

ORDINANCE NO. 12-006

AN ORDINANCE OF THE CITY OF SOMERVILLE ADOPTING ANIMAL CONTROL REGULATIONS DESIGNED TO PROTECT THE PUBLIC HEALTH AND SAFETY; REPEALING ORDINANCES 75-09, 79-26, 80-09, 86-01 AND 03-002 RELATING TO ANIMAL CONTROL IN THEIR ENTIRETY; PROVIDING COMPREHENSIVE REQUIREMENTS FOR THE KEEPING AND CARE OF ANIMALS AND FOWL; PROVIDING FOR THE CONTROL, REGULATION, LICENSING, PERMITTING AND VACCINATION OF DOGS; PROVIDING REGULATIONS AND REQUIREMENTS FOR OTHER ANIMALS, FOWL, LIVESTOCK AND WILD AND EXOTIC ANIMALS; PROVIDING FOR IMPOUNDING AND DISPOSITION OF ANIMALS RUNNING AT LARGE OR OTHERWISE IN VIOLATION OF THIS ORDINANCE; PROVIDING PROCEDURES FOR RABIES REPORTING AND CONTROL; PROVIDING CERTAIN EXEMPTIONS; PROVIDING FINES AND PENALTIES; REPEALING ALL PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING SEVERABILITY AND OPEN MEETINGS CLAUSES; AND PROVIDING FOR RELATED MATTERS.

Note: This contains the only the text of the ordinance. Copies of the complete ordinance may be obtained at city hall.

ANIMAL CONTROL REGULATIONS OF THE CITY OF SOMERVILLE

ARTICLE I. IN GENERAL

A. Purpose. It is the intent and purpose of this Ordinance to provide a safe and healthy environment within the City for both animals and people. While a person may own and keep animals within the City, the conduct of those animals and the conditions that the animals are kept in should be safe and healthy and should not infringe on the surrounding homes and their inhabitants.

B. Definitions. The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section:

Abandon: To dump, desert, or leave any animal on public or private property with the intent of terminating any further responsibility for said animal; to fail to redeem any animal impounded or quarantined by the city in a timely manner, as specified herein; or to desert or leave without care, food, shelter, or a continuous source of clean water for a period of twenty four hours (24 hrs.) or more.

Animal: Any bird, reptile, or mammal, other than a human being, Including but not limited to livestock, fowl, and wildlife, as well as all breeds of dogs and cats and pet animals.

Animal Control Officer: A person designated by the city as the primary enforcement officer regulating animals and owners of animals and for the enforcement of sections of the state statutes pertaining to the care and control of animals. The animal control officer is specifically granted the authority to issue notices of violation and file complaints in municipal court for the enforcement of animal control regulations. Any peace officer of the city may enforce animal control regulations as per this ordinance, including the issuance of citations.

Animal Control Authority: The Animal Control officer, or in his absence, the Chief of Police or any peace officer so designated by him.

Brand: A mark made on the skin of any animal which indicates the ownership of the animal; typically used with livestock.

Dangerous Dog: Has the meaning given in Texas Health and Safety code, section 822.041, as amended from time to time, and also includes any dog that makes and unprovoked attack on a domestic animal that causes serious bodily injury or death and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own.

Dangerous Wild Animal: shall have the same meaning as defined in Chapter 822, Texas Health and Safety Code, Subchapter E, as amended from time to time.

Enclosure: Any structure or device used to immediately restrict animals to a limited amount of space, such as a fence, room, pen, run, compartment, crate, or hutch. Invisible fences or similar technology shall not qualify as “enclosures” for the purposes of this ordinance.

Estray: has the same meaning as defined in Chapter 142, Texas Agricultural Code, as amended from time to time, defining estray as stray livestock, stray exotic livestock, and stray exotic fowl.

Exotic Species: Any animal or reptile, fish, or bird, born or whose natural habitat is considered to be outside the continental United States, including nonvenomous reptiles and fish.

Fowl: Any animal of the class Aves, such as chickens, pigeons, ducks, ostriches, emus, etc.

Harbor: The act of keeping and caring for an animal; or of providing a premises to which the animal returns for food, shelter or care for a period of seven (7) days or longer.

Habitual Offender: Habitually: An owner who has received two or more final convictions of this Ordinance or the owner of an animal who has been the subject of impoundment in the Animal Shelter three or more times during a 12-month period or any combination of convictions and impoundment totaling three incidents.

Impound; City Kennel: a facility designated or contracted with by the City Council to be used for the impoundment of animals taken up by the Animal Control Officers

Inhumane treatment; cruelty, or abuse: Any treatment of an animal prohibited by V.T.C.A. Penal Code Section 42.09, or V.C.T.A., Health and Safety Code, Chapters 821, 822, or 826, as amended from time to time, or by any other provision of law, including federal, state, and local laws, ordinances, and rules.

Livestock: Shall include, regardless of age, sex, or breed, horses and all equine species, including mules, donkeys, and jackasses; cows and all bovine species; sheep and all ovine species; llamas; goats and all caprine species, and pigs and all swine species. Different requirements may exist for the locations, size of enclosures, and maintenance of large livestock and small livestock

1. Large livestock, when used herein, shall refer to bovine and equine species, llamas, and large fowl, including emus, ostriches and rheas.
2. Small livestock when used herein shall refer to ovine and caprine species.

Local rabies control authority shall mean the Animal Control Officer, or the Chief of Police when he is temporarily unable to act for any reason, or an officer the Chief designates to act in his place.

Person: An individual human, partnership, co-partnership firm, company, limited liability partnership or other partnership or other such company, joint venture, joint stock company, trust, estate, governmental entity, association or corporation or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

Quarantine: means the confinement of an animal in the manner and for the period of time required by this ordinance and state law for observation to determine the health status of that animal in relation to the rabies virus.

Rabies vaccination: The vaccination of a dog, cat or other domestic animal with an anti-rabies vaccine approved by the Texas Department of Health and administered by a veterinarian licensed by the State of Texas.

Residential purpose; Any property utilized as a multi-family or single family dwelling, including temporary residential uses such as hotels, nursing homes, etc, whether occupied not.

Wild Animal; Wildlife: Any nondomestic animal which is of a species which is wild by nature, which can normally be found in a wild state, and which is not naturally tame or gentle, or which, because of its size, nature and other characteristics, constitutes a danger to human life or property including all animals identified herein as prohibited.

C. Enforcement

1. Enforcement Authority. The provisions of this Ordinance may be enforced by Animal Control Officers, police officers, and such other persons as are designated by the City. Nothing herein is intended to or shall preempt any statutory duty or authority of any federal, state, or local entity or official charged with animal control, stray, control or impoundment, or other animal related matters.

2. Authority to trap animals at large. Animal control officers and police officers are hereby authorized to trap animals at large by means of live traps and to issue live traps to citizens for the purpose of trapping animals at large. Any person tampering with a live trap or releasing an animal confined in a live trap is guilty of a misdemeanor. No person shall remove, alter, damage, or otherwise tamper with any trap or equipment belonging to or set out by the animal control officer.

3. Interference with Animal Control Officer. It shall be unlawful for any person to interfere with, obstruct, resist or oppose any Animal Control Officer or other person authorized to enforce the provisions of this Ordinance while such person is apprehending an animal or performing any other duties or investigation. It shall be unlawful to take or attempt to take any animal from any Animal Control Officer or from any vehicle used by the officer to transport any animal or to take or attempt to take any animal from the animal shelter or other kennel or confinement area used to impound an animal.

4. Use of firearms. In the enforcement of this Ordinance, Animal Control Officers and police officers shall have the authority to utilize firearms to kill or otherwise disable any animal to protect themselves, to protect a third person or to protect another animal from attack or threat of imminent injury or to prevent such animal from enduring further pain or suffering as a result of disease or injury. They shall also have the authority to tranquilize or trap any animal, fowl, livestock or wildlife consistent with humane practices and as set forth in Texas State law.

