

ORDINANCE NO. 86

**AN ORDINANCE OF THE CITY OF SHELLY, MINNESOTA,
ADOPTING DOG AND CAT REGULATIONS,
INCLUDING PENALTIES FOR VIOLATION THEREOF.**

**THE CITY COUNCIL OF THE CITY OF SHELLY, MINNESOTA, DOES
ORDAIN:**

SECTION 1. PURPOSE AND OBJECTIVE. This ordinance is established for the following purposes and objectives:

- (A) ANIMAL CRUELTY. To define and prohibit the abuse of dogs and cats.
- (B) RABIES. To protect citizens and animals of the City of Shelly from rabies transmitted by unconfined, uncontrolled, or unimmunized dogs or cats.
- (C) ANIMALS AT LARGE. To regulate, restrict, or prohibit the running at large of dogs or cats.
- (D) STRAY ANIMALS. To regulate, restrict, or prohibit the keeping of stray dogs or cats.
- (E) ANIMAL NUISANCE. To regulate animals that are a nuisance as defined herein.
- (F) IMPOUNDMENT OF DOGS AND CATS. To regulate the impoundment and confinement of animals.
- (G) DANGEROUS DOGS. To establish procedures and enforcement regulations governing dangerous dogs, pursuant to Minnesota Statutes, Section 347.53.

SECTION 2. CONSTRUCTION. Except where the contrary intention appears either from this Ordinance or from the context of any other ordinance or applicable law, the provisions of this Ordinance and any other ordinance in force, whether such other ordinance came or comes into operation before or after the adoption of this Ordinance, shall be construed together.

SECTION 3. DEFINITIONS. For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) "At Large" shall mean the dog or cat is off the property of the person owning, harboring, or keeping the animal, and is not under restraint or control of a person by leash or otherwise;

(B) "Cat" shall mean any feline, regardless of age or sex;

(C) "Cruel" shall mean causing unnecessary and excessive pain or suffering or unjustifiable injury or death.

(D) "Dog" shall mean any canine, regardless of age or sex;

(E) "Owner" shall mean any person owning, harboring, or keeping a dog or cat and the occupant of any premises on which a dog or cat remains or to which it customarily returns for a period of ten (10) days; such person is presumed to be harboring or keeping a dog or cat within the meaning of this Ordinance.

SECTION 4. ANIMAL CONTROL OFFICER. There is hereby established the position of Animal Control Officer who is appointed by the City Council. Nothing contained herein shall prevent the City Council from contracting with a person to provide such services. The Animal Control Officer is hereby authorized and empowered to issue citations for violations of this Ordinance and to otherwise enforce the same.

SECTION 5. DUTIES OF ANIMAL CONTROL OFFICER. The animal control officer shall perform the following duties:

(A) Capture, seize, and deliver to any designated pound any dog or cat under the authority of this Ordinance;

(B) Investigate all reported incidents wherein a dog or cat has violated a provision of this Ordinance;

(C) Issue citations for violations of this Ordinance;

(D) Provide a written monthly report to the City Council pertaining to the activities of the Animal Control Officer;

(E) Such other matters as may be prescribed by the City Council.

SECTION 6. LICENSING; PROCEDURE; FEES.

(A) **LICENSE REQUIRED.** No dog or cat, six (6) months of age or older, may be kept within the City unless a license therefore shall first be secured. Licenses shall be issued by the City Clerk, or designee, upon payment by the applicant of the fees established below. An applicant for a

license for a neutered or spayed dog or cat shall present a statement from a qualified veterinarian to the effect that the operation for neutering or spaying was performed and giving the date thereof, and if this certificate is not furnished, then the license fee shall be the same as for any unneutered/unsprayed dog or cat. Applicants must also furnish a certificate from a veterinarian that the applicant's dog or cat has been vaccinated for rabies as provided for in Section 10 of this Ordinance.

(B) FEES. The owner of a dog or cat shall pay the license fee of \$3.00 for each neutered/spayed dog or cat and the sum of \$5.00 for each unneutered/unsprayed dog or cat on or before the first day of July in each year, or within thirty (30) days of acquiring ownership or possession of any unlicensed dog or cat.

