

ORDINANCE #88

AN ORDINANCE ADOPTING ANIMAL CONTROL REGULATIONS DESIGNED TO PROTECT THE PUBLIC HEALTH AND SAFETY; REGULATING THE KEEPING OF DOGS AND CATS AND OTHER ANIMALS IN THE CITY OF TUSCOLA; PROVIDING FOR VACCINATION; PROHIBITING FROM RUNNING AT LARGE; PROVIDING FOR REQUIREMENTS OF DANGEROUS DOGS;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TUSCOLA:

Sec. 2.01.001 Definitions

When used herein, the following words and phrases shall have the meaning ascribed to them below:

Animal control center. A facility designated by the city as the location to be used for the keeping of impounded or quarantined animals under the provisions of this chapter or applicable law.

Animal(s). Any living dumb creature or creatures and shall include dogs, cats, fowl, reptiles, and wild animals.

Area of lot. The square foot area of an acreage of a lot within the bounding property lines and exclusive of dedicated streets and alleys.

At large. Any animal not restrained by some physical means to the premises of the person in possession of the animal. However, an animal shall not be considered "at large" when held and controlled by some person by means of a leash or chain of proper strength and length to control the actions of the animal.

Fowl. Birds of any kind including chickens, pheasants, quail, guineas, geese, ducks, peafowl, emu and other domestic feathered creature, but excluding parakeets, canaries, or other similar small sized birds or any exotic birds, such as parrots provided they are continuously confined within the residence or business of the person in possession of same and are non-domestic feathered creatures.

Kennel. Any lot, building, structure, enclosure or premises wherein more than (5) dogs, or more than (5) cats, or more than (5) dogs and cats in aggregate, more than ten (10) weeks of age or older, are kept, harbored, maintained, boarded, or trained whether for profit or pleasure, but shall not include a veterinary hospital, pet shop, boarding, or the city's animal control center.

Local rabies control authority. A person designated to enforce the provisions of the Rabies Control Act of 1981 (Vernon's Texas Statutes and Codes Annotated, Health and Safety Code, title 10, section 826).

Notice. Written memorandum either personally delivered to the person entitled thereto, posted to the exterior of the residence or, mailed by certified mail, return receipt requested, addressed to the person entitled thereto at the last-known address of the recipient.

Person. Any individual, corporation, organization, business trust, estate, trust, partnership, association, and any other legal entity.

Possession of (an/the) animal. When any person:

- (1) Is the owner or has any ownership interest in an animal; or
- (2) Has an animal in that person's care, custody or control, including, without limitation, any person who:
 - (a) Is boarding an animal;
 - (b) Is caring for an animal on another person's property (whether for remuneration or not);
 - (c) Has been given the temporary use, possession or control of an animal by any other person; or
 - (d) Provides food, or shelter, or care for an animal for three (3) days or more (regardless of whether such 3 days are consecutive).
- (3) The fact that a person has obtained a license for a dog or cat or has done so within a five-year period immediately preceding an offense under this chapter shall be prima facie evidence of the fact that such individual is in possession of the animal for the purposes of this chapter.

Rabbits. All species of the order Lagomorpha to include domestic rabbits (all breeds), jackrabbits, cottontails, swamp rabbits and pika.

Residence. Any place of human habitation at any time, day or night, including, but not limited to any residence, church, school, motel, or nursing home.

Restrained. To secure an animal by a leash or lead or chain or confinement within the property limits of the person in possession of the animal.

Vaccination. An injection of rabies vaccine which is approved by the U.S. Department of Agriculture, or an appropriate state agency and administered by a licensed veterinarian.

Veterinarian. Any person duly licensed to practice veterinary medicine by the state board of veterinary examiners or an equivalent authority of any other state of the United States.

Veterinary hospital. Any establishment maintained and operated by a veterinarian for surgery, diagnosis and treatment of animal diseases and injuries.

Sec. 2.01.002 Offense; penalty

Any person who fails to comply with any of the provisions of this chapter commits an offense. Except as provided by applicable law, an offense is a class C misdemeanor. Upon conviction, a fine of not less than one dollar (\$1.00) or more than two thousand dollars (\$2,000.00) [shall be levied]. Each day of a violation shall be deemed a separate and complete offense.

Sec. 2.01.003 Animal control officer

(A) It shall be the duty of the animal control officer(s) to:

- (1) Cause to be impounded all animals found running at large;
- (2) Issue citations for any violations of the provisions of this chapter or any applicable law(s) pertaining to animals;
- (3) Carry out all other duties assigned to the animal control officer under this chapter or under applicable law; and
- (4) To perform such duties as may be directed by the police.

(B) While the primary responsibility for the duties described in subsection (A) rest with the animal control officer(s), any police officer of the city or any peace officer of the state is hereby authorized to discharge such duties and nothing in this chapter shall be construed to limit the authority of police officers of the city or any peace officer of the state in that regard.

Sec. 2.01.004 Interference with animal control officer(s) while performing duties

A person commits an offense if the person intentionally or with criminal negligence, interrupts, disrupts, impedes, or otherwise interferes with an animal control officer performing any duty or exercising any authority imposed or granted by this chapter or applicable law pertaining to animals. The phrase "with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with" shall have the same meaning as in section 38.15 of the Texas Penal Code and the decisions interpreting said law. An offense under this section is a class B misdemeanor.