D. Penalty.

1. Fines. Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith, or with any of the requirements thereof, within the City limits shall be deemed guilty of an offense and shall be liable for a fine according to the following schedule:

- a. For a first offense, the penalty for a violation of any provision of this ordinance shall not be less than \$1.00 and shall not exceed \$49.00.
- b. For a second offense, the penalty for a violation of any provision of this ordinance shall not be less than \$50.00 and shall not exceed \$74.00.
- c. For a third offense and for each and every offense thereafter, the penalty for a violation of any provision of this ordinance shall not be less than \$75.00 and shall not exceed \$500.00.
- d. Violations of animal control regulations requiring animals to be vaccinated against rabies may be dismissed by the prosecutor, with the payment of a \$20.00 administrative fee, if the violation is remedied within the time required by the prosecutor, provided that the animal has not attacked a person or another animal or has not otherwise been declared dangerous.

Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein. Proof of a culpable mental state shall not be required to establish a violation of this Ordinance.

2. Prima Facie Evidence. In any prosecution charging a violation of this Ordinance, governing the abuse, neglect or ownership of an animal or failure to license an animal as herein required, proof that the particular property described in the complaint was the premises upon which the animal resided, was harbored or maintained and a violation of any Section of this Ordinance occurred involving said animal, together with proof that the defendant named in the complaint was, at the time of such complaint or at the time when the animal was in violation of this ordinance, the registered owner of such animal or the person with legal rights to reside on said property, shall constitute in evidence a prima facie presumption that the registered owner of such animal or the person with legal rights to reside on said property was the owner of the animal and the person who failed to comply with the ordinance.

3. False Report. A person commits an offense if:

a. with intent to deceive, he knowingly makes a false report or statement, either verbal or written, that is material to an investigation of an alleged violation of this Ordinance to an Animal Control Officer or other person authorized to enforce provision of this Ordinance.

b. he reports to a person authorized to enforce provisions of this Ordinance an offense or incident within that person's concern knowing that the offense or incident did not occur.

E. Abatement of Conditions Not Complying with Ordinance. Whenever any premises where animals are kept is in an unsanitary condition, or the facilities are not in keeping with provisions of this ordinance or any other city ordinance governing such conditions, the animal control officer or any other officer of the city charged with enforcing such regulation may order the abatement of the conditions which are not in accordance with any ordinance or conditions which constitute a nuisance. Failure to comply with such order shall, in addition to any criminal or administrative proceedings, be grounds for and entitle the City to obtain relief by injunction. Nothing herein precludes the City's use of any public health ordinance or law in lieu of nuisance abatement or injunctive relief herein provided.

F. Compliance with Ordinance not Relief from Compliance with Other Regulations. The keeping of any animal in accordance with provisions of this ordinance shall not be construed to authorize the keeping of the same in violation of the zoning ordinance or any other ordinance of the City.

G. Fees. The fee schedule attached as Appendix "A" shall apply to all animals within the City limits. It shall not be construed that the City be required to bear the costs of any animal that has an owner. The owner shall reimburse the City for any actual expenses and shall be responsible for all fees set forth in attached Appendix "A". The City may recover all fees, costs and damages incurred as a result of the animal as restitution in a criminal proceeding under the provisions of this ordinance or the State statute in addition to a fine being charged. In extra ordinary circumstances certain fees related to redemption of impounded animals may be administratively waived for owners with supervisory approval; or pay agreements reached between owners and Animal Control Supervisor(s).

ARTICLE II. GENERAL REGULATIONS

A. Identification for animals. Except as provided herein, all dogs, large livestock and small livestock within the City shall be marked by some type of identifying license, tag, band, tattoo or brand by which the animal's owner can be identified.

B. Maximum numbers of cats and dogs. It shall be unlawful to keep or harbor more than a total of five (5) dogs and/or five (5) cats three (3) months of age or older on any premises within the city, unless said owner has filed for and received a multiple animal permit from the city.

C. Licensing of dogs.

Reserved

D. Noisy animals. No person shall willfully or knowingly keep or harbor on his premises any animal that makes or creates loud and obnoxious noises by whatever method created thereby disturbing the peace of the neighborhood or disturbing the occupant of adjacent premises or people living in the vicinity of such loud and obnoxious noise.

1. Complaint procedure.

- a. A person making a complaint under this section must file a complaint with the animal control officer or police officer.
- b. Upon receipt of the complaint, the animal control officer or police officer will then issue a warning to the animal's owner allowing seventy-two (72) hours to correct the problem.
- c. If the problem has not been solved after seventy-two (72) hours, the original complainant may file a formal complaint in municipal court.

E. Offensive odors. It shall be the duty of every person raising, owning or keeping any animals to keep such creatures and their abodes in a sanitary condition so that such animal, or the place where such creature is kept, shall not emit foul and offensive odors of sufficient strength to be detected on any adjoining property

F. Creating health hazard. It shall be unlawful for any person who harbors or keeps animals on his/her premises, or in or about premises under his/her control, to allow such premises to become a hazard to the general health and welfare of the community, or to allow such premises to give off obnoxious or offensive odors due to the activity or presence of such animals

G. Swine prohibited. It shall be unlawful to keep, harbor, or raise swine, to include potbelly pigs, within a pen or other enclosure, or in any house at any location within the corporate limits of the city.

1. Exception. Swine may be brought into the city for the purpose of selling such animals within seven (7) days.

H. Disposal of dead animals and fowl. It is unlawful for any person in the city to cause to be placed or place, or allow to remain in or near his premises or the premises of any other person, or in any of the streets or other public roadways, any dead animal, either wild or domesticated, or any dead fowl, either wild or domesticated.

I. Animal defecation prohibited in certain areas.

1. It is unlawful for the owner or person in control of an animal to intentionally, knowingly, recklessly or with criminal negligence allow or permit such animal to defecate on any public property or improved private property other than that of the owner of the animal. That the animal was at large at the time it defecated on any property shall constitute a prima facie evidence that the owner or person in control of the animal allowed or permitted the animal to so act.

2. Exception. It is an exception to the application of this section that the owner or person in control of the animal immediately removed and cleaned up such animal's feces from public or private property.

ARTICLE III. RUNNING AT LARGE; RESTRAINT OF DOGS; UNLAWFUL RESTRAINT PROHIBITED

A. Running at large.

1. Animal at large prohibited. It shall be unlawful for any person raising, owning and/or keeping any animal allow or permit any such animal to run at large upon the public streets, avenues, alleys, parks, or other public property of the city, or to allow or permit any animal to run at large or to go upon premises

owned, or in possession of, or under the control of any other person in the city, without the permission and agreement of such person in responsible control. “At large” shall have the meaning set forth in Section B(2) of this Article.

2. Exception for Cats. The prohibition against an animal running at large shall not apply to a domestic cat which has been vaccinated as required by this Ordinance.

3. Snakes. It shall be unlawful for any person to have a snake in any park or other public place unless it is within some type of cage, pen or enclosure.

4. Fowl at large. It shall be the duty of the person owning or having within his keeping any chickens, turkeys, geese, or other domestic fowl to keep the same enclosed upon his own premises in such a manner that they cannot go on public streets, highways, alleys or parkways, or onto the property of others

5. Impoundment. The Animal Control Officer for the City may impound any animal observed to be at large, or issue a citation for the animal running at large, whether the animal is on public or private property, subject to the applicable provisions of the law.

6. Restraint. It shall be unlawful for any person to tether, chain or fasten any animal in such a manner as to permit it to be upon any public sidewalk or street or to leave it unattended while tethered, chained or fastened on public property.

B. Restraint of dogs required (leash law)

1. Restraint of dogs required. Notwithstanding subsection A. of this Article, it shall be unlawful for any person to permit a dog owned, kept, or harbored by that person to be at large.

