in those endeavors; or
  4. A dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, State, or local authority or jurisdiction.
- D. A person convicted of violating subsection (a) of this Section is guilty of a Class B misdemeanor. A second or subsequent violation of subsection (a) of this Section is a Class 4 felony with every day that a violation continues constituting a separate offense. In addition to any other penalty provided by law, upon conviction for violating subsection (a) of this Section, the court may order the convicted person to undergo a psychological or psychiatric evaluation and to undergo any treatment after due consideration of the evaluation. If the convicted person is a juvenile or a companion animal hoarder, the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.
- E. A person convicted of violating subsection (b) of this Section is guilty of a Class B misdemeanor.
- H. As used in this Section, "tether" means to restrain by tying to an object or structure, including, without limitation, a house, tree, fence, post, garage, shed, or clothes line at a person's residence or business, by any means, including, without limitation, a chain, rope, cord, leash, or running line.

**SECTION IV – CRUELTY** State Law References: Similar Provisions 510 ILCS 70/3 & 510 ILCS 70/3.01

**9.1 Humane Care of Animals**

- A. No owner shall fail to provide his/her animal(s) with:
1. Sufficient, nutritious food
  2. Fresh, clean water at all times.
  3. A shelter which has four sides, a roof, floor, and bedding (when nighttime temperatures are below 42 degrees). The shelter shall be of sufficient size to permit such animal to stand up and turn around inside when fully grown and allow retention of body heat. The shelter shall be placed to provide shade from the sun and protection from the weather.

4. Regular and sufficient veterinary care to prevent suffering and maintain health.

## **9.2 Abandonment of Animal Unlawful**

- A. It shall be unlawful for any person to abandon any animal within the County.

## **9.3 Acts of Cruelty to Animals Prohibited (Canines and Felines Only)**

Unless justifiable in defense of person or property, no person shall:

- A. Kill, wound, or attempt to kill or wound, or poison any domestic animal.
- B. Put to death any domestic animal except by euthanasia under the supervision of a licensed veterinarian of the State of Illinois.
- C. Beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse a domestic animal.
- D. Cause, instigate, permit, or attend any dog fight, cockfight, bullfight, or other combat between animals and humans.
- E. Crop an animal's ears, an animal's tail or perform similar surgeries except as a licensed veterinarian of the State of Illinois.
- F. Allow any animal to remain unattended in a motor vehicle by a competent person when the animal's life, health, or safety is threatened.

## **9.4 Animals for Use in Entertainment**

No person shall use, own, capture, breed, train or lease any animal which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and other animal or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

## **9.5 Diseased and Injured Animals**

No diseased or sickly horse, cow, hog, dog, or cat or other animal nor any that has been exposed to any disease that is contagious among such animals shall knowingly be brought into the county unless under veterinary care.

## **9.6 Keeping Animals Other Than Domesticated Pets**

- A. No person shall keep, harbor, or allow to be kept within the county any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, lynx, bobcat, jaguarondi, bear, hyena, wolf, wolf-hybrid, venomous reptiles, or other animal normally wild and dangerous to human life. It is no defense to a violation of this section that the owner or keeper of the animal has attempted to domesticate the animal.
- B. Animals maintained by a zoological park, animal control facility, federally licensed exhibit, veterinary hospital, or educational institutions shall not be regulated by the provisions of this chapter.

## **9.7 Dead Animals Prohibited**

No person shall:

- A. Allow the body, or any part thereof, of any dead animal to decompose and putrefy by remaining on his property.
- B. Skin, dismember, butcher, dress, or exhibit any dead animal in view of the public in areas of the county which have been subdivided for residential purposes.

The owner of an animal shall be responsible for the immediate disposal of such animal's remains on its death from whatever cause and regardless of the location of such animal's remains.

**9.8 Confinement in Motor Vehicle** *State Law References: Similar Provisions 510 ILCS 70/7.1*

No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department of Agriculture investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or person. A person convicted of violating this section is guilty of a Class C misdemeanor. A second or subsequent violation is a Class B misdemeanor.

**SECTION X – ENFORCEMENT AND CITATIONS**

- 10.1 It shall be the duty of Montgomery County Animal Control, and other persons so authorized by the County, by contract or otherwise, to investigate violations of this Ordinance and to enforce the provisions of this Ordinance. Such enforcement shall include the issuance of warnings, the issuance of citations, taking and impounding animals in violation thereof, and any other means necessary to enforce and effectuate the purposes of this Ordinance.
- 10.2 No person shall in any way interfere, attempt to interfere, or cause another person or animal to interfere to attempt to interfere or with any authorized person engaged in the performance of his or her duties under this Ordinance.

**SECTION XI – RECKLESS DOG OWNER**

**A. Reckless Dog Owner means anyone who:**

1. Has committed three or more violations of this chapter relating to dogs within a three year period.
2. Has committed one or more violations of this chapter relating to dogs after having a dog owned by him or her declared dangerous or potentially dangerous;
3. Has committed one or more violations of this chapter relating to dogs after having a dog owned by him or her declared to be dangerous.

**In relation to reckless dog owners only, violation means:**

- a. A conviction, including a judicial or administrative finding of guilt, for any of the offenses under this chapter relating to dogs;
- b. A guilty plea, whether entered in judicial or administrative proceedings, to any of the offenses under this chapter relating to dogs;
- c. Any impoundment of any dog for a violation of this chapter
4. Multiple offenses on the same day at the same time for the same dog will count as one violation.
5. The violations need not involve the same dog.