Sec. 2.01.005 Fees

(A) The following fees shall be charged by the animal control officer(s) before an impounded animal is surrendered to its owner:

- (1) Impoundment fees: First Impoundment: \$25
Second Impoundment: \$35
Third Impoundment: \$45
- (2) Boarding fees
 - (a) Dogs and cats: \$7.00 per animal/per day.
- (3) Deceased pet pickup: \$20.00 per deceased animal (dogs or cats) from private property at the request of the owner.

(4) Euthanasia fees:

- (a) \$10.00 per dog or cat (with signed euthanasia release form).
- (b) Animals other than dogs or cats, charge will be based on animal size (with signed euthanasia release form).

(B) The fees and monies received under the provisions of this chapter shall be paid to the city and shall be used for defraying the cost incurred in connection with the enforcement of the provisions of this chapter.

Sec. 2.01.006 Impoundment; disposal or transfer of animals

(A) Authority to impound animals. The animal control officer(s) shall have authority to impound any animal being kept within the city in violation of any of the provisions of this chapter; or any law relating to animals, protection of animals, or the keeping of fowl, or reptiles in areas other than allowed in the provisions of this chapter, or the keeping of dangerous wild animals.

(B) Reclaim procedure.

(1) Notice. When an animal is impounded the animal control officer(s) shall send notice of that fact to the person who owns the animal, as corresponds with the number on the city tag, the notice shall be sent in accordance with section 2.01.007 of this article.

(2) Conditions for reclaiming an animal. Unless the animal control officer(s) has reason to believe and does believe that the impounded animal is a dangerous animal, as defined by state law, or that the impounded animal has been cruelly treated and should be forfeited, the person previously in possession of an animal may reclaim the animal by complying with the following conditions within 3 days of the date the animal was impounded:

(a) Payment of fines and/or fees. Payment of all applicable fines, penalties, and expenses of impoundment, including, but not limited to, those fees specified in section 2.01.005 of this article;

(b) Compliance with law. Compliance by such person with any applicable provisions of this chapter or any other law relating to the manner in which the animal is being kept or the conditions under which the animal is being kept; and

(c) License for a dog or cat. If the animal is a dog or cat for which a license is required under this chapter, such person shall obtain a license for such dog or cat at the time of release from impoundment.

(3) Release of the animal. The animal control officer(s) shall determine, from the foregoing list of conditions, which conditions apply as prerequisites to the reclaim or release of an impounded animal. The animal control officer(s) shall not release an impounded animal until all conditions determined to be applicable to the impounded animal have been fully satisfied.

(4) Cruelly treated animal or dangerous animal. If the animal control officer(s) has reason to believe that the impounded animal is being cruelly treated (pursuant to chapter 821 of the Texas Health and Safety Code) or is a dangerous animal (pursuant to chapter 822 of the Texas Health and Safety Code) or any other law permitting the seizure and disposition of such animals, the animal control officer(s) shall not release the impounded animal but shall pursue the remedies under such laws provided for officers responsible for animal control or the animal control authority.

(C) Disposition of an animal.

(1) If animal not reclaimed. If the person previously in possession of an animal does not reclaim the impounded animal within 3 days of the date the animal was impounded, the animal control officer(s) may dispose of the animal in accordance with section 2.01.008 of this code without further notice to such person. This section shall not apply to an animal that has been

cruelly treated or that is subject of a proceeding to determine if it is a dangerous animal; such animals will be disposed of in accordance with state law governing such matters.

(2) Emergency disposition. Notwithstanding the provisions of subsection (1) above, an impounded animal shall be destroyed immediately if, in the opinion of the animal control officer(s), any peace officer of the city or a veterinarian:

(a) It is injured or sick and is in such a state that its recovery is seriously in doubt; or

(b) It is sick and endangers the health of other animals or persons.

(D) Record of impounded animals. The animal control officer(s) shall keep a record of all animals impounded. Such record shall include a description of the animal, the date of impoundment, the location and time of the impoundment, the name of the owner or person in possession of the animal (if known), and disposition of the animal.

(E) Citation in lieu of impoundment. In lieu of impounding an animal that is at large or being kept in violation of this chapter, the animal control officer(s) may issue the person in possession thereof a citation for any violations of this chapter or applicable law.

(F) Private property—Right to enter. In the event an animal is observed at large on private property, the animal control officer(s) may enter the property in accordance with applicable law for the purpose of emergency impoundment, seizure of the animal or issuance of a citation or both.

Sec. 2.01.007 Notices

(A) Form of notice. The notices required by section 2.03.004 (notice of intention to revoke a license) and section 2.01.006 (notice of impoundment) shall be substantially in the following forms:

(1) For license revocation:

CITY OF TUSCOLA, ANIMAL CONTROL

418 GRAHAM STREET, Tuscola, TX 79562

Telephone: 325-554-7766

(date of notice)

To: (name and address of the person listed on the subject license or the person in possession of the animal the subject of the notice)

Description of the dog or cat the subject of the notice:

License No.:

PLEASE TAKE NOTICE THAT: *The Animal Control Officer of the City of Tuscola, Texas has reason to believe, and does believe, that the following grounds exist to revoke the license for the above described dog or cat:*

Those grounds which are marked or checked apply:

(a) *The person to whom the license was issued refuses or has failed to comply with provisions of the Ordinances of the City of Tuscola, Texas or a law governing the protection of animals or any law governing dangerous animals; regardless of whether any such acts or omissions have resulted in a final conviction. A brief description of the facts which form the basis for this allegation are as follows:* _____

(b) *The dog or cat in question has been impounded by the city three or more times during a consecutive twelve-month period within three years from the date of this notice.*

(c) *The Licensee has two or more final convictions within three years from the date of this notice of an offense under Animal Control Ordinance of the Ordinances of the City of Tuscola, Texas or a law relating to animals, protection of animals or the keeping of dangerous animals.*

(d) *A final determination has been made, in accordance with state law, that the dog or cat is a dangerous animal.*

An administrative hearing will be held before the Senior Animal Control Officer on the following date and time and at the following location to determine if grounds exist to revoke the license for the dog or cat referred to above:

Date of Hearing:

Time of Hearing:

Place of Hearing: Municipal Court, 418 Graham Street, Tuscola, Texas.