2. ”At Large” Defined. A dog shall be considered to be at large if, while off of the property of the owner, it is not under the control of its owner by either a leash, chain, cord or other suitable material attached to a collar or harness, or not restrained on the property of the owner by a leash, chain, cord or fence. A dog inside a vehicle parked in a public place, or in the open bed of a moving or parked vehicle in a public place shall be considered to be at large unless it is restrained in such a manner that it cannot exit the vehicle of its own volition.

C. Unlawful restraint of dogs

1. Definitions. For the purpose of this subsection C, the following words shall be defined as follows:

Collar. Any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog.

Properly fitted. With respect to a collar, means a collar that measures the circumference of a dog’s neck plus at least one inch.

Restraint. A chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

2. Prohibitions

a. An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:

- (i) Between the hours of 10 p.m. and 6 a.m.;
- (ii) Within 500 feet of the premises of a school; or
- (iii) In the case of extreme weather conditions, including conditions in which:
 - (1) The actual or effective outdoor temperature is below 32 degrees Fahrenheit;
 - (2) A heat advisory has been issued by a local or state authority or jurisdiction; or
 - (3) A hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service.

b. In this section, a restraint unreasonably limits a dog's movement if the restraint:

- (i) Uses a collar that is pinch-type, prong-type, or choke-type or that is not properly fitted to the dog;
- (ii) Is a length shorter than the greater of:
 - (1) Five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail; or
 - (2) 10 feet;
- (iii) Is in an unsafe condition; or
- (iv) Causes pain or injury to the dog.

3. Exceptions. Exceptions to section 2 are as follows:

- a. A dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;
- b. 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;
- c. A dog restrained for a reasonable period, not to exceed three hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;
- d. A dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;

e. A dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or

f. A dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

4. Hand-held leashes. This article does not prohibit a person from walking a dog with a hand-held leash.

ARTICLE IV. RABIES CONTROL

A. Vaccinations.

1. Vaccination required. It shall be unlawful for any person to own, keep, harbor or maintain any dog or cat over four months of age without having the animal vaccinated for rabies in accordance with the requirements of state law.

2. Certificates and tags. A veterinarian who vaccinates a dog or cat against rabies shall issue to the owner of such animal a vaccination certificate on a form approved by the State Department of Health and shall issue a metal rabies vaccination tag with the veterinarian's address and the year of the vaccination stamped thereon. The veterinarian shall retain a duplicate copy of the certificate and the original shall be retained by the owner.

a. Every dog over four months of age must wear a collar to which is affixed a metal rabies vaccination tag issued by a state-licensed veterinarian.

b. Evidence that a dog or cat does not have a rabies vaccination tag, or that the animal's vaccination tag is more than one year old, is prima facie evidence that the animal has not been vaccinated in accordance with state law requirements. To prove that a dog or cat was vaccinated at the time of the offense, the owner of the dog or cat must present a copy of the vaccination certificate issued by the veterinarian that shows the date the vaccination was administered. The offense shall be dismissed upon verification that the animal alleged in the offense was vaccinated on the date of the offense with the payment of a \$20.00 administrative fee.

3. Failure to vaccinate. A person commits an offense if the person fails or refuses to have each dog or cat owned by the person vaccinated against rabies and the animal is required to be vaccinated under state law. An offense under this section is a class C misdemeanor.

B. Reporting rabid animals or rabies exposure.

1. Duty to report. It shall be the duty of all animal owners, veterinarians, physicians or any other person to report to the Animal Control Officer or to the police department all cases of rabies with which he comes in contact or to which his attention has been directed. This report shall be made immediately upon diagnosis or suspicion of a case of rabies.

2. Report of possible exposure. Any person having knowledge of an animal bite or scratch to an individual or to another animal by an animal which the person suspects is rabid shall report that incident to the Animal Control Officer or the police department within 24 hours.
3. Physician report. Any physician or other medical practitioner who treats a person or persons for any animal bite/scratch that occurred within the City shall report such treatment to the Animal Control Officer or the police department within 12 hours, giving the name, age, sex and precise location of the bitten/scratched person or persons and such other information as the officer may require.
4. Duty to report. Any veterinarian who clinically diagnoses rabies or any person who suspects rabies in a dog, cat or other domestic or wild animal shall immediately report the incident to the Animal Control Officer or the police department stating precisely where such animal may be found.
5. Report of Victim. Any person who is bitten or scratched by an animal shall report that fact to the Animal Control Officer within 24 hours. If the person bitten or scratched is a minor under the age of 17, the parent or guardian of such minor, if he has knowledge of the incident, shall report that fact to the Animal Control Officer within 24 hours.
6. Report of Owner. A person who owns, keeps, harbors or allows an animal to remain on premises under his control and who has knowledge of a bite shall report to the Animal Control Officer within 24 hours any incident where such animal bit or scratched any person.

D. Failure to quarantine.

A person commits an offense if the person fails or refuses to quarantine or present for quarantine or testing an animal that has been exposed to rabies, is showing clinical signs of rabies or that has bitten or scratched a human being or another domestic animal.

E. Quarantine method and testing

1. When a domestic dog or cat which has bitten a human has been identified, the owner or custodian will be required to place the animal in quarantine. Unvaccinated animals should not be vaccinated for rabies during the observation period.
2. The city-appointed veterinarian shall quarantine for at least ten (10) days any animal that the animal control officer or police officer has probable cause to believe is rabid or that has exposed an individual.
3. The rules governing the testing of quarantined animals, the procedure for and method of quarantine, and the types of facilities that may be used for quarantine shall be as provided by the state board of health.
4. In accordance with the rules of the state board of health, the animal control officer or police officer may contract with one (1) or more public or private entities for the purpose of providing and operation of a quarantine facility.
5. If it is determined by the city-appointed veterinarian that a quarantined animal shows the clinical signs of the disease of rabies, the veterinarian shall humanely destroy the animal. If an animal shows signs of illness, dies or is destroyed while in quarantine, the veterinarian shall remove the head or brain of the animal and submit it to the nearest department of state health services laboratory for testing.

6. Alternate quarantine provisions. Home quarantine may be allowed only in those incidents where permitted by State law and agreed to by the Animal Control Officer. If the owner or custodian of the animal requests permission from the local animal control officer or police officer for home quarantine, the following criteria must be met:

a. Secure facilities must be available at the home of the animal's owner or custodian, and must be approved by the animal control officer.

b. The animal is currently vaccinated.

c. The local animal control officer or police officer or a licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation period, the animal control officer or police officer must be notified by the person having possession of the animal. At the end of the observation period, the release from quarantine must be accomplished in writing.

d. The animal was not a stray (as defined in Texas Health and Safety Code, 826.002) at the time of the bite.

7. A domestic dog or cat which has bitten a human and has been designated by the local animal control officer or police officer as unclaimed may be humanely destroyed in such a manner that the brain is not mutilated. The brain shall be submitted to a department certified laboratory for rabies diagnosis.

8. The local animal control officer or police officer may require an animal which has inflicted multiple bite wounds, punctures, or lacerations to the face, head, or neck of a person to be humanely destroyed and the brain tested for rabies after following any required procedures.

9. Other Animals. Any wild, exotic or dangerous animal that is considered high risk by State law or regulation and which has bitten or scratched a person shall be caught and humanely killed and the brain submitted for rabies examination. Those wild animals which are classified as low risk animals shall be handled as dictated by State law.

10 Quarantine exceptions. Currently vaccinated guide dogs in service or currently vaccinated police dogs when a bite is inflicted in the line of duty shall not be required to be placed in quarantine; provided that the owner of the dog shall otherwise comply with Section 826.048, Texas Health & Safety Code, as amended from time to time.

F. Release from quarantine.

1. Any animal quarantined shall not be released from quarantine until such release has been approved by the city-appointed veterinarian.