**B. Reckless Dog Owners – Declaration**

1. The Animal Control County Animal Control Administrator may submit documentation to a court of law to find and declare a person a reckless dog owner. Proceedings shall be instituted by service of a Notice of Reckless Dog Owner.
2. The Notice of Reckless Dog Owner shall be in writing and shall be served on the owner in one of the following methods.
  1. Certified and regular mail to the owner's last known address;
3. The Notice of Reckless Dog Owner shall contain:
  1. Name and address of owner who is subject to the declaration;

2. Names, descriptions, microchip and rabies registration numbers of any pets licensed to the owner;
  3. Brief descriptions of the violations which form the basis of the declaration, including case numbers, if any;
  4. A summary of the effects of the declaration, requirements for confinement or impoundment of dogs, and the potential penalties for violation of the restrictions;
  5. A complete description of the appeal process, including notification of the availability of a hearing if the request for hearing is made within ten days of the date of personal service or mailing.
4. A person who is declared a reckless dog owner is prohibited from registering or owning any dog in the County for a period of 3 years from the date of the Notice of Reckless Dog Owner, unless an appeal is filed with the Animal Control County Animal Control Administrator within ten days of the date of personal service or mailing, in accordance with Section 5-5.1 of this chapter. The reckless dog owner shall surrender all dogs to an animal control officer or police officer upon demand of the officer.
  5. Failure to timely file an appeal pursuant to this section will be considered as an admission of recklessness by the dog owner.
  6. In the event that any provision of this section is in conflict with a court order issued pursuant to Section 5-33, the court order shall control.

#### **C. Impoundment of dogs owned by reckless dog owners**

1. Upon service of a Notice of Reckless Dog Owner, the person declared to be a reckless dog owner shall relinquish all dogs and/or cats that he or she owns to the animal control facility or, upon approval of the Animal Control County Animal Control Administrator, make arrangements for other accommodations for the dogs. The Animal Control County Animal Control Administrator may order that such dogs be impounded and held at the animal facility or a secure veterinary hospital until the disposition of such dogs is determined, including without limitation, transfer, adoption, or euthanasia. The owner shall immediately surrender the dogs to an animal control officer, sheriff's deputy, or police officer upon the order of such law enforcement official. Refusal by any person declared to be a reckless owner to surrender a dog owned by such person to an animal control officer, sheriff's deputy, or a police officer is an offense that upon conviction carries a fine of not less than five hundred dollars (\$500.00) and not more than the maximum prescribed under Section 1-10 of this Code.
2. During the pendency of an appeal, the dogs owned by a person declared to be a reckless dog owner may be ordered impounded if the Animal Control County Animal Control Administrator determines that impoundment is in the interests of public safety or pendency of an appeal, the Animal Control County Animal Control Administrator may order the dogs confined. The owner shall comply with all the requirements imposed by the Animal Control County Animal Control Administrator. Failure to comply with any requirement shall be considered a violation. It is a separate violation for each dog and each day of non-compliance.
3. In the event that any provision of this section is in conflict with a court order issued pursuant to Section 5-33, the court order shall control.

#### **D. Hearing Procedure - Declaration of reckless dog owner**

In the event of a properly filed appeal, a hearing shall be conducted by the Animal Review Board in accordance with Section 5-5.1, and the following additional standards.

1. The Animal Control County Animal Control Administrator shall bear the burden of proving by a preponderance of the evidence that the owner is a reckless dog owner as defined in this chapter.
2. A finding of guilt, a guilty plea, or payment of fines, either in administrative or judicial proceedings, is prima facie evidence that a violation occurred and no additional evidence is necessary to prove that violation. A violation also may be proven through the testimony of witnesses, photographs, or other evidence presented to the Animal Review Board.
3. If the court of law finds that the owner is a reckless dog owner, as defined in this chapter, it shall affirm the County Animal Control Administrator's decision and
  - a. Declare the owner a reckless dog owner,
  - b. Impose a fine of not less than \$250 nor more than \$1,000,
  - c. Order that all dogs in the owner's possession be impounded by the Animal Control County Animal Control Administrator. Upon such a finding, the Animal Review Board shall also order that the owner is prohibited from owning any dog in the County for a period of 3 years. Any dogs impounded under these circumstances may not be returned to any person residing at the same address as the reckless dog owner.
  - d. The Animal Control County Animal Control Administrator shall have the authority to determine the disposition of all dogs impounded from reckless dog owner including, without limitation, transfer, adoption, or euthanasia.
  - e. In the event that any provision of this section is in conflict with a court order issued pursuant to Section 5-33, the court order shall control.

**E. Possessing, harboring, or owning animal by reckless dog owner**

It is an offense for any person who is a reckless dog owner as defined in this chapter to possess, harbor, own, have custody of, or reside in a residence with any dog in the County while a Notice of Reckless Owner is in effect, except during the period an appeal of a Notice of Reckless Owner is pending. In the event that any provision of this section is in conflict with a court order issued pursuant to Section 5-33, the court order shall control.

**SECTION XII - VIOLATIONS AND PENALTIES** *State Law References: Similar Provisions 55 ILCS 5/5-1005.4*

- 12.1** Any person found guilty of a violation of this chapter in a court of law shall pay a fine at an amount set by the court of law. A penalty under this section shall be in addition to and not in lieu of any action taken.