If a determination is made that grounds exist to terminate this license the license will be revoked and you will be required to either surrender the dog or cat to the animal control officer or remove it from the city and provide proof that you have done so within 24 hours from the time the hearing adjourns. If your license is revoked you will not be eligible for a new license for a period of one year.

Animal Control Officer, City of Tuscola, Texas

(2) If for impoundment:

CITY OF TUSCOLA, ANIMAL CONTROL

418 GRAHAM STREET, Tuscola, TX 79562

Telephone: 325-554-7766

(date of notice)

To: [name and address of the person listed on the subject license or the person in possession of the animal the subject of the notice]

Description of the animal the subject of the notice:

License No. (if a dog or a cat with a license):

PLEASE TAKE NOTICE THAT: The above-described animal has been impounded by the City of Tuscola, Texas. You may reclaim this animal by:

- (a) paying all applicable fines, penalties and expenses of impoundment,
- (b) compliance with any applicable provision of the Code of Ordinances of the City of Tuscola, Texas or any other law relating to the manner in which the animal is to be kept or the conditions under which the animal is kept; and
- (c) if the animal is a dog or cat for which a license is required, obtaining a license.

If you do not reclaim the animal by complying with these conditions within 3 days of the date of this notice, the City will dispose of the animal without further notice by one of the following methods: by transfer to the Humane Society of Taylor County or a similar charitable organization or destruction of the animal.

Animal Control Officer, City of Tuscola, Texas

(B) Manner of providing notice. The notices described in this section shall be provided by the animal control officer:

- (1) Calling the listed owner at the phone number provided.
- (2) Posting the appropriate notice on the door or delivering in person to the licensee. The address to be used for providing a notice will be determined as follows:

(C) If person in possession is unknown or address is unknown. If, in the exercise of reasonable diligence, the animal control officer is unable to ascertain the person in possession of an animal or is unable to obtain an address for the owner, no notice may be provided.

Sec. 2.01.008 Method of disposition of an animal

If the license for a dog or cat is revoked pursuant to this chapter and, the dog or cat is not removed from the city or if an impounded animal is not reclaimed in the manner required by section 2.01.006 of this code, the animal control office may dispose of the animal by transfer to the Humane Society of Taylor County or a similar charitable organization or destruction of the animal. All euthanasia shall be done humanely by injection of sodium phenobarbital or commercially compressed carbon monoxide administered by the animal control officer or his or her appointed agent.

Sec. 2.01.009 Disposition of dead animals

The person in possession of an animal shall properly dispose of the animal following its death (in accordance with applicable law) within twenty-four (24) hours of the time such owner or person in possession of same discovers the death of the animal. A person commits an offense if the person fails to comply with this section.

Sec. 2.01.010 Kennels

Kennels shall be more than three hundred (300) feet from any residence or habitation for human beings (other than the residence of the owner, lessor, keeper, or possessor of such kennel). The foregoing distance requirement shall be determined by measuring in a straight line between the two (2) closest points.

Sec. 2.02.001 Running at large; restraint

(A) A person commits an offense if the person in possession of any animal, including, but not limited to, a dog, cat, horse, mule, jack, jenny, cow, sheep, fowl, reptile, pig, or rabbit allows or permits the animal to run at large.

(B) A person in possession of a dog, cat, horse, mule, jack, jenny, cow, sheep, fowl, reptile, or pig commits an offense if such person does not restrain the dog, cat, horse, mule, jack, jenny, cow, sheep, fowl, reptile, pig, or rabbit by some physical means (fence, rope, leash or chain) at all times, on or off the premises of the person in possession thereof.

(C) A person in possession of an animal commits an offense if such person transports the animal in any open motor vehicle without securing the animal by a rope, leash, chain, carrier, or other device which will prevent the animal from escaping the vehicle or being ejected from the vehicle.

(D) The animal control officer(s) has the right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this chapter. The animal control officer(s) is hereby empowered to enter upon private property for the purpose of ascertaining whether any animal present, kept, or harbored thereon/therein is afflicted with rabies; or whether or not a vaccination license and city tag has been secured for any dog or cat to ascertain compliance with this chapter.

State law references—Animals at large, V.T.C.A., Local Government Code, sec. 215.026; restraint, impoundment and disposition of dogs and cats, V.T.C.A., Health and Safety Code, sec. 826.033.

Sec. 2.02.003 Noisy animals

Any animal that makes noise which unreasonably disturbs the public peace is hereby declared a public nuisance. At the discretion of the animal control officer(s), notice shall be given to the person in possession of an animal that makes noise which unreasonably disturbs the public peace. Such notice shall direct the person in possession of the animal to abate such disturbance by the animal and prevent its reoccurrence. A person who is given such notice commits an offense if the person fails to comply with the order and directive of the animal control officer(s) by abating the disturbance and its reoccurrence.