2. If the city-appointed veterinarian determines that a quarantined animal does not show the clinical signs of rabies, the animal control officer or police officer shall release it to the owner following the quarantine period if:

a. The owner has an unexpired rabies vaccination certificate for the animal; or

b. The animal is vaccinated against rabies by a licensed veterinarian at the owner's expense.

3. Upon release of an animal from quarantine, if the ownership of the animal is known, such owner has 48 hours to claim the animal. If the ownership of the animal is unknown, the animal may be disposed of humanely without waiting for an additional 96 hours.

4. The owner of an animal that is quarantined under this section shall pay to the animal control officer or police officer or impounding facility the reasonable costs of the quarantine and disposition of the animal, including euthanasia and testing costs, and the animal control officer or police officer may bring suit to collect such costs.

5. All impoundment fees for the quarantine shall be paid by the person bitten or scratched if:

a. The animal has a rabies vaccination certificate, and is deemed suitable for release from quarantine because it has shown no clinical signs of rabies,

b. The animal was on property under the control of the animal's owner when the bite or scratch occurred, and

c. The bite or scratch occurred when the animal was acting to defend its owner or the property, or after provocation.

6. If the animal is a wild animal, all fees shall be paid by the person who was bitten or scratched.

G. Enforcement.

For the purposes of discharging the duties imposed by this Article and to enforce its provisions, any peace officer or Animal Control Officer is empowered to enter upon any premises upon which an animal required to be licensed or vaccinated is kept or harbored and to demand the exhibition by the owner of such animal or the license for such animal in accordance with the provisions of this Article. The owner of any animal subject to licensure and vaccination under this article is required to produce the license and vaccination information for each animal in his ownership upon demand by an Animal Control Officer or peace officer.

ARTICLE V. LIVESTOCK AND OTHER NON-PET ANIMALS

A. Applicability

It shall be unlawful for any person to keep or permit the keeping of livestock, fowl, rabbits or guinea pigs on premises owned or under his control except in compliance with the following regulations and requirements. "Keeping" means the harboring, care, or control of the livestock, fowl, or animals in question for a period of longer than two weeks (fourteen days). See section F of this article for educational exception.

B. Lot size and location

1. Large livestock. It shall be unlawful to keep large livestock on a lot of less than 5000 square feet for each animal. Adult animals with offspring less than six months of age shall be counted as a single animal to determine the total number of animals kept per lot. The person in lawful control of the premises, as owner or tenant, may keep large livestock belonging to others, but the limitation as to the number of animals and the area and distance requirements shall apply.

2. Small livestock. It shall be unlawful to keep small livestock on a lot of less than 5000 square feet for each animal. Adult animals with offspring less than six months of age shall be counted as a single animal to determine the total number of animals kept per lot. Small livestock shall be kept in pens, coops, hutches or other enclosures no smaller than the minimum size recommended by FFA, 4-H or the local extension service agent.

3. Distance requirements. It shall be unlawful for any person to keep on premises under his control within the city limits any large or small livestock, or pen or enclosure in which livestock are kept or maintained, within 100 feet of any building used for residential purpose, other than the living quarters of the owner or keeper. Such animals, pens or enclosures shall not be located within 100 feet of any public eating establishment or place, or any church, school or hospital.

4. Animals other than livestock. Any person keeping or harboring any animal other than livestock or exotic animals (whose housing distances are governed in subsection G of this article), including but not limited to fowl, rabbits, and guinea pigs, shall locate any pen, coop, hutch or other housing at least 50 feet from any building used for residence, excluding the residence of the person keeping or harboring the animals. Such animals, pens or enclosures shall not be located within 100 feet of any public eating establishment or place, or any church, school or hospital. This section does not apply to dogs or cats kept as pets below the maximum number allowed without a special permit, or animals kept inside of a residence as pets.

5. Measurement. Such distances shall be measured in a straight line from the nearest point of the shed, stable, barn, pen or fenced enclosure to the nearest point of the building used for human habitation or for the purposes listed above.

6. Exemptions. The above provisions shall prohibit neither the temporary keeping of animals for slaughter, sale, treatment by veterinarians, or exhibition at fairs, shows, and rodeo events, nor the temporary or permanent keeping of animals for teaching or research purposes at a medical school, a veterinary school, or a high school agricultural facility, provided that the person in charge of the animals complies with all of the other applicable restrictions of this code, including those related to sanitary conditions, nuisances and noise.

7. Animals kept prior to adoption of article. It shall be a defense to prosecution regarding the number of livestock, fowl, guinea pigs or rabbits being kept that the same number of livestock or miscellaneous animals, and no more than the number and kinds of animals in question, were being kept on the same premises, by the same owner, prior to the adoption of this article. Notwithstanding the foregoing, at such time as the livestock on the property dies, is sold or is removed from the property for a period of time exceeding seven (7) days, it may not be replaced until such time as the livestock and the premises meet the requirements set forth herein, and then may only be replaced to the extent such number and kind is in conformance with this article. Notwithstanding the foregoing, should, at any time, the conditions in which the animals or premises are kept violate provisions of this article or the nuisance ordinance of the city, the use of the premises for livestock shall be ceased, and the livestock may only be replaced until such time

as the premises and the livestock meet all provisions of this article, including the requirements for number, area and distance.

C. Restrictions on staking or tying animal

1. It shall be unlawful for any person to stake, tie, or hobble any animal whatsoever on any lot of which he is not the owner or person in control of the property. It shall be unlawful for any animal to be staked or tied on any open or unfenced lot or land within the city so that the animal so tied or staked could get on, across or within eight (8) feet of any street, park, public land, sidewalk, public walkway or building. Such animal so tied or staked shall be considered a public nuisance, and may be impounded as any other animal found running at large.

2. It shall be unlawful to tether, chain or fasten an animal in such a way as to cause the animal pain or injury or to not permit it to reach food water or shelter.

D. Stables, pens and other enclosures; sanitation requirements

1. Construction and maintenance of fences and barriers. Fences or barriers may be constructed of wood, wire, steel pipe, chain link, or other suitable materials. Fences and barriers may not include trash or junk (including but not limited to doors, bedsprings, rusty miscellaneous metal pieces, etc.). Fences must comply with the general requirements for the repair of fences as adopted under section 302.10 , of the Property Maintenance Code, Fences. Gates must be operable and securable and suitable to the purpose of accessing the area for care of the animals and controlled movement of animals in and out of the area.

2. Adequacy of fences and barriers. It shall be unlawful for a person to keep any livestock on premises owned or controlled by him without providing adequate fences or barriers to prevent such livestock from escaping and/or damaging elements or features of adjacent property. It shall be a rebuttable presumption that such fences and barriers are inadequate for the design purpose if livestock escapes from the premises. The presumption is rebuttable and shall have the consequences and effects set forth in V.T.C.A., Texas Penal Code section 2.05, as amended from time to time.

3. Compliance with building code and zoning ordinances. All barns, stables and other animal facilities constructed after the date of this article shall meet the requirements of the city building code and zoning ordinances as applicable thereto.

4. Sanitary condition. It shall be unlawful for any person to maintain any pen, enclosure, hutch, run, pound or area for any animal in an unsanitary condition. The keeper of any such enclosure or area shall be responsible for the pickup and disposal of animal feces or other decaying or offensive matter often enough so that there is no odor detectible outside the extent of his property, or fly attraction to the enclosure or area which would disturb a person of normal sensibilities or constitute a health hazard to humans.

5. Disposal of manure. Any person owning or leasing any yard, pen, stable or other premise where any livestock is kept shall maintain a substantial and sufficient receptacle for manure which must be so constructed and kept so as to protect the contents from rain and so screened as to prevent access by flies, and all manure must be placed in such receptacle at reasonable intervals to prevent a nuisance as described in subsection 4, above. The stored manure must be removed from the premises at least once a week or often enough to prevent the accumulation of manure from becoming a nuisance.

a. such receptacles shall not be placed on any public street, alley, sidewalk or on any other public or private property not owned or controlled by the owner of the facility or animals.