(C) RECEIPT AND TAGS. Upon the payment of the license fee, the City Clerk, or designee, shall execute a receipt to the person who pays the fee, and retain a duplicate. The City Clerk, or designee, shall procure a sufficient number of suitable tags, the shape of which shall be different for each license year, and shall deliver one tag to the person paying the license fee.

(D) AFFIXING TAGS. The owner shall cause the tag to be affixed by a permanent fastening to the collar of the dog or cat so licensed in such a manner that the tag may be easily seen by the officers of the City. Any dog or cat within the City not wearing a tag for the then current license year shall be deemed to be unlicensed.

(E) IMPOUNDING UNLICENSED DOGS OR CATS. The Animal Control Officer shall mail written notice to the owner by certified U.S. Mail of any unlicensed dog or cat, notice to be mailed to the location where the dog or cat is harbored or kept. The owner shall license any such unlicensed dog or cat within (30) days of receipt of the notice. If the owner fails to license the dog or cat within the time period, the Animal Control Officer may impound the dog or cat. Any dog or cat that is so impounded may be reclaimed by its owner by payment of the pound fees and compliance with the license requirements of this Ordinance.

(F) DUPLICATE TAGS. If a dog's or cat's tag is lost, a duplicate may be issued by the City Clerk, or designee, upon presentation of a receipt showing the payment of the license fee for the then current license year and after payment by the applicant of \$2.00 for issuance of a duplicate license.

SECTION 7. POUND. The City Council may designate as the pound or animal shelter a suitable kennel or other animal facility, either within or without the City limits.

SECTION 8. DISPOSITION OF UNCLAIMED ANIMALS. Any dog or cat which is not claimed as provided in this Ordinance after seven (7) days of impounding may be sold to anyone desiring to purchase the animal, the amount of which shall be ascertained by the Animal Control Officer which shall reflect the breed of the dog or cat and the impoundment cost. Such funds shall be placed in the general fund of the City. Any animal which is not claimed by the owner or not sold, shall be destroyed at the discretion of the Animal Control Officer.

SECTION 9. DANGEROUS DOGS.

(A) **ATTACK BY DOG.** It shall be unlawful for any person's dog to inflict or attempt to inflict bodily injury on any person or other animal.

(B) **DESTRUCTION OF DANGEROUS DOG.** The Animal Control Officer shall have the authority to order the destruction of a dangerous dog in accordance with the terms established by Section 9 of this Ordinance. If no appeal is requested, the dangerous dog designation will stand and the Animal Control Officer may order the animal destroyed.

(C) **DEFINITIONS.** For purpose of this Section, the following definitions apply.

(1) "Dangerous dog" shall mean any dog that has:

(a) without provocation, inflicted substantial bodily harm on a human being on public or private property;

(b) killed a domestic animal without provocation while off the owner's property; or

(c) been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(2) "Potentially dangerous dog" shall mean any dog that:

(a) when unprovoked, inflicts bites on a human or domestic animal on public or private property;

(b) when unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or

(c) has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

(3) "Unprovoked" shall mean the condition in which the dog is not purposely excited, stimulated, agitated, or disturbed. It is a rebuttable presumption that any attack on a child fourteen years of age or younger for which a reasonable person connotes an intent to inflict bodily harm will be considered to be unprovoked unless the child is engaged in the commission of a crime or illegal activity, including activities classified under Minnesota Statutes, Chapter 343.

(4) "Proper enclosure" shall mean securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

(D) DESIGNATION OF A POTENTIALLY DANGEROUS DOG.

(1) The Animal Control Officer shall designate any dog as a potentially dangerous dog upon receiving evidence that the dog has engaged in conduct set forth in Section 9(C)(2) of this Ordinance.

(2) The Animal Control Officer shall cause one owner of the potentially dangerous dog to be notified in writing that the dog is potentially dangerous. The written notice must include dates, times, and places of parties bitten or chased, and shall be served personally or by certified or registered mail.

(E) APPEAL OF A POTENTIALLY DANGEROUS DOG DESIGNATION.

(1) Within fourteen (14) days of the date of a potentially dangerous dog notice, the owner of the dog may make a written request for a hearing to contest the designation. The written request must be made to the City Clerk or the designee identified in the written notice. Failure to request a hearing within fourteen (14) days of the date of the notice will terminate the owner's right to a hearing to contest the designation.