Sec. 2.02.004 Dogs or cats in season

The animal control officer(s) may require any person in possession of a female dog or cat that is in season to confine the animal to a secure building or structure where the animal cannot escape and where other animals cannot enter. A person commits an offense if the person in possession of a female dog or cat in season fails to comply with such an order or directive of the animal control officer(s).

Sec. 2.03.001 Vaccination and licensing of dogs and cats required

Any person in possession of a dog or cat that is four (4) months or older shall:

- (1) Have the dog or cat vaccinated against rabies not less than every twelve (12) months.

- (2) Present a certificate from a veterinarian certifying such vaccination to the animal control.
- (3) Obtain a license for keeping the dog or cat in the city from the animal control.
- (4) Dogs and cats must wear collars or harness with rabies and city license tags attached thereto at all times. A person commits an offense if they fail to comply with the provisions of this section.
- (5) A maximum of 5 licenses will be issued per residential address.

Sec. 2.03.002 Criteria for the issuance

Any person who applies for a license (an "applicant") must satisfy all of the following criteria before a license will be issued:

- (1) Certificate of veterinarian. The applicant must present a written certificate from a veterinarian certifying that the dog or cat has been vaccinated against rabies within the twelve-month period preceding the date the certificate is presented.
- (2) Written application. The applicant must complete a written application which will be prepared and revised from time to time, by the animal control officer(s) or his/her designee. Among other things, the application shall require the applicant to certify:
 - (a) That the applicant is qualified for the issuance of a license (including the criteria regarding prior convictions and that no grounds for revocation exist);
 - (b) The physical address and telephone number where the animal is being kept; and
- (3) No prior convictions of certain offenses or revocation of a license. The applicant shall not have been convicted of any offense under this chapter or any law relating to animals, protection of animals, or the keeping of dangerous animals, within one (1) year from the date the application is submitted nor shall the applicant have had a license revoked under this chapter within one (1) year from the date the application is submitted.
- (4) Competent adult. The applicant shall be a competent adult 18 years of age or older.

Sec. 2.03.004 Revocation of license

(A) Grounds. A license may be revoked upon findings that any of the following grounds exist:

- (1) Noncompliance with this chapter or other laws relating to animals. The person to whom the license was issued (the "licensee") refuses or fails to comply with any of the provisions of this chapter or any applicable law governing the protection of animals, or any law governing dangerous animals; regardless of whether any such acts or omissions have resulted in a final conviction.
- (2) Multiple impoundments. The dog or cat in question has been impounded by the city three (3) or more times during any consecutive twelve-month period within three (3) years from the date notice of intention to revoke license is sent by the city to the licensee.
- (3) Two or more convictions. The licensee has two (2) or more final convictions of any offense under this chapter or any law relating to animals, protection of animals, or the keeping of dangerous animals within three (3) years of the date the notice of intention to revoke license is sent by the city to the licensee.
- (4) Dog or cat determined to be dangerous. The dog or cat has been determined to be a dangerous animal under state law.

(B) Procedure.

- (1) Notice. The animal control officer(s) shall give written notice of his/her intention to revoke the license of a dog or cat in the manner specified in section 2.01.007 of this code.
- (2) Hearing. An administrative hearing shall be held before the senior animal control officer to determine if grounds for revocation of the license exist. The date, time, and place for the hearing shall be designated by the animal control officer and included in the notice. The hearing

shall be on a date not less than seven (7) days from the date the notice of intent to revoke the license is sent to the licensee. If the senior animal control officer determines that grounds exist to revoke the license, pursuant to subsection (a), the license shall be revoked by the animal control officer. The ruling or decision of the senior animal control officer shall be noted on the license records of the city or by a letter or other appropriate memoranda selected by the animal control officer which will be kept with the license records of the city. All determinations by the senior animal control officer under this subsection (2) shall be final.

(C) Disposition of the dog or cat following license revocation.

(1) Surrender or removal of a dog or cat. Except as provided below for a dog or cat running at large, pursuant to subsection (3), upon a determination that grounds to revoke a license for a dog or cat do exist, the licensee shall, within 24 hours of the time the hearing adjourns, either:

- (a) Surrender possession of the dog or cat to the animal control officer, or
- (b) Permanently remove the dog or cat from the city limits and provide proof of such removal to the animal control officer. A person commits an offense if they fail to comply with the provisions of this subsection (1).

(2) Proof of removal of dog or cat. Proof of removal of a dog or cat from the city, in compliance with subsection (1), may be achieved by:

- (a) A written receipt signed by an individual who is not a resident of the city, acknowledging that such individual is in possession of the dog or cat, stating such individuals' address outside of the city and a phone number where such individual can be reached to verify their possession of the dog or cat; and
- (b) The agreement by the person whose license has been revoked to permit the animal control officer to inspect the premises where the dog or cat was kept to verify its removal.

(3) Dog or cat running at large. If the dog or cat, the subject of the hearing, is running at large the animal control officer shall take immediate steps to impound the dog or cat.

(D) Disposition of a dog or cat in the possession of the city following revocation.

(1) Applicability. This subsection does not apply to any dog or cat that is removed from the city following revocation of its license in strict compliance with subsection (C)(1) and (C)(2).