6. Storage of feed. All feed provided for animals, other than hay, shall be kept in an enclosed building or container except when being used to feed an animal.

7. Compliance with other laws. Notwithstanding compliance with the provisions of this ordinance, there is no exception for compliance with any and all other city ordinances. Compliance with the provisions of this article is no defense to violation of any and all other codes and ordinances of the city and the laws of the state.

E. Keeping fowl, rabbits or guinea pigs

1. Enclosure required. Fowl, rabbits and guinea pigs must be kept in a secure pen or enclosure, whether indoors or outdoors. Such pens or enclosures are subject to the distance requirements in section C.4.

2. Number of animals. The aggregate number of rabbits, fowl, guinea pigs or other miscellaneous animals shall not exceed twenty (20), exclusive of dependent young.

3. Sanitation. Litter and droppings from these animals must be disposed of or managed in such a way not cause a nuisance, in conformance with other sanitation, odor, and nuisance provisions of this ordinance.

F. Exception for FFA and 4-H projects

Other than the provisions of section G.1 (prohibited wild animals) and the prohibitive provisions of article VIII (dangerous dogs), this article does not apply to an animal that is an FFA or 4-H project and that is being kept and maintained in accordance with the requirements of such program, and is and remains in good standing and on an official list of such authorized projects filed with the city by the authorized sponsor of such FFA or 4-H program; provided that such exemption shall be withdrawn upon the sponsor of the applicable FFA or 4-H program notifying the animal control officer that such animal is not being maintained and cared for in compliance with the standards of such FFA or 4-H program, or is otherwise no longer an authorized FFA or 4-H project.

G. Keeping wild or exotic animals

1. Prohibited. Any species of wild or exotic animal, not considered to be domesticated according to generally accepted animal control or veterinary practices, or that poses a serious threat to public health safety or welfare, or is protected by international, federal, or state regulation, or any other wild animal, including birds of prey, capable of or inclined to do serious bodily harm to humans or domestic animals, shall not be kept within the city limits.

2. Exemptions for certain owners. The provisions in subsection 1, above do not apply to the keeping of wild or exotic animals if the owner or possessor:

a. Is a governmental agency or entity;

b. Holds a circus, carnival or zoo license from the state;

c. Is an individual qualified to rehabilitate, treat, or rear injured or orphaned wildlife until such time as it can be released;

d. Is a licensed individual, or a member of a nonprofit animal rehabilitation organization, holding a license from the state department of parks and wildlife; or

e. Is a research institution or an accredited educational institution.

3. Exemptions for certain animals. The following wild or exotic animals may be kept within the city, provided that certain requirements are met:

a. Emus, ostriches, or rheas, pursuant to the provisions of sections B.1. and B.3. of this article; however, there shall be the same defense to prosecution as provided for livestock under section B.7.

b. Exotic birds, provided they are not birds of prey and do not exceed the maximum number of animals allowed under section E.2. above; and

c. Any other animal not previously excluded under this section and legally purchased from breeders, pet stores or other persons, or businesses engaged legally in the business of buying selling and trading said animals, subject to the number and permit provisions under Article II B..

4. Confinement; distance requirement. Any pen, corral, cage or area in which these animals are kept shall be constructed so as to prevent their escape. Pens, corrals, cages or other areas of confinement shall not be located closer than 100 feet from any residence, public eating place, church, or school, excluding the residence of the owner of such animals.

5. Licenses and permits. The owner of such animal shall obtain and maintain any and all necessary international, federal, state or local licenses and/or permits, if required.

6. Impoundment or seizure. The city animal control officer may seize and/or order the immediate impoundment or quarantine, at the owner's expense, of any wild or exotic animal found in the city where there is a potentially serious threat to public health, safety, or welfare, or if any violation of any provision of this article exists. The city animal control officer may seek a warrant of seizure from the municipal court of record, which court upon probable cause may issue a warrant authorizing a seizure. A hearing shall be conducted on the disposition of the animal within fourteen (14) days of the seizure. The owner or keeper of the animal, to the extent that the same is known or can be determined through reasonable due diligence, shall receive written notice of the hearing, by personal service, and/or certified mail, return receipt requested, as soon as practicable, but not later than five (5) days before the hearing.

ARTICLE VI. IMPOUNDMENT; ESTRAY

A. Impoundment Generally.

1. Animal subject to impoundment. Animals owned or harbored in violation of this ordinance or law of the State of Texas, or running at large in violation of article III, or those subject to safekeeping or humane situations provided for herein, shall be taken into custody by an Animal Control Officer or other designated official and impounded under this ordinance.

2. Fees. Owners of impounded pets are required to pay all fees related to the impoundment. The fees charged for the impoundment of animals under this article shall be the actual costs incurred by the city or impounding facility.

3. Animals Held on Complaint. If a complaint has been filed in Municipal Court of the City against the owner of an impounded animal for a violation of this title the animal may be held on the order of the Municipal Judge who may also direct the owner to pay any penalties for violation of this ordinance in addition to all impoundment fees. Surrender of an animal by the owner thereof to the Animal Control Officer does not relieve or render the owner immune from the decision of the court nor from the fees and fines which may result from a violation of this ordinance.

4. Impoundment facility. The chief of police shall select and establish a place for impounding all animals impounded under any provision of this article.

B. Disposition of impounded dogs

1. Holding period. Dogs in violation of any section of this ordinance shall be kept for four (4) days unless otherwise specified. It shall be the duty of the animal control officer or police officer to keep a dog or cat for a period of not less than ninety-six (96) hours from the date of impounding. If, at the expiration of ninety-six (96) hours from the date of impounding, such dog or cat has not been redeemed, it shall be destroyed or sold as provided for in this section.

animal at any time prior to sale, adoption, or destruction by providing proof of ownership, having and providing evidence of current vaccination, and the payment of any fines and any impoundment fees. If an animal does not have a current rabies vaccination, the dog may be released to the owner, provided that the owner shall have the animal vaccinated against rabies and shall provide the city with a certificate of such vaccine within 36 business hours of the animal being released. If the owner does not vaccinate the animal and provide a vaccination certificate within 36 business hours of the animal being released, the city may impound the animal with a licensed veterinarian and have the animal vaccinated at the owners expense. the owner shall be responsible for all impound and boarding fees.

3. Sale or destruction. At any time after the expiration of the period of time for redemption of an impounded dog, as set out in this section, the animal control officer or any other person designated by him may, without further notice and without advertising in any manner, sell for cash, not to exceed expenses incurred, or adopt out any dog not redeemed or reclaimed. All not redeemed, claimed, adopted, or sold after the period of time for redemption has expired shall be humanely destroyed by the animal control officer or any person designated by him who has taken the training required by state law. Proceeds from such sale shall be paid to the impounding agency to satisfy impound costs.

C. Destruction of feral cats

The animal control officer or police officer shall have the right to waive the four (4) day impounding period for any feral cat. The animal control officer or police officer may have such cat humanely destroyed at any time.

D. Destruction of animals generally; disposition to research facility

Any animal impounded under any section of this article may be destroyed by an animal control officer, city-appointed veterinarian or police officer who has taken the training required by state law after it has been impounded for a period of four (4) days. In lieu of destruction, an animal control officer or police officer may make available such impounded animals to any state-accredited school of veterinary medicine

or to any institution, corporation, laboratory or individual engaged in bona fide research in the health sciences in which the animal can serve a beneficial and useful purpose in such research. Such disposition shall be without cost to the city, and any monies received for the animals shall be applied as in the case of the sale of the animal as provided for in this article.

