

ORDINANCE NO. 513**AN ORDINANCE PROVIDING FOR THE CONTROL OF ANIMALS WITHIN THE CITY OF MADRAS.**

The city of Madras ordains as follows:

SECTION 1: DEFINITIONS

As used in this ordinance, the following words and phrases, unless the context requires otherwise, shall mean:

- (1) Owner. Any person who owns, keeps, or harbors an animal, except a veterinarian or an operator of a commercial kennel, insofar as they may keep dogs in the course of their businesses.
- (2) Running at Large. An animal is "running at large" which is not on property with the permission of the owner or controlled by the use of a leash.

The term "running at large" does not include the use of a dog under the supervision of a person to control or protect livestock or in other related agricultural activities or the use of a dog by law enforcement personnel.

- (3) Livestock. Cattle, sheep, horses, goats, swine, pigs of any species, mules, and any fur-bearing animals bred and maintained commercially or otherwise within pens, cages, and hutches.

SECTION 2: ENFORCEMENT

It shall be the duty of the chief of police or his/her designate to enforce all provisions of this ordinance.

If an animal control officer or police officer is a witness to an offense under this ordinance, he/she may make a non-custody arrest of the offending person and issue the offending person a citation to appear in the Municipal Court.

If a private party desires to make a non-custody arrest, and if the animal control officer or police officer assisting deems it proper, such officer may issue a citation to appear in the Municipal Court.

In all cases, the animal control officer or police officer shall be allowed to exercise discretion to issue a warning in lieu of a citation.

SECTION 3: **UNLAWFUL TO MAINTAIN OR TO ALLOW LIVESTOCK TO RUN AT LARGE**

It shall be unlawful for any person, partnership, association, or corporation to harbor, en-pasture, maintain or in any way keep any livestock in any area within the corporate limits of the city of Madras.

No livestock shall be maintained or allowed to run at large or be herded or tethered in any of the streets, alleys, parks or public places in the city or be kept, put or grazed upon any lawn or premises without the consent of the owner of such lawn or premises.

SECTION 4: **FOWL NOT TO RUN AT LARGE**

No owner, keeper, or custodian of any fowl shall permit the fowl to run loose or be at large within the city. Any such fowl is declared to be a nuisance.

SECTION 5: **TYING ANIMALS TO TREES**

No person shall tie or fasten any animal to any growing shade or ornamental tree.

SECTION 6: **NOISY ANIMALS AND FOWL**

No person shall keep or maintain within the city any fowl, dog, livestock, or other animal which makes or causes to be made any loud or unusual noise which disturbs the peace and quiet of any part of the city or any of the inhabitants of the city. Any such animal or fowl is declared to be a nuisance.

SECTION 7: COMPLAINT, HEARING

When a citation to appear has been filed with the municipal court, the city attorney may, if it appears that an offense has been committed, issue a complaint.

The complaint may be verified and sworn to by the city attorney, the animal control officer, a police officer, or a private citizen.

Such complaints shall be treated by the court according to the rules of the court. If the person charged in the complaint is found by the municipal judge to be maintaining the nuisance as charged in the complaint, or to be maintaining a nuisance in any manner violating any of the provisions of Sections 4 or 6 of this ordinance, the municipal judge may enter judgment directing the chief of police immediately to abate the nuisance and, as part of such judgment, assess to such person the cost of the action.

Such judgment may be in addition to any penalty imposed under Section 24 of this ordinance.

SECTION 8: ABATEMENT OF DOG OR FOWL NUISANCE

It is the duty of the chief of police to execute any judgment which may be rendered by the municipal judge in the matter of abating any nuisance as described in Section 7.

In the execution of the judgment which requires the chief of police to abate a nuisance caused by a fowl or dog, such animal shall be seized and impounded with instructions and directions to destroy the animal at the end of five (5) days, unless during that period the owner sells or disposes of the same so that it will be removed from the corporate limits of the city.

The chief of police may sell the dog or fowl in the manner provided in the following section for the sale of other animals.

**SECTION 9: ABATEMENT OF HORSE, COW, OR
OTHER ANIMAL NUISANCE**

When the municipal judge requires the abatement of a nuisance occasioned by a horse, cow, or other animal, the chief of police shall seize such animal and shall cause it to be confined in a place where the annoyance complained of will not be continued.

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The animal shall then be advertised for sale to the highest bidder.

The purchaser shall agree to remove it from the city, and the proceeds of the sale shall be applied by the chief of police as follows:

- (1) To the payment of any cost which may be incurred by the municipal court in the action for the abatement of the nuisance.
- (2) To costs incurred in caring for and in selling the animal.
- (3) The surplus, if any, shall be delivered by the chief of police to the owner of the animal seized.

SECTION 10: ABATEMENT OF NUISANCE BY OWNER

In addition to the remedy provided in Sections 7, 8, and 9, the municipal judge may issue a notice to the person charged with maintaining a nuisance, requiring such person to abate the same within five (5) days from the date of service of notice.

