



# City of Saginaw

## City of Saginaw

**Meeting Date:** 11/17/2015

**Staff Contact:** Mark White  
Director of Public Works

**Agenda Item:** 9  
(CC-1115-13)

**E-mail:** [mwhite@saginawtx.org](mailto:mwhite@saginawtx.org)

**Phone:** 817-230-0500

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**SUBJECT:** Consideration and Action regarding Ordinance No. 2015-11, amending Chapter 6 “Animals” of the Saginaw City Code to prohibit vehicle confinement and tethering of animals under certain conditions; requiring the notification to owners of a dangerous dog to be made in writing; prohibiting the destruction of a dangerous dog during the pendency of an appeal; and providing for appeals from the Municipal Court for decisions concerning dangerous dogs

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**BACKGROUND/DISCUSSION:**

Earlier this year, the Texas Legislature passed House Bill 1436. The purpose of this bill was to clarify the court proceedings involving dangerous dogs. In response to the changes in state law, the City Attorney reviewed our ordinances to ensure compliance. Ordinance No. 2015-11 addresses the amendments that are necessary to comply with state law requirements.

**FINANCIAL IMPACT:**

N/A

**RECOMMENDATION:**

Staff recommends approval of Ordinance No. 2015-11, amending Chapter 6 “Animals” of the Saginaw City Code.

**Attachments**

Memo from Kevin McMillin  
Proposed Ordinance



## City of Saginaw

November 11, 2015

City of Saginaw

**Re: Amending Animal Ordinance**

Staff Report

**SUBJECT:** Consideration and Action regarding regulations governing animal control and dangerous dogs by amending chapter 6, of the city code to prohibit vehicle confinement and tethering of animals under certain conditions and revising the dangerous dog section to reflect changes in state law. This ordinance was prepared by the city attorney's office.

**RECOMMENDATION:**  
Staff recommends approval

Kevin McMillin CBO  
City of Saginaw  
Building Department

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**ORDINANCE NO. 2015-11**

**AN ORDINANCE OF THE CITY OF SAGINAW, TEXAS, REVISING REGULATIONS GOVERNING ANIMAL CONTROL AND DANGEROUS DOGS BY AMENDING CHAPTER 6, "ANIMALS," OF THE SAGINAW CITY CODE TO PROHIBIT VEHICLE CONFINEMENT AND TETHERING OF ANIMALS UNDER CERTAIN CONDITIONS; REQUIRING THE NOTIFICATION TO OWNERS OF A DANGEROUS DOG TO BE MADE IN WRITING; PROHIBITING THE DESTRUCTION OF A DANGEROUS DOG DURING THE PENDENCY OF AN APPEAL; PROVIDING FOR APPEALS FROM THE MUNICIPAL COURT FOR DECISIONS CONCERNING DANGEROUS DOGS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Saginaw, Texas, is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council has previously adopted ordinances regulating animal control; and

**WHEREAS**, the American Veterinary Medicine Association has published an article providing that confinement of animals inside a standing vehicle can quickly lead to severe injury and/or death of the animal, and that even on days with moderate ambient temperature of seventy degrees Fahrenheit temperatures inside of a vehicle can spike as much as forty degrees higher than the ambient outside temperature within one hour before and approximately twenty degrees within a ten minute period; and

**WHEREAS**, a study by the Louisiana State Medical Society indicates that the color of the vehicle, partially opened windows, and cloud cover do not lessen the risks of severe injury or death to an animal due to enclosure in a vehicle; and

**WHEREAS**, reports from the New Mexico Department of Public Safety and the Center for Disease Control, indicate that tethering of animals is known to cause an increased risk of injury and/or death to animals and may lead to increased aggression in animals; and

**WHEREAS**, the City Council now desires to adopt regulations prohibiting the confinement of animals in a vehicle under certain conditions and prohibiting the tethering of dogs to a stationary object or trolley under certain conditions; and

**WHEREAS**, the legislature recently passed House Bill 1436 clarifying the court proceedings involving a dangerous dog determination; and

**WHEREAS**, the City Council now desires to amend its ordinance regarding dangerous dogs to ensure compliance with the state law requirements; and

**WHEREAS**, the City Council hereby finds and determines that the regulations and amendments set forth herein are in the best interest of the public and are adopted in furtherance of the public health, safety, morals, and general welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAGINAW, TEXAS:**

### **SECTION 1.**

That Section 6-43 "Animal Care," of Chapter 6 "Animals" of the Saginaw City Code is hereby amended by adding subsection (g) "Vehicle Confinement" to read as follows:

(g) *Vehicle Confinement.*

- (1) A person shall not place or confine an animal or allow an animal to be placed or confined in a motor vehicle or in a trailer under such conditions or for such a period of time as may endanger the health of the animal due to heat, lack of food or water, or such other circumstances as may cause injury or death to the animal.
- (2) It is presumed that an animal's health, safety, or welfare is endangered when the animal is confined in a parked or standing vehicle, without the engine running or climate control system engaged, or in a trailer for a period of five (5) minutes or more when the ambient outside air temperature measures above eighty (80) degrees Fahrenheit or below thirty-five (35) degrees Fahrenheit. It shall be deemed *prima facie* evidence of a violation of this ordinance when the ambient outside air temperature is verified through the Saginaw Fire Department.
- (3) If an Animal Services Officer or Police Officer investigating this situation determines the animal in question must be removed from the vehicle immediately or risk damage or injury to the health, safety, or welfare of the animal, the Animal Services Officer or Police Officer may use reasonable force to remove the animal from the vehicle. Appropriate intervention shall be administered to the animal immediately, with all associated costs being the responsibility of the person having care or custody of the animal and who is responsible for the confinement in the vehicle or trailer.