(2) Dog or cat surrendered. If a dog or cat whose license has been revoked is surrendered to the animal control officer following the revocation hearing, such dog or cat shall be disposed of in accordance with section 2.01.008 of this code without further notice to the former licensee.

(3) Dog or cat running at large. If the license for a dog or cat has been revoked as a result of a hearing under this section and the dog or cat is running at large, the person in possession of the dog or cat shall, at the conclusion of the hearing, provide the animal control officer with an address and telephone number where such person can be reached at all times. If such person will be away from such address or phone number for more than twelve (12) hours, such person shall advise the animal control officer of such other address or phone number where they can be contacted. Once the dog or cat is captured by the animal control officer, the animal control officer will contact such person and provide them with an opportunity to:

- (a) Remove the dog or cat from the city, in compliance with subsection (C)(1). Such removal of the dog or cat must be accomplished within twenty-four (24) hours of the time the animal control officer gives notice that the dog or cat has been captured. This time period will not be extended if the person requesting notice is not available to receive the notice at the address or telephone number provided the animal control officer. The animal control officer shall not surrender possession of the dog or cat to the person previously in possession of same. The animal control officer will only surrender possession of the dog or cat to the person who is not a resident of the city who will

remove the dog or cat from the city. The animal control officer shall capture, by all lawful means, and dispose of the dog or cat in accordance with section 2.01.008 of this code.

(4) Dog or cat not surrendered and not running at large. If the license for a dog or cat is revoked and the dog or cat is not surrendered and is not running at large, the animal control officer shall proceed to capture or seize the dog or cat, by all lawful means, and shall thereafter dispose of the animal in accordance with section 2.01.008 of this code without further notice to the person in possession of the dog or cat.

(E) Interfering with apprehension of a dog or cat whose license is revoked. A person commits an offense if the person:

- (1) Fails to surrender to the animal control officer a dog or cat whose license has been revoked as required by subsection (C)(1);
- (2) Conceals the location of a dog or cat whose license has been revoked; or
- (3) Hinders the apprehension of a dog or cat whose license has been revoked.

Sec. 2.04.001 Rabies Reports and Quarantine: Local rabies control authority

(A) The senior animal control officer of the city is designated as the local rabies control authority to enforce the provisions of the Rabies Control Act of 1981 (Vernon's Texas Code, title 10, health and safety of animals, chapter 826, rabies).

(B) The duties of the local rabies control authority shall include, but not limited to, the enforcement of:

- (1) The provisions of the Rabies Control Act of 1981, and the rules of the department of state health services which comprise the minimum standards for rabies control;
- (2) The chapters and/or rules of the city in which he/she serves; and/or
- (3) The rules adopted by the department of state health services under the area quarantine provisions of section 826.045 of said act.

State law reference—Appointment of rabies control authority by municipality, V.T.C.A., Health and Safety Code, sec. 826.017.

Sec. 2.04.002 Reports of suspected rabid animals and animal bites and scratches

A person commits an offense if the person (including owners or persons in possession of animals, veterinarians, or physicians) fails to report any of the following in the manner set forth in this section:

- (1) If any person observes an animal which is displaying the symptoms of rabies it shall be reported immediately to the animal control officer(s).
- (2) If any person observes or becomes aware of facts indicating an animal has bit or scratched any person without breaking the skin of the victim and if said person has reason to believe that the animal is infected with rabies it shall be reported immediately to the animal control officer(s).

(3) If any person is bitten or scratched or if any person observes or becomes aware of the fact that an animal has bitten or scratched any person in a manner which causes a break in the skin of the victim, said person (or the person's parent or guardian if the victim is a minor or incapacitated) shall report the incident to the animal control officer(s) and fill out a bite report.

State law reference—Reports of rabies, V.T.C.A., Health and Safety Code, sec. 826.041.

Sec. 2.04.003 Quarantine

(A) Required. Following the receipt of a report under subsections (1) or (2) of section 2.04.002 of this article, the animal control officer(s) shall, as soon as feasible, impound such animal for quarantine

purposes if the symptoms of rabies described in the animal are suspected by the local rabies control authority. The animal control officer(s) may seize an animal to facilitate its examination for this purpose.

(B) Procedures. The quarantine of an animal pursuant to this section shall be pursuant to the following procedures:

(1) Period of quarantine. The quarantine shall be for a period of at least ten (10) days from the day of the bite, or as required by state law.

(2) Examination of animal or tissue in absence of owner. In the event the person in possession of the animal quarantined cannot be identified and located within a reasonable length of time, the victim, at his/her option, may elect to have the tissue submitted for laboratory examination with the consent of the local rabies control authority, and the cost shall be borne by the city.

(3) High risk animals. Any high risk animal such as skunks, bats, coyotes, raccoons, and canine hybrid breeds shall be humanely killed and tested for rabies. An animal that has inflicted multiple bites to a person on the neck, face, or head may be required by the local rabies control authority to be immediately tested for rabies without prior notice to the person in possession of the animal.