E. Estray

1. It is unlawful for any owner or person in control of any horse, mule, jack, jennet, cattle, hog, goat or sheep (estrays) to permit any such animal to run at large on land not his own or under his control, or on any street, alley or other public place in the City.

2. Impoundment of Estray. The Animal Control Authority, upon receipt of a report or upon discovery of an estray, within the city, shall as soon as possible, notify the sheriff of the county and report the presence of the animal and the location where the animal can be found. If circumstance permits, the Animal Control Officer shall refer the matter in its entirety to the sheriff. If circumstance does not permit or the sheriff seeks the assistance of the Animal Control Authority, the Animal Control Officer may cause the impoundment of any and all estrays and other livestock that may be found in and upon any street, alley or upon any unenclosed lot in the City, or otherwise to be found at large, and to confine such estrays or other livestock for safe keeping. Upon impounding, the Animal Control Officer shall prepare a file to be located in the Animal Control Division offices. Each entry shall include the following:

- a. The name and address of the person who notified the Animal Control Officer of the estray
- b. The date, time and location of the estray when found;
- c. The location of the estray until disposition; and
- d. A description of the animal including its breed, color, sex, age, size, all markings of any kind and other identifying characteristics.

3. Advertisement of Impounded Estray. When an estray has been impounded by the Animal Control Authority, the Animal Control Officer shall make a diligent search of the register of recorded brands in the County for the owner of the estray or other livestock. If the search does not reveal the owner, the Animal Control Officer shall advertise the impoundment of the estray in a newspaper of general circulation in the County at least twice during the next 15 days following impoundment and post a notice of the impoundment of the estray on the public notice board of City Hall.

4. Recovery by Owner. The owner of an estray may recover possession of the animal at any time before the animal is sold under the terms of this ordinance if:

- a. The owner has provided the Animal Control Officer with an affidavit of ownership of the estray or other livestock containing at least the following information.
 - (i) The name and address of the owner,
 - (ii) The date the owner discovered that the animal was missing,
 - (iii) The property from which the animal strayed,

(iv) A description of the animal including its breed, color, sex, size, all markings of any kind and any other identifying characteristics;

b. The Animal Control Officer has approved the affidavit; and

c. The owner has paid all handling fees to those entitled to receive them.

5. Sale of Estray. If the ownership of an estray is not determined within eighteen (18) days following the final advertisement required by this Ordinance, ownership of the estray rests with the City, and the Animal Control Officer shall then cause the estray to be sold at a public auction. If there are not any bidders, ownership is forfeited to the City.

a. Title shall be deemed vested in the City for purposes of passing a good title, free and clear of all claims to the purchaser at the sale. The Animal Control Officer is authorized to transfer title to the highest bidder in an auction conducted pursuant to this subsection.

b. The disposition of the proceeds derived from the sale at public auction will be as follows:

(i) Pay all handling fees to those entitled to receive them;

(ii) The net proceeds remaining from the sale of the estray after the handling fees have been paid shall be delivered by the Animal Control Officer to the City Secretary. Such net proceeds shall be subject to claim by the original owner of the estray as provided herein;

(iii) If the bids are too low to cover the costs associated with the estray, the Animal Control Officer shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.

c. After the sale, the animal control officer shall execute a report of sale of impounded stock.

6. Recovery by Owner of Sale Proceeds.

a. Within 180 days after the sale of an estray under the provisions of this ordinance the original owner of the estray may recover the net proceeds of the sale that were delivered to the City Secretary if:

(i) The owner has provided the Animal Control Officer with an affidavit of ownership; and

(ii) The Animal Control Officer has accepted the affidavit of ownership.

b. After the expiration of 180 days from the sale of an estray as provided by this ordinance, the sale proceeds shall escheat to the City. If an animal was forfeited to the City due to no bidders at auction, then City is not to be liable to owner for any proceeds of sale, since no proceeds were received.

7. Use of Estray. During the period of time an estray is held by one who impounded the estray, it may not be used by any person for any purpose.

8. Death or Escape of Estray. If the stray dies or escapes while held by the person who impounded it, the person shall report the death or escape to the Animal Control Officer. The report shall be filed in the record regarding the impoundment.

ARTICLE VII. ANIMAL PROTECTION PROVISIONS

A. Animals in motor vehicles.

1. It shall be unlawful for any person to leave any animal in any standing or parked vehicle in such a way as to intentionally, knowingly, recklessly, or with criminal negligence endanger the animal's health, safety or welfare. An Animal Control Officer, or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that the animal's health, safety or welfare is or will be endangered if the owner of the vehicle cannot be located after reasonable attempts. The animal shall be taken to a veterinarian if the animal is in distress. A written notice bearing the name of the officer removing the animal, a telephone number where he can be contacted and the location where the animal may be claimed by the owner shall be attached to the vehicle. Any person violating this section shall bear the full cost and expense incurred by the City in the care, medical treatment, impoundment cost and disposal of the animal, including the removal from a vehicle in addition to any criminal penalty that may be imposed under this section.

2. Instances where occupants of motor vehicles are involved in a traffic accident or other vehicle related incidents which result in animals being left uncontrolled or unattended, animal control or police officers of the city are authorized to take welfare custody of such unattended animals. In the interest of the health, safety or welfare of such animals, officers are authorized to transport such animals to the City's kennel facility, a veterinarian, humane shelter, or an animal emergency clinic. Information shall be provided to the animal's owner as to the animal's disposition. Animal owners shall bear full cost and expense incurred by the city in the care, medical treatment, impoundment costs or other associated costs.

B. Duty of motor vehicle operator to report accident involving animals.

1. Any person who, as the operator of a motor vehicle within the City, strikes any animal shall report the accident to the police department within a reasonable time if the animal stricken is on or near the roadway so that it constitutes a potential traffic hazard. It shall be an affirmative defense to any violation under this section that the incident occurred while the operator was responding to an emergency and that the incident was reported as soon as possible.

2. Any person who, as the operator of a motor vehicle, strikes a domestic animal shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained and located, such operator shall at once report the accident to the appropriate law enforcement agency.

C. Tethered animals.

It shall be unlawful to tether, chain or fasten an animal in such a manner as to cause it injury or pain or not permit it to reach shelter, food and water.

D. Selling dyed animals.

It shall be unlawful for any person to sell or offer for sale, raffle, offer or give as a prize, premium or an advertising device or cause to be displayed in any store, shop, carnival or other public place an animal or fowl of any kind that has been dyed or otherwise colored artificially.

E. Giving animals as prizes or inducements.

1. No person shall give away any live animal, reptile, fowl, livestock or wildlife as a prize for or as an inducement to enter any contest, game or other competition; or as an inducement to enter a place of amusement; or as an incentive to enter into any business agreement whereby the offer is for the purpose of attracting trade. This prohibition shall apply to carnivals, fairs and circuses.
2. The prohibition contained in this section shall not apply to fish or to animals given as prizes at a rodeo contest or livestock show or as part of an FFA, 4-H or similar project.

F. Trapping and shooting.

1. Trapping Prohibited. It shall be unlawful to set, trigger, activate or otherwise use, or cause to be set, triggered, activated or used, any steel-jawed, leg-hold trap or for any person, other than Animal Control Officers, to set or otherwise use other trapping devices including “live traps” used for the capture of any animal. Consistent with the provisions herein, the Animal Control Division is authorized to utilize humane “live traps” and may conduct trapping operations or provide or authorize such devices’ use to property owners as may be needed throughout the City. This subsection is not intended to prohibit the prudent use of traps on one’s own property to control rodents.
2. Hunting Prohibited. It shall be unlawful for any person to hunt, shoot, intentionally injure or kill any wild bird, animal, mammal or reptile within the corporate limits of the City. It shall be unlawful for any person to hunt, shoot or kill, within the City, any domestic bird, animal, mammal, reptile or pet. Except this subsection shall not be construed or interpreted to prohibit the destruction of poisonous snakes or to prohibit Animal Control Division from utilizing certain firearms in emergency field conditions where such actions are provided for by law.
3. Domestic Animals. It shall be unlawful for any person to shoot a domestic animal within the corporate limits of the City. It shall be a defense to prosecution that the domestic animal shot was a vicious animal and presenting an immediate threat to personal or public safety. Except this subsection shall not be construed or interpreted to prohibit Animal Control Division from utilizing certain firearms in emergency field conditions where such actions are provided for by law or policy.

