

ORDINANCE NO. 2019-005 O

ANIMAL CONTROL

AN ORDINANCE OF THE CITY OF HITCHCOCK , TEXAS REPEALING CHAPTER 90 – ANIMALS OF THE CITY’S CODE OF ORDINANCES; ADOPTING A NEW CHAPTER 90 ESTABLISHING GUIDELINES AND REGULATIONS FOR THE ENFORCEMENT OF ANIMAL CONTROL WITHIN THE CITY LIMITS OF HITCHCOCK, TEXAS AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE FROM AND AFTER ITS PASSAGE AND ADOPTION AND PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY.

WHEREAS, in order to better serve and protect the health, safety, welfare and well-being of the citizens and animals of the City of Hitchcock, Texas, the City Commission do hereby adopt this ordinance under the following terms and conditions as follows:

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HITCHCOCK THAT:

SECTION I: Chapter 90 is hereby repealed and replaced amended as follows:

Section 1
Definitions

Section 2: Vaccination for Rabies
Licensing Provisions

Section 3: License required; exceptions

Section 4: Proof of vaccination required for issuance

Section 5: Issuance; fees

Section 6: Running-at-Large prohibited; exceptions

Section 7: Tethering and confinement

Section 8: Keeping rabid animal prohibited

Section 9: Causing or permitting dog to bite prohibited

Section 10: Authority to impound

Section 11: Procedure for impoundment

Section 12: Interference with enforcement prohibited

Section 13: Redemption of impounded animal

Section 14: Vicious animals

Section 15: Impoundment for Destruction

Section 16: Noisy Animals

Section 17: Keeping Nuisance Animals

Section 18: Keeping of Livestock/Swine

Section 19: Humane Treatment of Animals/Cruelty to Animals Prohibited

Section 20: Unlawful to harbor, feed or care for animals on City property

Section 21: Commerce in Live Animals /Pet Shop license required; Prohibitions; Application Fees; Requirements; Exceptions

Section 22: Wild Animals Prohibited

Section 23: Enforcement of Ordinance

Section 24: Penalty for violation of Ordinance

SECTION 1: DEFINITIONS.

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

ANIMAL. An animal is any live, vertebrate creature, domestic or wild, capable of transmitting rabies.

ANIMAL SHELTER. A place operated by the city for detention of dogs and other animals as prescribed by law.

BITE. The breaking of the skin by an animals teeth, mouth, claws or beak.

CAT. A domesticated member of the Felidae (feline) family, other than a lion, tiger, bobcat, jaguar, panther, leopard or cougar, ocelots or margays or cat hybrid.

DOG. All members of the canine family.

DOG LICENSE. The printed, written permission issued by the city authorizing the holder to keep dog or cat within the corporate limits of the city for the period of time inscribed thereon as provided for in this Ordinance.

DOG LICENSE TAG. A metal tag of a design prescribed by the city bearing the corresponding number of the dog or cat license.

DOG LICENSE FEE. A charge imposed, as specified in this ordinance, for the granting of a dog or cat license and issuing the dog or cat license tag.

IMPOUND. To place in an animal shelter.

KEEPER. Any person owning, claiming, keeping, having in possession, harboring, or permitting to be harbored or kept, having the care of, permitting any animal to remain on or about his premises.

KENNEL. Any building, lot, yard, shed or other place on or in which four (4) or more dogs or cats more than eight weeks old are kept; or any building, lot, yard, shed or other place on or in which one or more dogs or cats are boarder for pay.

LEASH. A rope, cord, strap, chain, or strand not shorter than 10 feet in length attached to such dog in such a manner as to enable a person to control and restrain the movements of such dog, such control and restraint including, but not being limited to, preventing such dog from contacting another person or trespassing upon private property or restricted public property.

LICENSED VETERINARIAN. Any veterinarian licensed by any state of the United States, and in addition, if practicing in this state, licensed by the Texas State Board of Veterinarian Examiners.

NUISANCE BY AN ANIMAL. The damaging, soiling, defiling, urinating or defecating upon, or repeatedly trespassing upon property other than its owner's. Is unconfined when in heat. Excessive, continuous, unreasonable, or unwarranted whining, howling, barking or annoying noise making that causes a disturbance of the peace and repose of persons living or working nearby. Molesting, threatening, attacking or interfering with persons on private or public property, chasing motor vehicles or bicycles, attacking other domestic animals, or disturbing or turning over garbage or trash containers, or causing unsanitary conditions or odors on or about the premises of its owner by urination or defecation.