(4) Place of quarantine. The quarantine of an animal under this section shall take place, at the expense of the person in possession of the animal, at one of the following locations:

(a) A veterinary hospital selected by the person in possession of the animal; or

(b) The city's animal control center if the person in possession of the animal does not:

(1) Timely notify the animal control officer of their choice of veterinary hospitals; and

(2) Make arrangements with said hospital for payment; or

(c) At the home of the person in possession of the animal but only if, in the opinion of the local rabies control authority, the following criteria have been fully met:

(1) The person bitten is a family member and resides in the household where the animal is kept;

(2) Secure facilities are available at the home;

(3) The animal is currently vaccinated against rabies. An animal under four months of age may be quarantined if it is unvaccinated as long as all other requirements are met;

(4) The person in possession of the animal agrees that the local rabies control authority, of his/her representative, and/or a veterinarian may observe the animal at least on the first day and last days of the quarantine period (at the expense of the person in possession of the animal if it is a veterinarian) and at such other times as the local rabies control authority or veterinarian deems necessary;

(5) The animal was not a stray at the time of the bite;

(6) If the animal becomes ill during the observation period, the person in possession must agree to notify the local rabies control authority immediately; and

(7) The person in possession agrees that the animal control officer(s) can immediately impound the animal in the event there is any failure to comply with any of the foregoing conditions or criteria or if required by a veterinarian.

(C) Release. No animal confined for quarantine purposes under the provisions of this section shall be released until:

(1) The quarantine period is over;

(2) The animal is either vaccinated against rabies or proof (satisfactory to the local rabies control authority) has been provided that the animal has a current rabies vaccination;

- (3) The person in possession of the animal provides proof of payment to a veterinarian for the rabies vaccination in the event the animal is vaccinated for rabies while in quarantine; and
- (4) All boarding and impoundment fees, expenses, fines and penalties owing in connection with the animal have been paid. In addition to any fines or penalties which may be assessed in connection with the quarantine of an animal pursuant to this section, the city shall charge an impoundment fee in accordance with section 2.01.005 of this chapter and a boarding fee (in accordance with section 2.01.005 of this chapter) for any animal quarantined in the city's animal control center.

State law references—Quarantine of animals, V.T.C.A., Health and Safety Code, sec. 826.042; release or disposition of quarantined animal, V.T.C.A., Health and Safety Code, sec. 826.043.

Sec. 2.04.004 City-wide quarantine

(A) Imposition; offenses; duration. When based upon a report of the state board of health of confirmed cases of rabies within the city, the county health department, department of state health services, may recommend a city-wide quarantine. If a city-wide quarantine is so recommended the local rabies control authority with the concurrence of the mayor may impose a city-wide quarantine. During a city-wide quarantine a person commits an offense if the person:

- (1) Allows any animal in the person's possession to be taken, whether restrained or not, to the streets, or any public place; and
- (2) Permits any animal (including cats) in the person's possession to be at large. A city-wide quarantine may be invoked for a period of thirty (30) days but in the event there are additional positive cases of rabies occurring during this period of city-wide quarantine, such period of quarantine may be extended for an additional reasonable period of time by the local rabies control authority with the concurrence of the mayor upon the recommendation of the county health department or the department of state health services.

(B) Animals bitten during city-wide quarantine. During any city-wide rabies quarantine every animal bitten (and thereby exposed to rabies) by an animal which has been or is determined to have rabies, shall be destroyed or the person in possession of the exposed animal may elect the following procedure at such person's sole expense as an alternative to the destruction of the bitten animal:

- (1) If the exposed animal was currently vaccinated against rabies at the time of the exposure, it must be:
 - (a) Vaccinated against rabies immediately; and
 - (b) Placed in strict isolation for forty-five (45) days.
- (2) If the exposed animal was unvaccinated against rabies at the time of the exposure, it must be treated as follows:
 - (a) Vaccinated against rabies immediately after the exposure;
 - (b) Placed in strict confinement for ninety (90) days;
 - (c) Given booster vaccination the third week of confinement; and
 - (d) Given a booster vaccination the eighth week of confinement.
- (3) The circumstances of the exposed animal's isolation must be approved by the local rabies control authority.

State law reference—Area rabies quarantine, V.T.C.A., Health and Safety Code, sec. 826.045.

Sec. 2.04.005 Destruction of animals prohibited

A person commits an offense if the person:

- (1) Kills, or causes to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting or scratching a human; or

- (2) Removes same from the city limits without written permission from the local rabies control authority, the county health department, or the department of state health services.

Sec. 2.04.006 Surrender of certain dead animals

A person commits an offense if the person fails or refuses to surrender the carcass of any dead animal exposed to rabies upon demand by the local rabies control authority, the county health department, or the department of state health services

Sec. 2.04.007 Exemptions for certain dogs

The following animals will not be required to be placed in quarantine:

- (1) Currently vaccinated service dogs; and
- (2) Currently vaccinated police dogs that inflict a bite while in the line of duty.

Sec. 2.04.008 Construction with state law

Nothing in this chapter shall be construed to limit the authority of the animal control officer(s) to carry out or enforce the provisions of chapter 826 of the Texas Health and Safety Code, the rules of the department of state health services pertaining to rabies and the rules adopted by the department of state health services under the area rabies quarantine provisions of section 826.045 of the Texas Health and Safety Code.

Sec. 2.04.009 Seizure warrant

If a person who is in possession of an animal which is subject to quarantine, testing or destruction under this article fails or refuses to release the animal to the animal control officer(s) for quarantine; the animal control officer(s) may apply to a judge or magistrate for a seizure warrant authorizing seizure of such animal for the purpose of quarantine, testing or destruction in accordance with this article.

Sec. 2.05.031 Dangerous Dogs: Adoption of state law regarding dangerous dogs

The city hereby adopts the provisions of section 822 subchapter D of the Texas Health and Safety Code regarding procedures for determining whether a dog is dangerous and related matters.

Sec. 2.05.032 Definitions

Dangerous dog. 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.