G. Molesting animals.

It shall be unlawful for any person to in any manner tease, annoy, disturb, molest or irritate an animal that is confined to the owner’s premises.

H. Pens and enclosures; sanitary requirements; minimum cage size; overcrowding.

1. The owners of any animal shall maintain and keep all pens, coops, kennels, fenced areas and enclosures of any kind in a sanitary condition. This shall include the following:
 - a. All animal wastes shall be disposed of promptly and all pens and enclosures shall be cleaned as needed to prevent odors, and not draw insects or other vermin or create a nuisance.

b. The premises upon which animals are kept shall be clean and free from noxious and unpleasant odors.

c. Some standard spray or other chemicals shall be used at reasonable intervals to keep the premises free of flies, mosquitoes, ticks, fleas and other vectors.

2. Cages, pens or enclosures used to confine animals shall be of sufficient size to maintain all of the animals within such pen or enclosures comfortably and in good health.

I. Negligent care.

1. It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with proper food, water, shade, adequate shelter, veterinary care when needed to prevent suffering, grooming when lack thereof would adversely affect the health of the animal, and with humane care and treatment.

2. To provide “adequate shelter” for a dog or cat kept outdoors, a person must provide a shelter accessible to the dog or cat meeting the following standards:

a. The shelter must provide protection from the weather, i.e., sun, wind, precipitation (in whatever form), or other inclement weather conditions.

b. If there are no artificial heat sources, the structure shall be small enough to allow the dog or cat to warm the interior of the structure and maintain its body heat, but large enough to permit normal postural adjustments, or standing.

c. Plastic air shipping containers and/or pet carriers shall not be used as outdoor shelters.

3. A written warning of violation requiring that the condition be corrected within a specified time period shall be issued to a person before any notice to appear at the municipal court may be issued or before a complaint may be filed with the municipal court.

J. Animal in state of pain or suffering.

1. If any animal without a license tag or other identifying marker is found in a state of pain and suffering or becomes so during confinement, the Animal Control Authority may dispose of the animal in any humane manner without complying with the four day (96 hour) waiting period as set out herein.

2. If the owner or keeper of an animal found in a state of pain or suffering refuses to assume responsibility to care for the animal, the Animal Control Officer may dispose of the animal in a humane manner.

K. Sale of animals in public place.

1. Not in lieu of or withstanding any permit requirements imposed herein, if an animal is offered for sale in a public place within the City, the person offering the animal for sale, the owner of the animal, the manager of the property which is the public place on which the offer is being made, and the owner of the property which is the public place on which the offer is being made, shall be

responsible for ensuring that the animal protections of this Article are complied with in regard to the animal offered for sale in a public place during the time the animal is in the public place.

2. The term “public place” as used herein shall mean any place to which the public or a substantial group of the public has access. It shall include, but is not limited to, shops, stores, vacant property and flea markets.

3. If an animal offered for sale in a public place is kept within a cage or pen of any type, such cage or pen shall comply with the following requirements:

a. The cage or pen must be large enough for the animal to stand on all of its legs and hold its head in a natural position and not be in a crouched position. The cage or pen must also have enough room for the animal to turn around or move without stepping on another animal, animal feces or food or water provided for the animal.

b. The cage or pen must either have room for water and food or have water and food situated so that the animal has access to it through the cage.

c. The cage or pen must be situated so that air may circulate through it, so that any animal kept within the cage or pen is not exposed to extreme heat. During cold or inclement weather, cages or pens should be situated so that animals contained therein may stay warm and stay dry.

L. Animal fights and fighting paraphernalia.

1. It shall be unlawful for any person to intentionally, knowingly, recklessly, or with criminal negligence use, or allow or permit to be used, property that he owns or has control over for the purpose of conducting animal fights. For purposes of this section, “animal” shall mean a domesticated living creature and wild living creature previously captured.

2. It shall be unlawful for any person to possess animal fighting equipment within the City. As used herein, the term “animal fighting equipment” means any equipment used for training, handling, housing, feeding or transporting fighting animals. The term also includes animals being used, trained or bred for fighting or intended to be used, trained, or bred for fighting.

M. Slaughtering of animals.

Animals may be slaughtered for human or animal consumption within the City, provided it is done at a location that is shielded from sensory perception of the general public, and provided it is done in a manner designed to cause the animal's death as quickly as possible without needless suffering.

N. Use of poisonous substances.

1. It shall be unlawful for any person to administer poison to an animal belonging to another without legal authority or the owner's effective consent. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any domestic animal or person.

2. It shall be unlawful for any person to recklessly or with criminal negligence injure another's animal by leaving a poisonous substance of any kind in any place within the City.

3. The provisions of subsections 1 and 2 shall not apply to an exterminator using poisons as part of a pest control program, nor shall it apply to persons using commercial insecticides and rodent baits used to control insects and wild rodents. For purposes of this section, the term “exterminator” shall mean an individual licensed by the Texas Structural Pest Control Board, unless he or she is exempt from such licensing.

O. Cruel Treatment.

No person shall beat, cruelly ill treat, torment, mentally abuse, overload, overwork or otherwise abuse an animal or cause, instigate or permit any dog fight, cock fight, bull fight or other combat between animals or between animals and humans.

P. Abandonment.

No person shall abandon an animal in his/her custody.

ARTICLE VIII. DANGEROUS DOGS

A. Applicability of state law

Subchapter D, chapter 822, Texas Health and Safety Code, as amended from time to time, and this Article shall govern the determination and disposition of dangerous dogs in the city. Terms used or defined in such subchapter shall have the same meaning when used in this article. In the event of a conflict between Chapter 822, Texas Health and Safety Code, and this Article, the more stringent provision shall control.

B. Status of Dog Pending Appeal. Pending any appeal from a determination that a dog is dangerous to Municipal Court, the dog must be confined at the animal shelter or licensed veterinary facility, and the cost of such confinement shall be borne by the owner. If the dog in question is not in the possession of the animal shelter at the time of the declaration, the owner must surrender the dog to the Animal Control Officer when ordered to do so. If the owner fails to immediately surrender the dog, the Animal Control Officer shall take the dog into his possession from the premises of the owner or elsewhere, wherever the dog may be found within the City limits. If the dog cannot be taken into custody by the Animal Control Officer, it may be taken into custody under a search warrant pursuant to CCRP, Article 18.01, the grounds for issuance shall conform to Subdivision (8) of Article 18.02 of the same Code and be issued by the Municipal Judge.

C. Dangerous dog defined – "Dangerous dog" means a dog that:

1. makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or
2. commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

D. Requirements for owner

1. Not later than the 30th day after a person learns that the person is the owner of a dangerous

dog, the person shall, in addition to satisfying the requirements of 822.042, Texas Health & Safety Code, as amended from time to time:

- a. Provide the animal control authority with evidence that the dog has been spayed or neutered;
- b. Have the dog implanted with an RFID microchip that is registered with the animal control authority; and
- c. Provide a secure enclosure for the dog and permit the animal control authority to inspect the enclosure from time to time.

2. When not in a secure enclosure the dog must be humanely muzzled and held on a leash that is no more than six feet in length and is appropriate for the size and weight of the dog. When on a leash the dog must be in the custody of a person who is at least 18 years of age who is physically capable of restraining the dog.