(2) The hearing shall be held by an independent hearing examiner selected by the City who shall set a date for a hearing not more

than ten (10) days after demand for the hearing. The hearing officer will make findings of fact and will either affirm or reject the Animal Control Officer's potentially dangerous dog designation or may impose other sanctions as warranted. The hearing officer shall make a final decision within seven (7) days of the hearing.

(F) DESIGNATION OF A DANGEROUS DOG.

(1) The Animal Control Officer shall designate any dog as a dangerous dog upon receiving evidence that the dog has engaged in conduct set forth in Section 9(C)(1) of this Ordinance.

(2) The Animal Control Officer may impound any dog determined to pose a threat to public safety pending a final dangerous dog designation order.

(3) The Animal Control Officer will cause one owner of the dangerous dog to be notified in writing that the dog is dangerous. The written notice will include dates, times, and places of parties bitten or chased, and shall be personally served or by certified or registered mail.

(G) APPEAL OF DANGEROUS DOG DESIGNATION.

(1) Within fourteen (14) days of the date of a dangerous dog notice, the owner of the dog may make a written request for a hearing to contest the designation. The written request must be made to the City Clerk or the designee identified in the written notice. Failure to request a hearing within fourteen (14) days of the date of the notice will terminate the owner's right to a hearing to contest the designation.

(2) The hearing shall be held by an independent hearing examiner selected by the City who shall set a date for a hearing not more than ten (10) days after demand for the hearing. The hearing officer will make findings of fact and will either affirm or reject the Animal Control Officer's dangerous dog designation or may impose other sanctions as warranted. The hearing officer shall make a final decision within seven (7) days of the hearing.

(H) POTENTIALLY DANGEROUS DOG REGISTRATION REQUIREMENTS. The owner shall complete all of the following registration requirements within twenty (20) days after the date of the notice that the dog has been declared potentially dangerous if no request is made for a hearing, or within five (5) days after the hearing officer makes a final decision if a hearing is requested:

- (1) provide the Animal Control Officer the owner's address and home and work telephone numbers;
- (2) provide and maintain a proper enclosure for the potentially dangerous dog as specified in Section 9(C)(4) of this Ordinance;
- (3) annually provide proof a surety bond has been issued by a surety company authorized to conduct business in this state in a form acceptable to the Animal Control Officer in the sum of at least \$300,000, payable to any person injured by the potentially dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the potentially dangerous dog;
- (4) pay an annual fee of \$100, in addition to any regular dog licensing fees, to obtain a certificate of registration;
- (5) implant microchip identification in the potentially dangerous dog and provide the Animal Control Officer the implanted microchip identification number; and
- (6) provide the Animal Control Officer proof the potentially dangerous dog is current in all vaccinations.

(I) **DANGEROUS DOG REGISTRATION REQUIREMENTS.** If the Animal Control Officer does not order the destruction of an animal that has been declared dangerous, the owner shall complete all of the following registration requirements within twenty (20) days after the date of the notice that the dog has been declared dangerous if no request is made for a hearing, or within five (5) days after the hearing officer makes a final decision if a hearing is requested:

- (1) provide the Animal Control Officer the owner's address and home and work numbers;
- (2) provide and maintain a proper enclosure for the dangerous dog as specified in Section 9(C)(4) of this Ordinance;
- (3) post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous dog on the property, as specified in Minnesota Statutes, Section 347.51, as may be amended from time to time;

(4) annually provide proof a surety bond has been issued by a surety company authorized to conduct business in this state in a form acceptable to the Animal Control Officer in the sum of at least \$300,000, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog;

(5) pay an annual fee of \$500, in addition to any regular dog licensing fees, to obtain a certificate of registration;

(6) implant microchip identification in the dangerous dog and provide the Animal Control Officer the implanted microchip identification number;

(7) affix an easily identifiable tag with the uniform dangerous dog animal symbol to the dangerous dog's collar; and

(8) provide proof the dangerous dog is current in all vaccinations.

(J) VIOLATION OF POTENTIALLY DANGEROUS DOG REGISTRATION REQUIREMENTS. The owner of a potentially dangerous dog must register the potentially dangerous dog according to and within the prescribed time period in Section 9(H).

(K) VIOLATION OF DANGEROUS DOG REGISTRATION REQUIREMENTS.

(1) The owner of a dangerous dog must register the dangerous dog according to and within the prescribed time period in Section 9(I).