Dog. A domesticated animal that is a member of the canine family.

Owner. A person who owns or has custody or control of the dog.

Secure enclosure. A fenced area or structure that is:

- (1) Locked;
- (2) Capable of preventing the entry of the general public, including children;
- (3) Capable of preventing the escape or release of the dog;
- (4) Clearly marked as containing a dangerous dog; and
- (5) In conformance with the requirements for enclosures established by the local animal control authority.

Sec. 2.05.033 Requirements for owner

(A) Not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall:

- (1) Register the dangerous dog with the animal control authority for the area in which the dog is kept;
- (2) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;
- (3) Obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control authority for the area in which the dog is kept; and
- (4) Comply with an applicable municipal requirement, or restriction on dangerous dogs.

(B) The owner of a dangerous dog who does not comply with subsection (A) shall deliver the dog to the animal control authority not later than the 30th day after the owner learns that the dog is a dangerous dog.

(C) If, on application of any person, a justice court, county court, or municipal court finds, after notice and hearing as provided by section 822.0423, that the owner of a dangerous dog has failed to comply with subsection (A) or (B), the court shall order the animal control authority to seize the dog and shall issue a warrant authorizing the seizure. The authority shall seize the dog or order its seizure and shall provide for the impoundment of the dog in secure and humane conditions.

(D) The owner shall pay any cost or fee assessed by the municipality or county related to the seizure, acceptance, impoundment, or destruction of the dog. The governing body of the municipality or county may prescribe the amount of the fees.

(E) The court shall order the animal control authority to humanely destroy the dog if the owner has not complied with subsection (A) before the 11th day after the date on which the dog is seized or delivered to the authority. The court shall order the authority to return the dog to the owner if the owner complies with subsection (A) before the 11th day after the date on which the dog is seized or delivered to the authority.

(F) The court may order the humane destruction of a dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog.

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

- (1) The owner knows of an attack described in section 822.041(2)(A) or (B);
- (2) The owner receives notice that a justice court, county court, or municipal court has found that the dog is a dangerous dog under section 822.0423; or
- (3) The owner is informed by the animal control authority that the dog is a dangerous dog under section 822.0421.

Sec. 2.05.034 Determination that dog is dangerous

(A) If a person reports an incident described by section 822.041(2), the animal control authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control authority determines the dog is a dangerous dog, it shall notify the owner of that fact.

(B) An owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control authority to a justice, county, or municipal court of competent jurisdiction. An owner may appeal the decision of the justice, county, or municipal court in the same manner as appeal for other cases from the justice, county, or municipal court.

Sec. 2.06.001 Animal Care and Treatment: Humane care and treatment required

(A) Food and water. All animals shall be fed at least once daily. Water shall be available to the animals at all times. All water and food receptacles shall be kept clean and sanitary at all times. Food shall be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value. Food shall be prepared with consideration to the age, species, size, condition, and temperament of the animal. A person commits an offense if any person places excessive amounts of food in a manner as to allow stray and wild animal's access to such food.

(B) Shelter.

(1) Dogs, cats, and domestic pets. Dogs, cats, and other domestic pets shall be provided with access to shelter to allow them to remain dry and protected from cold and wind. Shelter shall be enclosed fully on three sides, roofed, and have a solid floor. The entrance to the shelter shall be flexible to allow the animal's entry and exit, sturdy enough to block entry of wind and rain. It shall be small enough to retain the animal's body heat and large enough to allow the animal to stand and turn comfortably. The enclosure shall be structurally sound and in good repair. Bedding shall be provided. When sunlight is likely to cause overheating or discomfort, sufficient shade (artificial or natural) shall be provided to allow animals to protect themselves from the direct rays of the sun. If shade is provided by the enclosure, allowance shall be made for adequate ventilation.

(2) Space requirements. Any animal kept on a chain, or tether, shall be placed so that the chain cannot become entangled with the chains, or tethers, of other animals or with any other objects. The chain shall be five (5) times the length of the animal, measured from the tip of the nose to the base of the tail. The chain, or tether, shall also be of sufficient length to allow the animal complete access to the shelter at all times. The chain shall be of sufficient size and strength to securely restrain the animal. The chain, or tether, shall be placed so it will not allow the animal to enter any alley, sidewalk, street, or right-of-way in the city. For animals not confined by chains, or tethers, the enclosures shall be constructed and maintained so as to maintain physical condition and prevent escape. The animal must be able to make normal postural and social adjustments. There shall be ample room to prevent overcrowding, physical discomfort, or stress.

(3) Confining animals to motor vehicles prohibited. No animals shall be confined within or on a motor vehicle at any location under such conditions as may endanger the health or well-being of the animal, including, but not limited to, dangerous temperature, lack of food, water, or attention, or confinement with a dangerous animal. Any animal control or peace officer is authorized to remove any animal from a motor vehicle at any location when he reasonably believes it is confined in violation of this section. Any animal so removed shall be delivered to the animal control center, after such removing of such animal, the officer shall leave a written notice of such removal and delivery, including his name, in a secure, conspicuous location on or within the vehicle. The animal shall be released from the animal control center upon payment of any fines or penalties, the impoundment fee and any accrued boarding fees.

(B) Inhumane treatment. A person commits an offense if a person in possession, or any person intentionally, knowingly, or recklessly:

- (1) Tortures an animal, or, in a cruel manner kills or causes serious bodily injury to an animal.
- (2) Without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal.
- (3) Fails to provide necessary food, water, care, or shelter for an animal in the persons possession.
- (4) Abandons or "dumps" an animal in the person's possession.