E. Requirements for secure enclosure

1. A dangerous dog must be secured in a fenced area or structure that complies with the secure enclosure requirements of Texas Health and Safety Code section 822.041(4), as amended from time to time, and the additional requirements of this section. A dangerous dog may not be secured in a structure that is also used or occupied by humans, including a residence, garage, utility building or other similar structure.

2. The walls of a dangerous dog kennel must be not less than 8 feet high and must consist of 9-gauge chain link or a material deemed equivalent by the animal control authority. The kennel must have a roof or top that is attached to the walls and prevents entry or exit from above. The floor of the enclosure must be a concrete slab, not less than four inches in thickness, to which the walls are firmly anchored. The entry must be equipped with an automatic closing and latching mechanism and must be locked to prevent unauthorized entry. The kennel must contain a doghouse suitable to the size of the animal that affords shelter from inclement weather. The kennel must have an area that is not less than 72 square feet and no more than one animal may be housed in the enclosure.

3. The occupant of premises upon which a dangerous dog is kept must post a durable all weather sign bearing the words "DANGEROUS DOG." The lettering must be at least 2 inches high and must be red on a white background. The sign must be posted where visible from each street that provides access to the premises.

ARTICLE IX. COMERCIAL AND MULTIPLE- ANIMAL OWNERSHIP.

A. Permit Required.

1. Permits shall be required for all commercial animal enterprises and multi-animal owners. Commercial animal enterprises shall include but not be limited to enterprises such as kennels or other boarding services, pet shops, riding stables, animal auctions, performing animal exhibition, animal training services, grooming shops, petting zoos, aviaries or any similar entrepreneurial relationships regarding animals. Harboring or maintaining more than the number of animals authorized to be harbored or maintained under this ordinance on any one lot, except for livestock, fish or aquatic animals in an aquarium, shall be considered a multi-animal ownership. No person shall maintain, harbor or care for more than the number of animals of any

species authorized under this ordinance without having obtained a multi-animal owner permit, excluding livestock, fish, or aquatic animals in an aquarium.

2. All such permits shall be considered commercial except multi-animal owner. Multi-animal owner permits shall be issued only to private owners of multiple animals, having no relationship to any commercial animal enterprise.

B. Permits

1. Permits shall be valid for one year from date of issuance.

2. Commercial permit fee. The initial application and permit fee for commercial animal enterprise shall be \$50.00 dollars. The fee for the renewal of such license shall be \$35.00.

3. Multiple animal permit fee. The initial application and permit fee for multiple-animal ownership shall be \$15.00. The fee for the renewal of such permit shall be \$5.00.

4. Inspection. The animal control officer shall inspect the facilities of any person applying for a commercial or multiple animal permit. If the provisions of section C, below, are met the permit may be issued. If the animal control officer finds violations of the facility requirement provisions of this article or state law, he shall deny such permit until such corrections are made. If a request for reinspection is not made within a 30 days of the initial inspection, the application shall be deemed abandoned, the initial application fee shall be forfeited, and the application process shall be restarted. If such corrections are not made, the permit shall be denied.

5. Appeal. Applicants contesting original denial or subsequent re-inspection denial shall have a right to appeal. Appeal of such denial of permit shall be in writing to the Chief of Police within 10 days from the receipt of the denial notification. If no written appeal is received within the prescribed period the denial is final. Instances of a timely appeal, the Chief of Police shall conduct a hearing to determine the validity of the denial. At such hearings the formal rules of evidence do not apply and the Chief shall make determinations based on a preponderance of evidence presented. The Chief shall render a decision within 30 days from receipt of the appeal and the decision of the Chief shall be subject to appeal to the City Manager, in writing within 5 days of the ruling being delivered. The City Manager may elect to hear the appeal by review or a de novo informal preponderance of evidence hearing. The City Manager's decision is final.

C. Facility Requirements for commercial or multi-animal permits

1. Compliance. The following criteria must be met at such a facility on the initial and any subsequent inspections to or the permits shall be denied or revoked as permitted in this article.

a. Facility must be of sufficient size as to allow animals to move about freely. This shall apply to each animal kept. Size of facility shall be in proportion to the size of the individual animal's height and weight.

b. Adequate food and water must be provided so that each and all animals kept shall be maintained in good health and free of malnutrition and/or dehydration.

c. The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects and flies that could be harmful to the animal's health and/or to the health of the general public.

- d. The animals and the facility must be kept free of odor or stench which is offensive to a person of ordinary sensibilities.
- e. The animals must be maintained in a manner which does not pose a danger to the health of the animals themselves or to adjacent animals.
- f. The animals must not cause noise which is offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent or neighboring premises.
- g. Distance regulations as per this ordinance shall be met and maintained.

2. Habitual offender ineligible. The applicant or holder of the permit shall not have been issued citations for violation of this ordinance on three or more separate occasions, or animals covered by or to be covered by the permit shall not have been impounded on three or more separate occasions within any two year period.

3. Random inspections. Such permitted facilities may be randomly inspected for compliance with the basic requirements stated herein at any reasonable time for Multiple Animal Owner Permitted Residence or during regular business hours for Commercial Animal Enterprise Permitted Facility. Refusal to allow such inspections shall be grounds for permit revocation.

D. Revocation or Suspension of Commercial Animal Enterprise or Multi-Pet Ownership Permits.

Any commercial animal enterprise or multi-pet owner permit may be revoked if the owner's facility is found to be in violation of this ordinance, any zoning law, health law or any other applicable ordinance of the City or of the State of Texas, or the facility is maintained in such a manner as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

Appendix “A”

FEE SCHEDULE

There is hereby fixed and assessed the following fees to defray the cost of managing an Animal Control Program and for the protection of the public health, against the owner or keeper of every animal kept in the City; at such time that fee adjustments may be required to maintain a neutral “at cost” relationship, Appendix “A” may be amended by Resolution of the City Council:

- (a) *Standard licensing fee:* Reserved
- (b) *Permits:* A permit shall be issued after payment of the applicable fee:
 - (1) Circus/Zoo \$500.00
 - (2) Commercial Animal Enterprise \$100.00
 - (3) Multiple Animal Owner \$ 15.00

- (4) Guard Dog \$ 50.00
- (4) Renewal-----per annum fee of all \$ 35.00
- Except Multiple Animal Owner \$ 5.00

(c) *Impoundment fee:* An impoundment fee must be paid for each animal captured:

	<u>First</u> <u>Time</u>	<u>Second</u> <u>Time</u>	<u>Third</u> <u>Time</u>
(1) Dog or cat	\$ 25.00	50.00	100.00
(2) Fowl or other small animal	\$ 25.00	50.00	100.00
(3) Livestock	\$ 50.00	200.00	350.00
(4) Zoological and/or circus animal	\$100.00	200.00	500.00
(5) More than 4 violations by any pet or combination thereof owned by the same person in three years or less shall be \$500.00 for each impoundment thereafter.			

(d) *Boarding and Quarantine fees:* In addition to the impoundment fee, a boarding fee must be paid for each animal confined by the city or its agent. Such fees will be charged for daily costs of boarding, excluding the first day of impoundment. Owners must pay daily boarding fees, in the amount established by the boarding agency, for the housing and care of the animals before their animals are released to them. Quarantine fees covering the 10 day boarding and observation period shall also be set by the city appointed veterinarian and paid to him before release of the animal from his facilities. No initial impound fee shall be added to quarantine fees. In addition to impound fee(s), the boarding of estrays shall include the first day of boarding and such daily fee shall be set by policy if the stray is held by the Animal Control Authority or if held by a third person contracting party, fees shall be set in the contract between the city and that party at the current fair and reasonable rate.

(e) *Expenses of Animal.* In addition to other fees, the owner shall also pay for any veterinarian or drug fees incurred for the animal(s) while in the custody of the Animal Control Officer or any city contracted facility.