IMPOUNDMENT

SECTION 11: IMPOUNDMENT BY POLICE

Police officers are authorized to take up, capture, and impound any dog, domestic animal, or fowl found running at large or being herded on the streets, alleys, parks, or other public places within the city.

Any police officer finding an animal running at large may enter upon private property, except a dwelling house, for the purpose of taking up, capturing, and impounding such animal.

SECTION 12: RIGHT OF OFFICER TO SUBDUE AND/OR DESTROY

If a police officer finds that an animal at large threatens the safety of persons or property, the officer may subdue and capture the animal.

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In doing so, the police officer may use any dart or other projectile by means of which a tranquilizing drug may be injected into the animal and the propelling force which is approved by the chief of police.

In case of immediate danger of harm to himself/herself or other persons or animals, the officer may destroy the animal.

SECTION 13: NOTICE OF IMPOUNDMENT OF ANIMALS OR FOWL

The Chief of Police shall give immediate notice of the impounding of any animal or fowl under Section 11 with a description thereof, by posting the same in a conspicuous place at both the pound and in the City Police Department.

He shall, in the case of horses, mules, or cattle, give notice as provided in ORS 607.313.

SECTION 14: SALE OF IMPOUNDED ANIMALS

Except for horses, mules, or cattle, any animal or fowl impounded is subject to sale, destruction, or other disposition.

An impounded animal may be reclaimed by the owner or person entitled to possession if the prescribed costs are paid within five (5) days of the posting of notice.

EXOTIC ANIMALS

SECTION 15: DEFINITIONS

For the purposes of Sections 15 through 22:

- (A) Exotic, Wild, or Dangerous Animals.

- (1) "Exotic, wild, or dangerous animals" means and includes any animal which, because of its size, vicious nature, poisonous bite or sting, or other characteristics, would constitute a danger to human life or property if not kept or maintained under the immediate control of the owner.

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- (2) "Exotic, wild, or dangerous animals" includes, but is not limited to:
- (a) Any cat other than the *Felis catus*.
 - (b) Any nonhuman primate.
 - (c) Any wolf, coyote, or other canine not of the species *Canis familiaris*.
 - (d) Any shark, dogfish, or similar carnivorous fish.
 - (e) Any piranha fish.
 - (f) Any poisonous reptile, any crocodilian or lizard whose average adult length is greater than two (2) feet, any snake whose average adult length is greater than six (6) feet, or any snapping turtle.
 - (g) Any bat.
 - (h) Any skunk, weasel, badger, fox, mammals of the racoon family or wolverine.
 - (i) Any boar or wild pig.
 - (j) Any bear.
 - (k) Any kangaroo.
 - (l) Any eagle, hawk, buzzard or similar predatory bird.
 - (m) Any poisonous or stinging insect or arachnid.

SECTION 16:

EXOTIC ANIMALS PROHIBITED

Except as provided in Sections 17 through 19, no person shall keep or maintain one or more exotic, wild, or dangerous animals within the city.

The keeping or maintenance of an exotic, wild, or dangerous animal is a public nuisance and shall be abated in conformity with the requirements of this ordinance.

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SECTION 17: CERTAIN ANIMALS EXEMPT

Subject to any applicable sections of this ordinance, and any applicable federal or state law in effect at the time of an alleged offense, if an animal is not specifically identified as an exotic, wild or dangerous animal in Section 15, a person may lawfully keep or maintain such animal without an exotic animal license, subject to the provisions of the zoning ordinance, if the animal is:

- (a) Of the species *Felis catus*.
- (b) Of the species *Canis familiaris*.
- (c) A fish kept in a tank.
- (d) A nonpoisonous reptile.
- (e) A gerbil, hamster, guinea pig, mouse, rat, squirrel, chipmunk, ferret, or similar rodent-like creature kept in a cage.
- (f) An amphibian less than one foot in length such as a frog, toad, salamander, or chameleon.
- (g) Livestock as that term is defined in Section 1.
- (h) Bees kept in a collection of hives or colonies.

SECTION 18: ANIMALS EXEMPT WITH A LICENSE

- (1) Subject to other applicable sections of this ordinance and any applicable federal or state law in effect at the time of an alleged offense, it shall be lawful for a person to keep or maintain those animals identified below, if the person keeping or maintaining such animal has been issued and has maintained an annual exotic animal license under the requirements of Section 19.

(2) The following animals are exempt if licensed:

- (a) Any nonhuman primate of a species whose average adult weight is less than 20 pounds.

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- (b) Any cat not of the species *Felis catus*, but of another species whose average adult weight is less than 20 pounds. However, any such cat with a prior history of injury to humans or property shall not be allowed under this section.
- (c) Any poisonous or stinging insect or arachnid.

