

ORDINANCE NO. 0-08-16

AN ORDINANCE OF THE CITY OF CROCKETT, TEXAS, AMENDING CHAPTER 4, SECTION 4-23, HEARING, OF THE CROCKETT CODE, SECTION 4-28, REQUIREMENTS FOR OWNER OF DANGEROUS DOG, OF THE CROCKETT CODE, SECTION 4-49, SALE OF IMPOUNDED ANIMALS; NOTICE OF SALE; DISPOSITION OF PROCEEDS, OF THE CROCKETT CODE, SECTION 4-50, DISPOSITION OF IMPOUNDED ANIMALS, OF THE CROCKETT CODE, SECTION 4-55, DISPOSITION OF DISEASED ANIMAL, OF THE CROCKETT CODE, AND SECTION 4-56, ADOPTIONS, OF THE CROCKETT CODE, TO PROVIDE FOR DIVESTMENT OF OWNERSHIP AND PROPERTY RIGHTS IN IMPOUNDED ANIMALS AND VESTING TITLE TO IMPOUNDED ANIMALS IN THE CITY OF CROCKETT, TEXAS; PROVIDING A SEVERABILITY CLAUSE; CONTAINING A REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

THE COUNCIL OF THE CITY OF CROCKETT, TEXAS HEREBY ORDAINS:

SECTION I:

Section 4-23 of the Crockett Code is hereby amended to read as follows:

Section 4.23. Hearing.

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

(B) The court shall give written notice of the time and place of the hearing to:

- (1) the owner of the dog or the person from whom the dog was seized; and
- (2) the person who made the complaint.

(C) Any interested party, including the city attorney, is entitled to present evidence at the hearing.

(D) The Court shall divest all ownership and property rights in the dog from the owner, vest title in the City of Crockett, Texas and order the dog destroyed if the court finds that the dog caused the death of a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released to:

- (1) its owner;

- (2) the person from whom the dog was seized; or
- (3) any other person authorized to take possession of the dog.

(E) The court may divest all ownership and property rights in the dog from the owner, vest title in the City of Crockett, Texas and order the dog destroyed if the court finds that the dog caused serious bodily injury to a person by attacking, biting, or mauling the person. If that finding is not made, the court shall order the dog released to:

- (1) its owner;
- (2) the person from whom the dog was seized; or
- (3) any other person authorized to take possession of the dog.

(F) The court may not divest ownership and property rights in the dog from the owner, vest title in the City of Crockett, Texas or order the dog destroyed if the court finds that the dog caused the serious bodily injury to a person by attacking, biting, or mauling the person and:

- (1) the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and;
  - (A) the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and
  - (B) the injured person was at least eight (8) years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
- (2) the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least eight years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
- (3) the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the

peace officer was using the dog for law enforcement purposes;

- (4) the dog was defending a person from an assault or a person's property from damage or theft by the injured person; or
- (5) the injured person was younger than eight (8) years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the enclosure was reasonably certain to keep a person younger than eight (8) years of age from entering.

## SECTION II:

Section 4-28 of the Crockett Code is hereby amended to read as follows:

Section 4-28. Requirements for Owner of Dangerous Dog.

- (a) Not later than the thirtieth (30<sup>th</sup>) day after a person learns that the person is the owner of a dangerous dog, the person shall:
  - (1) Register the dangerous dog with the animal control authority;
  - (2) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure; and
  - (3) Obtain liability insurance coverage or show financial responsibility in an amount of at least one hundred thousand dollars (\$100,000.00) to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority.
- (b) The owner of a dangerous dog who does not comply with subsection (a) shall deliver the dog to the animal control authority not later than the 30<sup>th</sup> day after the owner learns that the dog is a dangerous dog.
- (c) If, on application of any person, the municipal court finds, after notice and hearing as provided by section 4-31, that the owner of a dangerous dog has failed to comply with subsection (a) of this section or section 4-32, the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog

in secure and humane conditions.

(d) The owner shall pay any cost or fee assessed by the city related to the seizure, acceptance, impoundment, or destruction of the dog, as set forth in this chapter.

(e) The court shall divest all ownership and property rights in the dog from the owner, vest title in the City of Crockett, Texas and order the animal control authority to humanely destroy the dog if the owner has not complied with subsection (a) or section 4-32 before the eleventh (11<sup>th</sup>) day after the date on which the dog is seized or delivered to the authority. The court shall order the authority to return the dog to the owner if the owner complies with subsection (a) and section 4-32 before the 11<sup>th</sup> day after the date on which the dog is seized or delivered to the authority.

(f) The court may divest all ownership and property rights in the dog from the owner, vest title in the City of Crockett, Texas and order the humane destruction of a dog if the owner of the dog has not been located, with the exercise of due diligence, before the 15<sup>th</sup> day after the seizure and impoundment of the dog.

(g) For purposes of this section, a person learns that the person is the owner of a dangerous dog when:

- (1) The owner knows of an attack described in section 4-1;
- (2) The owner receives notice that a justice court, county court, or municipal court has found that the dog is a dangerous dog; or
- (3) The owner is informed by the animal control authority that the dog is a dangerous dog.