(2) The Animal Control Officer shall immediately seize a dangerous dog if:

(a) the dog is not maintained in a proper enclosure;

(b) the dog is outside the proper enclosure and not under the physical restraint of a responsible person; or

(c) the dog is not validly registered within the applicable prescribed time period in Section 9(I) of this Ordinance.

(3) The owner may reclaim the dog upon payment of impounding and boarding fees and upon presenting proof to the Animal Control Officer that the requirements of Section 9(I) have been satisfied.

(4) A dangerous dog not reclaimed under Section 9(K)(3) of this Ordinance may be destroyed, and the owner is liable to the City for costs incurred in confining and destroying the dog.

(L) EXEMPTIONS. Dogs may not be declared dangerous if the threat, injury, or damage was sustained by a person:

(1) who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;

(2) who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or

(3) who was committing or attempting to commit a crime.

(M) DESIGNATIONS BY ANOTHER JURISDICTION. Any dog deemed dangerous or potentially dangerous by another jurisdiction and subsequently brought into the City shall be deemed a dangerous or potentially dangerous dog. The owner of such a dog must notify the Animal Control Officer within 30 days of entering the jurisdiction and abide by the provisions of this Ordinance.

SECTION 10. VACCINATION; RABIES; PROCEDURE.

(A) VACCINATION REQUIRED. Every dog or cat six (6) months of age and older at the expense of the owner shall be vaccinated against rabies and shall be re-vaccinated in twenty-four (24) month intervals thereafter or as directed by a proclamation of the City Council ordering more frequent vaccinations in the event of a rabies outbreak.

(B) RABIES PROCLAMATION. Whenever the prevalence of rabies renders such action necessary to protect the public's health and safety, the City Council shall issue a proclamation declaring such emergency. Any dog or cat running at large during the time fixed in the proclamation suspected of being rabid may be destroyed by the Animal Control Officer with notice to the owner.

(C) CERTIFICATION. Every owner of a dog or cat shall obtain from the veterinarian, at the time of vaccinating any dog or cat, a certificate of rabies vaccination which must include the following information:

(1) the owner's name and address;

(2) a description of the animal;

- (3) the date of vaccination
- (4) the rabies vaccination tag number; and
- (5) the signature of the veterinarian.

A copy of the certification should be delivered to the owner of the dog or cat and a copy retained by the issuing veterinarian. The veterinarian and the owner should retain their copies for the interval between vaccinations. Further, the owner shall obtain from the veterinarian a tag serially numbered as evidence that the dog has been vaccinated. The tag must be attached to a collar worn by the dog or cat while off the premises of the owner.

(D) UNVACCINATED DOG OR CAT BITES PERSON. Any dog or cat suspected of being afflicted with rabies which has not been vaccinated in accordance with this Section that has bitten a person or caused an abrasion of the skin of such person, shall be seized and impounded for a period of not less than ten (10) days. If, upon examination by a veterinarian, the dog or cat has no signs of rabies at the end of the impoundment, it may be released to the owner. If the veterinarian determines that the dog or cat is rabid, it shall be destroyed by the Animal Control Officer or a designee of the same.

(E) VACCINATED DOG OR CAT BITES PERSON. Any dog or cat vaccinated in accordance with this section which has bitten a person shall be confined by the owner or at a location designated by the Animal Control Officer for a period of ten (10) days at which time the dog or cat shall be examined by a veterinarian. If no signs of rabies are observed by the veterinarian during the prescribed time period, the dog or cat may be released from confinement to its owner. If the veterinarian determines that the dog or cat is rabid, it shall be destroyed by the Animal Control Officer or a designee of the same.

(F) DOG OR CAT BITTEN BY RABID ANIMAL. In the case of a dog or cat that has been bitten by a rabid animal, the following rules apply:

(1) Unvaccinated Animals.

- (a) In the case of dogs or cats which have not been vaccinated in accordance with this Section which have been bitten by a known rabid animal, the bitten dog or cat shall be destroyed upon written consent of the owner.

(b) If the owner is unwilling to have the bitten dog or cat destroyed, strict isolation of the dog or cat in a kennel under veterinarian supervision for a minimum of six (6) months shall be required. The owner of the animal shall bear the expense for the same.