SECTION 19: EXOTIC ANIMAL LICENSING

(1) The city recorder may issue an exotic animal license for the keeping or maintenance of those animals identified in Section 28 for a period of one year, and he/she may renew the license for subsequent one-year periods if it is found by the animal control officer, after inspection of the premises where such animal is to be kept that:

- (a) The animal is at all times kept or maintained in a safe manner and is at all times confined securely so that keeping the animal will not constitute danger to human life or property.
- (b) Adequate safeguards are made to prevent unauthorized access to the animal by a member of the public.
- (c) The health and well-being of the animal is not in any way endangered by the manner of keeping or confinement.
- (d) The keeping of the animal will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.
- (e) The quarters in which the animal is kept or confined are adequately lighted and ventilated and are so constructed that they can be kept in a clean and sanitary condition.

- (f) The keeping of the animal will not create or cause offensive odors or in any other way constitute a danger to public health.
- (g) The applicant for such a license has proven ability to respond to damages up to, and including, the amount of \$100,000 for bodily injury or death of any person or persons, or for damage to property owned by any other person which may result from the keeping or maintenance of such animal.

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Such proof of ability to respond in damages may be given by filing with the city recorder a certificate of insurance, stating that the applicant is at the time of application, and will be during the period of his/her license, insured against liability for personal and property damages as described in this subpart; or by posting a bond with the city recorder prior to the issuing of the exotic animal license and operative to the time of the license in the amount of \$100,000.

The bond or certificate of insurance shall provide that no cancellation of insurance or bond will be made unless thirty (30) days' written notice is first given to the city recorder.

- (2) Prior to the annual renewal of an exotic animal license, the animal control officer shall inspect the premises subject to the license to determine if the person to whom it has been issued is continuing to comply with all of the conditions specified in this section.

In addition, the animal control officer shall have the authority to inspect the premises upon the receipt of any complaint regarding the maintenance of such premises or the animals therein.

If the officer determines, during his/her inspection, that any of the conditions specified in subsection (1) of this section are being violated, the officer shall refuse to renew the license or shall revoke the license unless the violation is corrected within a period of time as he/she shall direct, not to exceed thirty (30) days.

- (3) In addition to the requirements of subsection (1) of this section, the applicant for an exotic animal license shall pay to the city recorder a fee

of \$50 for each adult animal to be kept or maintained on the premises subject to the license.

- (4) No person shall sell or give away any exotic, wild, or dangerous animal to any person not holding an exotic animal license issued and maintained under this section.
- (5) In no event shall an exotic animal license be issued or renewed for the keeping of more than two adult exotic, wild, or dangerous animals in any single location.

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SECTION 20: **ABATEMENT OF EXOTIC, WILD, OR
DANGEROUS ANIMAL NUISANCES**

The chief of police shall execute any judgment which may be rendered by the municipal judge after a hearing as provided in Section 7 in the matter of abating any nuisance described in Sections 16 and 18.

When the judgment requires the chief of police to abate a nuisance caused by an exotic, wild, or dangerous animal, the animal shall be seized and confined so that the annoyance complained of will not be continued.

The chief of police shall immediately advertise the animal for sale to the highest bidder.

The purchaser of the animal shall agree to remove the same from the corporate limits of the city or to otherwise conform its maintenance to provisions of this ordinance and any applicable state or federal law then in effect.

The proceeds of the sale shall be applied by the chief of police as follows:

- (1) To the payment of any cost which may be incurred in the municipal court in the matter of the action for abatement of the nuisance.
- (2) To the payment of any cost which the chief of police may incur in caring for such animal and in selling the same.
- (3) The surplus, if any, shall be delivered by the chief of police to the owner of the animal.

SECTION 21: EXCEPTIONS TO PROVISIONS

The provisions of Sections 16 through 19 shall not apply to the keeping of exotic, wild, or dangerous animals in the following cases:

- (1) The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view or for the purposes of instruction or study.

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- (2) The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show.
- (3) The keeping of such animals in a bona fide, licensed veterinary hospital for treatment.

SECTION 22: INSTITUTIONS

The institutions keeping or maintaining exotic, wild, or dangerous animals in conformity with Section 21 shall comply with all federal and state regulations regarding such maintenance.

SECTION 23: INTERFERENCE WITH OFFICERS

It shall be unlawful for any person to interfere with, molest, or harm any police officer in the prosecution of his/her duties under the terms of this ordinance.

SECTION 24: PENALTIES

Violations of any provision of this ordinance shall result in a fine not to exceed \$500 for each violation.

SECTION 25: SEVERABILITY

The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections and subsections.

SECTION 26: EXCEPTIONS

The provisions of this ordinance shall not apply to animals submitted for exhibition and display at the Jefferson County Rodeo and Fairgrounds.

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Residents of the South Side annexation who were annexed as of November, 1988, shall be allowed to maintain the animals that were in existence as of the annexation; however, these animals shall not be replaced when they expire if they do not comply with this ordinance.

The sale of property or transfer of ownership shall terminate the right to maintain the animals under this section.

SECTION 27: EMERGENCY CLAUSE

An emergency affecting the peace, health, and safety of the general public of the city of Madras is deemed to exist; therefore, the foregoing ordinance shall be in full force and effect from and after its passage by the common council and upon its approval by the mayor.

Passed by the council and approved by the mayor June 23, 1992.