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.

OFFICER. Any official of the city deputized as such with authority to carry out and perform the various acts provided to be performed by city officers under this Ordinance.

PREMISES OF THE KEEPER. Those private property premises under the occupancy and control of a keeper by ownership, lease, or other rental agreement.

RUN-AT-LARGE. To be free of restraint beyond the boundaries of the premises of the keeper.

SERIOUS INJURY. Injury that causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

SEVERE ATTACK. Means an attack in which the animal repeatedly bites or vigorously shakes its victim, and the victim, or a person intervening, has extreme difficulty terminating the attack.

SEVERE BITE. means a puncture or laceration made by an animal's teeth which breaks the skin, resulting in a degree of trauma which would cause most prudent and reasonable people to seek medical care for treatment to the wound, without considerations of rabies prevention alone.

STRAY ANIMAL. (including stray) means any animal, of which there is no identifiable owner or harborer, which is found to be at large within the corporate limits of the City

SWINE. As used in this ordinance shall be taken to include hogs and pigs.

VACCINATION. The protective inoculation against rabies by inoculation with anti-rabies vaccine recognized and approved by the United States Department of Agriculture, Bureau of Animal Industry, given in an amount sufficient to provide immunity from rabies.

VACCINATION CERTIFICATE. A certificate issued by a licensed veterinarian for presentation to the Environmental Health Department of the city as a condition precedent to granting of a dog license.

VICIOUS ANIMAL. Any individual animal that has:

- (1) On one occasion, without provocation, caused serious injury to a person or other animal, or killed any domestic animal; or
- (2) On two or more occasions, without provocation, attacked or bitten any person or other animal; or
- (3) a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise threaten the safety of human beings or domestic animals; or
- (4) being owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;
- (5) which, without provocation, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack; or
- (6) which has behaved in such a manner that the owner thereof knows or should reasonably know that the animal is possessed of tendencies to attack or to bite human beings or other animals without provocation.

WILD ANIMAL. With the exception of domestic dogs, domestic cats, livestock and poultry, it shall mean all lions, tigers, ocelots, bobcats, panthers, cougars, leopards, cheetahs, jaguars, lynxes, servals, caracals, hyenas, wolves, coyotes, jackals, bears, baboons, chimpanzees, orangutans, gorillas, skunks, racoons, armadillos, or hybrids of these species, and any other animal typically found in a zoo.

SECTION 2: VACCINATION FOR RABIES

(A) It shall be unlawful for any keeper to own or keep any dog or cat in the city unless the dog or cat is immunized against rabies by the injection of anti-rabies vaccine in an amount sufficient to produce an immunity. Dogs and cats must be immunized against rabies at four (4) months of age and every twelve (12) months thereafter. Dogs and cats over the age of six months shall be vaccinated with live virus type vaccine.

(B) The rabies vaccination provided for in division (A) of this section shall be performed by a licensed veterinarian.

(C) Every keeper, owning or keeping any dog or cat in the city shall, upon effecting the rabies vaccination of such dog or cat, as above provided for, acquire a written vaccination certificate in evidence, thereof from the licensed veterinarian administering the same, such

certificate to be signed by the veterinarian and stating thereon the sex, breed, and color of such dog or cat, date of immunization, and the name and address of the keeper of such dog or cat.

LICENSING PROVISIONS

SECTION 3: LICENSE REQUIRED; EXCEPTIONS

(A) Required. It shall be unlawful for any keeper of any dog or cat to keep such dog or cat within the city without having a valid license authorizing the keeping of the same. Animals exempted from this requirement are mice, rats, rabbits, guineas, hamsters, gerbils, ferrets, fowl and snakes.

(B) Exceptions. The provisions of this subchapter shall not apply to the following:

(1) Any dog or cat under the age of four (4) months.

(2) Any dog or cat brought into the city by a person who is a nonresident of such city, or who is traveling through the city, or temporarily sojourning in the city, provided that this exception shall not be operative for longer than a period of time commencing not more than three days before any such show exhibition is held and ending not more than three days after such show or exhibition ends.

This exception extends to every dog and/or cat, and every dog and/or cat owner, temporarily in the city for a period of no more than 60 days,; provided, that any such dog or cat shall at no time be permitted to run at large or to remain unattended and shall be free from disease. The burden of proof shall be upon any dog and/or cat owner charged with violation of this provision to establish the fact that he has well and truly complied with the laws of his domicile or regular place of residence.