(h) Notwithstanding the foregoing, the Court may not order the destruction of a dog during the pendency of appeal under TEX. HEALTH & SAF. CODE ANN. § 822.0424.

### SECTION III.

Section 4-49 of the Crockett Code is hereby amended to read as follows:

Section 4.49. Sale of impounded animal; notice of sale; disposition of proceeds.

The Animal Control Officer shall sell any animal impounded under Chapter 4, Animals and Fowl, of the Crockett Code or under any other legal authority at public auction for cash after having held the animal for at least five (5) days and after having

published public notice of the item, terms and place of sale in a weekly or semi-weekly newspaper published in the city, which notice shall appear one (1) time at least five (5) full days prior to the date of sale and shall describe the animal impounded and state that the animal will be sold to defray costs if it is not reclaimed and the costs paid before the date of sale. If not reclaimed by such day, the owner is divested of all ownership and property rights in the animal, title to the animal is vested in the City of Crockett, Texas, and the Animal Control Officer shall sell the animal at public auction between the hours at 10:00 a.m. and 4:00 p.m. on such day to the highest bidder; and after deducting all expenses of the sale and of taking up and keeping of such animal shall return the balance of the proceeds, if any, to the owner of the animal. If the owner is unknown, the balance shall be paid into the city treasury. Any time within six (6) months after the sale, the owner may apply to the City Administrator, and upon satisfactory proof of his ownership, he shall be entitled to receive the amount paid into the treasury on account of such sale.

#### SECTION IV.

Section 4-50 of the Crockett Code is hereby amended to read as follows:

##### Section 4.50. Disposition of impounded animals.

If any animal impounded under the provisions of Chapter 4, Animals and Fowl, of the Crockett Code or under any other legal authority is found to be infected with rabies, or if the animal is seriously injured, or if the Animal Control Officer has determined it is not saleable, or if it cannot be sold as provided in the preceding section, it shall forthwith be destroyed in a humane manner. On such determination by the Animal Control Officer, all ownership and property rights to the animal are divested from the owner, and title is vested in the City of Crockett, Texas. All decisions as to the condition or saleability of animals shall be made by the Animal Control Officer, after seeking competent advice if same be necessary, except that no horse, cattle, mule, sheep, or goat shall be destroyed under this section without approval of the City Administrator.

#### SECTION V.

Section 4-55 of the Crockett Code is hereby amended to read as follows:

##### Section 4.55. Disposition of diseased animal.

Any animal taken into custody by the animal control authority, except animals which have inflicted human bites during the

preceding ten (10) days, that are visibly affected with any sign of communicable disease other than rabies which are being held at the impounding facility, may instead of being impounded, be humanely destroyed, provided that any animal exhibiting symptoms of rabies must be handled in a manner prescribed by this Chapter. The owner is divested of all ownership and property rights in the animal and title is vested in the City of Crockett, Texas in the animal to be humanely destroyed under the provisions of this Section.

SECTION VI.

Section 4-56 of the Crockett Code is hereby amended to read as follows:

Section 4.56. Adoptions.

(A) An individual may adopt a dog or a cat in the possession of the City under the following conditions:

- (1) The animal has been classified as adoptable by the Animal Control Officer;
- (2) The prospective adopter has proper facilities to care for the animal;
- (3) The prospective adopter obtains the necessary vaccinations;
- (4) The prospective adopter pays the applicable fee of Fifteen Dollars (\$15.00) for a dog and Ten Dollars (\$10.00) for a cat; and
- (5) The prospective adopter agrees to have the animal neutered if a male, or spayed if a female, within thirty (30) days after adoption. The Animal Control Officer shall allow additional time in the case of dogs or cats less than six (6) months of age.

(B) The Animal Control Officer may refuse to allow a person to adopt a cat or dog when he has reason to believe the person adopting:

- (1) Would not have proper facilities to contain or care for the animal as required by this Code; or
- (2) Wants the dog or cat for the purpose of resale or for other than pet ownership; or
- (3) That the cat or dog would be a hazard to humans or

other animals.

(C) Adoption under the terms of this section results in the immediate termination of all ownership and property rights of the owner to the animal and vesting of title to the animal in the adopter.

SECTION VII. Severability.

The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION VIII. Repealing Clause

All Ordinances, or parts of Ordinances, inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

SECTION IX: Effective Date.

A descriptive caption of this Ordinance shall be published two (2) times in the Houston County Courier, the official newspaper of the City of Crockett, within fourteen (14) days after the date of passage thereof, and said Ordinance shall become effective September 1, 2016.

PASSED AND ADOPTED this 1st day of August, 2016 at a regular meeting of the City Council of the City of Crockett, Texas.

CITY OF CROCKETT

BY: 

ROBERT MEADOWS, MAYOR

ATTEST:

Mitzi Thompson  
MITZI THOMPSON, CITY SECRETARY

APPROVED:

  
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WILLIAM R. PEMBERTON,  
CITY ATTORNEY