(c) If a veterinarian determines that the bitten dog or cat is rabid, it shall be destroyed by the Animal Control Officer or a designee of the same.

(2) Vaccinated Animals.

(a) If the bitten dog or cat is vaccinated in accordance with the provision of this Section, the dog or cat shall be held as follows:

(i) The dog or cat shall immediately be revaccinated and confined at the owner's home for a period of thirty (30) days following revaccination; or

(ii) If the dog or cat is not immediately revaccinated, the animal shall be confined in strict isolation in a kennel for six (6) months under the supervision of a veterinarian.

(b) If a veterinarian determines that the bitten dog or cat is rabid, it shall be destroyed by the Animal Control Officer or a designee of the same.

(G) **IMPOUNDMENT.** Any dog or cat found off the owner's premises not wearing a valid rabies vaccination tag shall be impounded without notice to the owner. Any dog or cat that is so impounded may be reclaimed by its owner by payment of the pound fees and compliance with the rabies vaccination requirements of this Ordinance.

SECTION 11. VARIOUS OFFENSES.

(A) Running at Large. It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large.

(B) Barking Dog. No person shall keep or harbor a dog which habitually barks, yelps, howls, cries, or whimpers so as to unreasonably disturb the peace and quiet of any person in the vicinity. The phrase "unreasonably disturb the peace and quiet" shall include but is not limited to, the creation of any noise by a dog which can be heard by any person, including a peace officer or the Animal Control Officer, from a location at least 100

feet from the building or premises where the dog is being kept and such noise occurs repeatedly over at least a five (5) minute period of time with one (1) minute or less lapse of time between each dog noise during the five (5) minute period.

(C) Nuisance. No person shall keep or harbor a dog or cat which constitutes a nuisance. It is a nuisance for any dog or cat to habitually or frequently bark or cry at night, to frequent school grounds or parks, to chase vehicles, to molest or annoy any person away from the property of the owner, or to damage, defile, or destroy public or private property.

(D) Removal of Dogs or Cats. It is unlawful for any unauthorized person to break open the pound or attempt to do so or to take or let out any dog or cat therefrom or to take or attempt to take from any officer or designee any dog or cat taken up by the officer or designee in compliance with this Ordinance or in any manner to interfere with or hinder such officer or designee in the discharge of duties under this Ordinance.

(E) Counterfeit Tags. It is unlawful to counterfeit or attempt to counterfeit the tags provided herein, or to take from any dog or cat a tag legally placed upon it by its owner with the intention of placing it upon another cat or dog.

(F) Animal Waste. It is unlawful for any owner to suffer or permit any dog or cat to defecate upon public property, or the private property of another, without immediately removing the excrement and disposing of it in a sanitary manner.

(G) License. It is unlawful for the owner of any dog or cat to fail to have the license tag issued by the City firmly attached to a collar worn at all times by the licensed animal.

(H) Rabies Vaccination. It is unlawful for the owner of any dog or cat to fail to have the animal currently immunized for rabies.

(I) Interference with Duties of this Ordinance. It is unlawful for the owner of any dog or cat to interfere with any officer or designee, in the performance of his or her duty to implement or enforce this Ordinance.

(J) Abandonment. It is unlawful for the owner of any dog or cat to abandon any animal in the City.

(K) Adequate Care. It is unlawful for the owner of any dog or cat to fail to provide the animal with sufficient good and wholesome food and water, proper shelter and protection from the elements, veterinary care when

needed to prevent suffering, and humane care and treatment, or to otherwise treat a dog or cat in a cruel manner.

SECTION 12. PENALTY. Every person violates a section, division, or provision of this Ordinance when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor carrying a sentence of not more than 90 days or a fine of not more than \$1,000.00, or both. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

SECTION 13. REPEAL. Any provision(s) of previous ordinance(s) inconsistent with this Ordinance is/are repealed.


SECTION 14. SEVERABILITY. If a provision of this Ordinance is declared invalid, the remaining provisions shall remain in full force and effect unless they cannot be made effective without the invalid provision.

SECTION 15. EFFECTIVE DATE. This Ordinance becomes effective on the date of its publication.

Voting in the negative: Ø

Voting in the affirmative: Oybing, Swatstad, Johnson, Bernhardson

Passed this 5th day of November, 2012.



Mayor

ATTEST: JoDean Seil
Clerk

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