SECTION 4: PROOF OF VACCINATION REQUIRED FOR ISSUANCE.

No license shall be issued under this Ordinance unless the application therefore is accompanied by a certificate from a veterinarian licensed to practice in any state or territory of the United States, showing that the animal for which the license is sought has a current rabies vaccine. The vaccination certificate presented for a dog or cat license shall reflect that such vaccination shall have been performed not less than seven days prior to the issuance date of the license. The owner shall state their name, address, and telephone number along with the breed, color, age, name, and sex of the dog or cat to be licensed.

SECTION 5: ISSUANCE; FEES.

(A) Upon payment of the license fee, if applicable, and compliance with vaccination and all other applicable requirements and conditions of this Ordinance, a license certificate and a metallic tag shall be issued for the licensed animal. All licensed animals shall be issued a metallic tag, having stamped thereon the year of issuance and the number corresponding to the number on the certificate. The initial license shall be valid for one year, upon the expiration of which, and provided a three-year licensed vaccine is administered, a three-year renewal license

may be issued, the application for which must be accompanied by a certificate from a veterinarian licensed in Texas, showing that the animal received a booster within one year of receiving the first vaccination. Subsequently, renewal license applications must be accompanied by similar certificates showing that the vaccination against rabies is current. The renewal license shall be valid for up to three years but not beyond the currency of the animal's vaccination.

(B) Upon adequate and sufficient proof that a cat or dog moving into the City has current vaccinations, the pet owner may be issued a license with its term pro-rated.

(C) Cat and dog licenses shall be issued by the Chief of Police or designee upon compliance with the requirements of this Ordinance and payment of the required fee. The initial license fee for dogs and cats shall be \$5.00, and fees for subsequent 3-year renewal licenses shall be \$15.00. License fees may be collected, and the license certificate and metallic tag delivered to the pet owner by veterinarians administering the vaccines, provided they have registered with and been designated by the Chief of Police, use the forms required by the Chief of Police, and follow such regulations as may be established by the Chief of Police regarding the collection and transmittal of such fees and the delivery of license certificates and tags. Designated veterinarians shall be entitled to a processing fee of \$1.00 per license issued.

(D) Law enforcement, assistance, and service dogs must comply with the vaccination and licensing requirements but shall be exempted from payment of the license fee.

(E) The fee for altered cats and dogs shall be one-half the regular fee if, at the time such fee is paid, proof is presented that the animal has been altered. Upon the filing of an application within 60 days of issuance of the license, with sufficient proof that the animal is altered, a pet owner who was unable at the time of issuance to prove the animal was altered shall be reimbursed one-half of the fee. A certificate issued by a veterinarian licensed in the State of Texas will be sufficient proof. An animal shall be rebuttably presumed to be intact if the owner does not provide adequate and sufficient proof that it has been altered.

(F) The animal license tag issued shall not be transferable from one dog or cat to another and it shall be unlawful for the owner or person having control over or custody of any dog or cat to transfer such license tag from the dog or cat for which such tag was issued to any other dog or cat.

(G) Every person having ownership of a dog or cat for which a license is required under this Ordinance, must ensure that the license tag is worn by the animal at all times whenever it is outside its owner's premises.

(H) In any prosecution under this Ordinance, it shall be rebuttably presumed that at the time of the alleged offense an animal was not currently vaccinated, and that no valid license had been issued for the animal, unless it was wearing a valid license tag issued pursuant to this section.

(I) Refusal on any keeper of a dog or cat to comply with this subchapter shall be grounds for revocation of any dog or cat license that may have been issued to him.

SECTION 6: RUNNING-AT-LARGE PROHIBITED; EXCEPTIONS

(A) It shall be unlawful for the keeper of any dog to permit such dog to run-at-large within the City. Such dog may be allowed beyond the premises of such keeper when leashed to such keeper or other person authorized by such keeper. *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.

The Chief of Police, Code Enforcement Officer or any Law Enforcement Officer of the City shall immediately give or cause to be given notice to the owner of livestock impounded under this section, if such owner is known to the Police Chief or to the officers seizing such livestock. The owner may redeem the livestock on the payment of an impound fee of 50.00 per head and an additional fee of 10.00 for each day such livestock is so kept.