- (5) Transports or confines an animal in a cruel manner.
- (6) Causes one animal to fight with another animal or person.
- (7) Uses a live animal as a lure in dog training.
- (8) Seriously overworks an animal.
- (9) Antagonizes an animal through a fence or at the end of its chain, kicks, hits, or throws any object at an animal within its confined area. Each such kick, hit, or throw shall be considered a separate and complete offense.
- (10) Any other such offenses as defined in title 9, chapter 42 of the Texas Penal Code.

Sec. 2.06.002 Poisoning animals; traps

- (A) A person commits an offense if the person exposes any known poisonous substance, whether mixed with food or not, so that the same shall be liable to be eaten by any animal (excluding rodent control activities).
- (B) A person commits an offense if the person exposes an open jaw type trap, leg hold trap, snare trap, or any type trap able or liable to cause physical harm to any person or animal.
- (C) A person commits an offense if the person uses a live trap to capture stray animals and allows the animal to spend extended periods of time in the trap exposed to adverse weather conditions or allows the captured animal to die inside the trap.

State law references—Cruelty by poisoning livestock animals, V.T.C.A., Penal Code, sec. 42.09(a)(5); cruelty by poisoning non-livestock animals, V.T.C.A., Penal Code, sec. 42.092(b)(2).

Sec. 2.07.001 REGULATIONS OF CERTAIN LIVESTOCK AND FOWL

(A) Swine. Except as provided for Vietnamese potbellied pigs pursuant to Sec. 2.07.002 of this ordinance, a person commits an offense if the person is in possession of any swine species of any kind.

(B) Fowl. A person commits an offense if the person is in possession of any fowl which is not housed and maintained as follows:

- (1) There must be at least ten square feet of floor or ground area dedicated exclusively for each fowl;
- (2) The fowl must be fed and watered as required by Sec. 2.07.003 of this ordinance;
- (3) The fowl must have access to a shelter as required by Sec. 2.07.003 of this ordinance and such shelter shall be thoroughly cleaned on a daily basis; and
- (4) The shelter must be painted or whitewashed at least once every six months and the roosting places sprayed with some disinfectant at least once per calendar month to discourage insects, fleas, mites, mosquitoes and flies.
- (5) Coups shall be no closer than 25 feet from any building where people live.

(C) Cows, goats, horses, sheep, or any other animal of similar species. A person commits an offense if the person is in possession of any horses, mules, donkeys or other equine species, cow, bull or other bovine species, sheep or other bovine species, llamas, or goat species which are not housed and maintained as follows:

- (1) A minimum of 400 square feet shall be provided to each such animal.
- (2) Such animal(s) must be fed and watered as required by Sec. 2.07.003 of this ordinance;
- (3) Such animal(s) must have access to a shelter as required by Sec. 2.07.003 of this ordinance and such shelter shall be thoroughly cleaned on a daily basis;
- (4) The parcel of land and shelter where such animal(s) is/are kept shall not be nearer than 100 feet to any building occupied by any person;
- (5) A suitable method shall be provided to rapidly eliminate excess water from the parcel of land where the animal(s) is/are kept; and

(6) Every parcel of land and shelter where such animal(s) is/are kept shall have a suitable manure box or container in which all manure and dropping shall be placed daily; each such box or container shall be securely sealed and otherwise protected from flies, vermin, and rodents; shall be cleaned out and disinfected at least once a week; and manure from such boxes or containers shall not be left in open stacks but removed and buried.

Sec. 2.07.002 VIETNAMESE POT-BELLIED PIGS.

(A) A person commits an offence if the person is in possession of:

- (1) More than two adult Vietnamese potbellied pigs or
- (2) Any Vietnamese potbellied pig which is in excess of 20 inches in height and weighing in excess of 95 pounds. A Vietnamese potbellied pig that is not prohibited by this ordinance is classified as a domestic pet.
- (3) The pig(s) shall be kept under restraint at all times and shall not be permitted to be at large.
- (4) The pig(s) shall be vaccinated for erysipelas annually and certification of the vaccination from a veterinarian shall be made available upon request of any authority.

Sec. 2.07.003 HUMANE CARE AND TREATMENT REQUIRED

(A) Food and Water. All animals shall be fed at least once daily. Water shall be available to the animals at all times. All water and food receptacle shall be kept clean and sanitary at all times. Food shall be wholesome, palatable, free from contamination, and of sufficient quantity and nutritive value shall be prepared with consideration to the age, species, size, condition and temperament of the animal.

(B) Livestock. All livestock shall have a shed of reasonable size for the number of livestock to allow them to remain dry, during wet weather and protected from severe chill factors. Such shelter shall have three sides and a roof. It shall be structurally sound and in good repair to protect the livestock from injury. Such shelter will provide minimum space to accommodate all livestock confined within the compound.

(C) Cows, horses, and large hooved animals shall be limited to no more than 1 animal per acre.

2.07.004 EXCEPTIONS FOR SCHOOL AND 4-H PROJECTS.

Any of the foregoing which prohibits swine or mandates the area required for livestock or fowl shall not apply to livestock, swine or fowl in a school or 4H sanctioned project in which event there shall never be more than 2 such animals per household. The maintenance and sanitation requirements under Sections above, shall apply to swine used in school or 4 H projects.