- (4) It shall be the responsibility of the person having care of custody of the animal, who placed or confined the animal in the vehicle or trailer, to repair any damage resulting from the use of reasonable force to intervene on behalf of the animal.

## SECTION 2.

That Section 6-43 "Animal Care," of Chapter 6 "Animals" of the Saginaw City Code is hereby amended by adding subsection (h) "Tethering" to read as follows:

(h) *Tethering.*

- (1) A person commits an offense if he uses a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system. This section does not prohibit a person from walking a dog with a hand held leash.
- (2) It is a defense to prosecution under this section that:
- a. The dog is being tethered during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity; or
  - b. the dog tethering is required to protect the safety or welfare of a person or the dog, and the dog's owner maintains direct physical control of the dog; or
  - c. the dog tethering is due to force majeure and the dog is tethered for less than one hour within a twenty-four hour period; or
  - d. the dog tethering:
    - i. occurs while the dog is within the owner's direct physical control; and
    - ii. prevents the dog from advancing to the edge of any public right of way.
- (3) The defenses under this section are only available if the following specifications are met:
- a. The chain, rope, tether, leash, cable, or other device is attached to a properly fitted collar or harness worn by the dog;

- b. the chain, rope, tether, leash, cable, or other device is not placed directly around the dog's neck;
- c. the chain, rope, tether, leash, cable, or other device not does exceed 1/20th of the dog's body weight;
- d. the chain, rope, tether, leash, cable, or other device, by design and placement allows the dog a reasonable and unobstructed range of motion without entanglement; and
- e. the dog has access to adequate shelter and clean and wholesome water.

### **SECTION 3.**

That Section 6-47 "Requirements for owner of dangerous dog or animal," of Chapter 6 "Animals" of the Saginaw City Code is hereby amended by amending subsection (c) (3) to read as follows:

(c) Failure to comply.

- (3) The court shall order the animal control authority to humanely destroy the dog or animal if the owner has not complied with subsection (a) before the 11th day after the date on which the dog or animal is seized or delivered to the authority, except that, notwithstanding any other law or local regulation, the court may not order the destruction of a dog during the pendency of an appeal. The court shall order the authority to return the dog or animal to the owner if the owner complies with subsection (a) before the 11th day after the date on which the dog or animal is seized or delivered to the authority.

### **SECTION 4.**

That Section 6-48 "Determination that dog or animal is dangerous," of Chapter 6 "Animals" of the Saginaw City Code is hereby amended to read as follows:

- (a) If a person reports a dangerous incident, the animal control officer may investigate the incident, if, after receiving the sworn statements of any witnesses, the animal control officer determines that the dog or animal is a dangerous dog or animal, it shall notify the owner in writing of that fact.
- (b) An owner, not later than the 15th day after the date the owner is notified that a dog or animal owned by the owner is a dangerous dog or animal, may make a written appeal of the determination of the animal control officer to the municipal court of the city.

- (c) For purposes of this section, an appeal of the determination of the animal control officer to the municipal court of the city shall be considered effective on the date it is postmarked or hand-delivered to the city care of the director of the animal control authority. Upon timely receipt of an appeal, the director of the animal control authority shall schedule a hearing before the municipal court of the city pursuant to section 6-50.
- (d) An owner may appeal the decision of the municipal court in the manner set forth in Section 822.0424 of the Texas Health and Safety Code.

#### **SECTION 5.**

That Section 6-50 "Hearing," of Chapter 6 "Animals" of the Saginaw City Code is hereby amended by amending section (d) and adding a new section (e) to read as follows:

- (d) The court shall determine the estimated costs to house and care for the impounded dog during the appeal process and shall set the amount of bond for an appeal adequate to cover those estimated costs.
- (e) An owner or person filing the action may appeal the decision of the municipal court in the manner set forth in Section 822.0424 of the Texas Health and Safety Code.

#### **SECTION 6.**

This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Saginaw, and this ordinance shall not operate to repeal or affect the Saginaw City Code or any other ordinances.

#### **SECTION 7.**

The sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

#### **SECTION 8.**

Any person, firm, association of persons, corporation, or other organization violating any provision of this ordinance shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed \$2,000.00, as provided by

Sec. 1-13 of the Saginaw City Code. Each day that a violation continues shall be deemed a separate offense.

**SECTION 9.**

The City Secretary of the City of Saginaw is hereby directed to publish at least twice in the official newspaper of the City of Saginaw, the caption and the penalty clause of this ordinance in accordance with Section 52.013(b) of the Local Government Code.

**SECTION 10.**

This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the laws of the State of Texas.

**PASSED AND APPROVED ON this the \_\_\_\_ day of \_\_\_\_\_, 2015.**

\_\_\_\_\_  
GARY BRINKLEY, MAYOR

ATTEST:

\_\_\_\_\_  
JANICE ENGLAND, CITY SECRETARY

EFFECTIVE: \_\_\_\_\_

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
BRYN MEREDITH, CITY ATTORNEY