(B) Nothing herein contained shall be construed to prohibit the keeper of any dog from escorting such dog, properly leashed, to premises other than those of such keeper for purposes of exercise, visitation, companionship, participation in shows and exhibitions, or treatment and care by a duly constituted veterinarian or kennel for hire to the public; or from transporting such dog in an automobile or other vehicle; or from transporting or exhibiting such dog without leash on private premises or public shows and exhibition premises, under conditions where such unleashed dogs are otherwise restrained from leaving such premises; nothing herein contained to be construed as constituting the authorization of the invasions of private rights of any person.

(C) Cats are not required to be leashed. Owners shall be responsible for the behavior of their cats so as not to become a nuisance as herein above defined. Owner(s) of cat(s) that are allowed to be unleashed shall be liable for any damages or nuisance caused by such cat. Upon a finding by the court that a particular cat is a nuisance or causes damages to private or public property, the court may remove the privilege of allowing such cat to be unleashed or physically unrestrained.

(D) Cats that are allowed to run-at-large by the owner, shall be required to have an identification tag (with owners name and correct phone number listed on tag), be currently vaccinated against the rabies virus, and must not become a nuisance to other citizens in the City of Hitchcock. Cats that cause problems or damages to private or public property other than said owners' property shall be restricted to said owners property.

(E) **SCHEDULE OF CHARGES.** The following schedule of charges are hereby established as minimum fines for owner(s) or keeper(s) of any dog or cat found to be in violation this section of this ordinance:

	ALTERED DOG/CAT	UNALTERED/INTACT DOG/CAT
(1) -First Citation	\$ 50	\$100
-Second Citation	\$100	\$200
-Violations after Second Citation	\$ 200	\$400

(F) In addition to the fine specified in subsection (E) hereof, the Municipal Court may sentence owners, at their own cost, to complete a Responsible Owner Course every time they are found guilty after a first violation.

(G) In the event the Municipal Judge allows community service in lieu of or in addition to the imposition of a fine, whenever possible such community service shall be served at an animal shelter or similar institution.

(H) Prior to sentencing in the case the owner of an intact animal is found guilty of or pleads no contest to a violation of a provision in this Ordinance, if the defendant represents that the animal will be altered, the Municipal Court may reset the sentencing, but only once and for no more than 60 days, for the purpose of allowing the defendant to present sufficient proof that the animal was altered after the finding of guilt or entry of the plea of no contest. Upon presentation of such proof the fines imposed pursuant to this section shall be reduced by one-half.

(I) The Chief of Police or designee is hereby granted the authority to pick up and cause to be impounded any dog found running at large in the city in violation of this Ordinance. The impoundment notice and hearing procedures of this Ordinance shall apply in the case of any such dog.

SECTION 7: TETHERING AND CONFINEMENT

(A) A dog may be tethered only in full compliance with the provisions of this Section. No person shall tether a dog:

(1) using any device that is directly attached to its neck, but instead via a tying device attached to a properly fitted collar or harness made of leather or nylon, and not of the choker type; this does not prohibit the proper use of choker collars in the training of dogs;

(2) using a collar exceeding one and one-half (1 1/2) inches wide for any dog weighing less than sixty (60) pounds, or using a collar exceeding two (2) inches in width for dogs weighing sixty (60) pounds or more;

(3) except by using a tying device at least ten (10) feet in length or five times the dog's length, whichever is longer, with a swivel device on the anchor and collar end to prevent tangling, and made of 3/16" links of a minimum grade 30 with a load limit of 800 pounds for dogs that weigh, between 30 and 80 pounds, and 1/4 " links of a minimum grade 30 with a load limit of 1,500 pounds for dogs that weigh from 80 pounds and up to 200 pounds;

(4) using a device that weighs more than one-eighth (1/8) of the dog's body weight;

(5) in any manner that allows it, or any part of the tying device by which it is tethered, to go into, upon or over any sidewalk, alley, street, or any property not belonging to the dog's owner;

(6) to any lamppost, light pole, utility pole, awning post, tree, fence, hydrant, or shrubbery belonging to another person without the consent of the owner of the object to which the animal is to be tethered;

(7) on its owner's property for more than four (4) hours per day, and only if it has access to water and shelter at all times is, and the owner or a duly authorized person that is familiar with dog handling, their habits and behavior is on the premises or within its view and a reasonable distance therefrom, or

(8) anywhere other than its owner's property for more than ten (10) minutes, and only if it is in a safe place and the owner, or a duly authorized person that is familiar with dog handling, their habits and behavior, is never out of sight of the dog or more than 50 feet away.

(B) Any confinement of a dog shall be secure, whether indoors or outdoors. If outdoors, the dog shall be confined in an enclosed and locked kennel. Kennels, whether indoors or outdoors, must be large enough for a dog to comfortably have shelter from the elements, provide at all times access to shade and water, allow a reasonable amount of space for movement, and a place to eliminate body waste. Kennels must have minimum dimensions of five feet by ten feet and must have secure sides and, if outdoors, a secure top attached to the sides in order to make it escape proof. If a concrete slab floor or patio block floor over sand is not provided for an outdoor kennel, the bottom must be wire fencing or similar material that is secured to the sides, and otherwise the sides must be embedded into the ground no less than two feet. All kennels must be adequately lighted and kept clean and sanitary. The dog shall be taken out of the kennel daily for training, playtime, exercise, and attention.

SECTION 8: KEEPING RABID ANIMAL PROHIBITED

It shall be unlawful for any keeper to keep, maintain, or harbor a rabid animal within the City.

SECTION 9: CAUSING OR PERMITTING DOG TO BITE PROHIBITED

A person commits an offense if he is the owner or keeper of a dog or cat and if he/she knowingly, intentionally, recklessly, or with criminal negligence causes or permits said dog or cat to bite a person or other animal.

SECTION 10: AUTHORITY TO IMPOUND

The city shall have authority to impound the following:

(A) Any dog running-at-large within the city.

(B) Any animal reported under Section 11 hereof.

(C) Any animal being a nuisance as herein defined in this Ordinance.

(D) Any animal including livestock suspected of being in violation of this Ordinance or owned by any person suspected of being in violation of this Ordinance.

SECTION 11: PROCEDURE FOR IMPOUNDMENT

(A) Whenever an animal bites a person, another dog, or any other animal, the keeper of such animal or any person observing the incident shall immediately report the incident to the Animal Control Department or Police Department of the city.

(B) Whenever any person, including the keeper of any animal, has good reason to believe that any animal, by observation, is a rabid animal, such person or keeper shall immediately report such condition to the Animal Control Department or Police Department.

(C) Upon receiving any report as provided for in subsections (A) and (B) of this section, or upon learning of the existence of any conditions or the occurrence of any incidents as provided for in subsections (A) and (B) of this section or that may constitute violations of this Ordinance, any authorized agent of the City including but not limited to the Police Chief or his designee, shall be authorized to and shall forthwith proceed with the impounding of such animal so reported upon or learned of and seize and deliver any and all animals found in violation of the provisions of this Ordinance.

(D) Impoundment of livestock running at large. It shall be the duty of the Police Chief Code Enforcement Officer or any Law Enforcement Officer of the City to seize any livestock forbidden to run at large under provisions of V.T.C.A., Agriculture Code §143.023 et seq., which may become known to him to be running at large outside premises within the City, including premises owned by persons other than the owner of such livestock, without the consent of other such persons, and impound the same in a place provided for such purposes, to be known as the "stock pound".

(E) For the purpose of discharging the duties of impounding a dog or cat as provided for in this section, any police officer or the Animal Control Department of the city is empowered to enter upon any premises upon which such dog or cat is reported or believed to be kept or harbored and is further authorized to demand the exhibition of such animal (and if a dog or cat, the exhibition of a license for such dog or cat); and to then and there take custody of such animal for impounding.

SECTION 12: INTERFERENCE WITH ENFORCEMENT PROHIBITED.

No person shall interfere with, hinder, or molest any agent of the City or the Police Department in the performance of any duty of such agent with regard to enforcement of this Ordinance, or seek to release any animal in the custody of the Police Department, or the City, or its agent, except as herein provided for.

SECTION 13: REDEMPTION OF IMPOUNDED ANIMAL

(A) Upon any dog or cat being impounded by the city as provided for in this subchapter, if such impounded dog or cat bears a license tag, it shall be the duty of the Police Chief or Designee to notify the keeper of the dog or cat of such impounding. The determination of the identity of such keeper shall be made by reference to the license registration certificate of such dog or cat as evidenced by the license tag worn by such dog or cat. In the event any impounded dog does not bear a license tag as provided for herein, and in the further event any person reports to the City of the purported owner of such animal, it shall be the duty of the City to notify such reported owner of such impounding.

(B) Subject to any limitation or requirement in this Ordinance to the contrary, and provided the Chief of Police consents, the owner of any animal impounded under the provisions of this Ordinance may claim such animal after paying any applicable impoundment fee to the animal shelter, and otherwise following their rules and regulations

(C) No impounded cat or dog shall be released unless proof is presented showing the animal is in compliance with this Ordinance's vaccination and licensing requirements.

(D) Whenever an owner has had two prior impoundments of any animal it shall be a condition of the release of any subsequently impounded animal owned by that person that such animals shall be altered.

(E) Any animal impounded for having bitten a person, another dog, or any other animal, or is suspected of being rabid or vicious as provided for in this Ordinance, shall be detained by the Police Chief or his designee for a period of ten days to determine the existence or nonexistence of rabies. In the event it is determined that such animal is rabid, the same shall be forthwith disposed of by the Police Chief or his designee. In the event it is determined that such animal is not rabid, disposition of such animal shall be as provided for in division (B) or (F) of this section.

(D)The impounding and/or redemption of any dog or cat, as herein provided for, shall have no bearing on the prohibitions, violations, or convictions thereon as provided for elsewhere in this Ordinance.

(F) If the owner of an impounded animal desires that said animal be impounded at the private hospital of a licensed veterinarian which has facilities suitable for such impoundment, the owner may request removal of the impounded animal to said hospital with said veterinarian supervising said removal and impounding at his hospital facility for the time limits as set forth herein above, all at the animal owner's expense.

SECTION 14: VICIOUS ANIMALS.

(A) If a dog appears to be a vicious dog as herein above defined by the Police Chief or his designee, a hearing shall be held before the judge of the Municipal Court wherein evidence shall be presented by the City Prosecutor that such dog meets the definition of a vicious dog as herein above defined in this Ordinance. If the Judge of the Municipal Court finds that the dog meets the definition of a "vicious animal", the judge of the Municipal Court may issue orders as laid out in subsection (H) of this Section. No appeal shall be taken from the decision of the judge of the Municipal Court as such decision is final.

(B) In deciding whether an animal meets the definition of a "vicious animal", the Municipal Judge must consider the rebuttable presumption that an animal is not vicious for injury or damage sustained by a person who was committing a willful trespass or other tort upon the premises of the animal's owner.

(C) In deciding whether an animal meets the definition of a "vicious animal", the Municipal Judge must consider the rebuttable presumption that an animal is not vicious for injury or damage sustained by a person who was teasing, tormenting, abusing or assaulting the animal.

(D) For purposes of a vicious animal hearing, the animal's owner, if such can be determined, shall receive at least 10 days written notice of the hearing by personal service or in the alternative, service by certified mail and by posting on the animal owner's property. Ownership of the animal may be presumed or determined in a manner similar to how it is provided in Section 13. The notice shall generally advise of the owner's right to a hearing and the basis of the hearing. If the animal owner's identity cannot otherwise reasonably be ascertained, it shall be rebuttably presumed that its owner is the owner of the property where it was located. In the case of stray animals an attempt to notify the owner is not necessary.

(F) The owner of an animal that is the basis of a vicious animal hearing may appear and be represented by counsel, may present oral and written evidence, and may cross-examine witnesses.

(G) The Municipal Judge shall issue a decision within two business days after the close of the hearing under this section and shall notify the owner in writing of the decision.

(H) If the Municipal Judge deems the animal a vicious animal, the Municipal Judge may require the maintenance of the insurance policy as indicated in Section 14(A); and may also unconditionally release the animal to its owner, or may impose conditions on the requirement to keep the vicious animal by its owner, to possibly include but not limited to:

(1) Confinement- securely confined upon the premises of the owner indoors or outdoors in an enclosed and locked kennel to comply with all of the confinement provisions of this Ordinance;

(2) Leash and muzzle-the owner of a vicious animal shall not allow the animal to go outside its kennel unless the animal is muzzled, restrained by a chain or leash not more than four feet in length, and under the physical control of a person. The muzzle must not cause injury to the animal or interfere with its vision or respiration, but must prevent the animal from biting any human or animal.

(3) Signs. The owner of a vicious animal shall display in a prominent place on the owner's premises a clearly visible warning sign indicating that there is a vicious animal on the premises. The sign lettering must be at least two inches high. The owner shall also display either separately or in conjunction with the warning sign, a pictorial, symbolic or illustrative sign that conveys to children and those who do not read the idea of the presence of a vicious animal. Similar signs shall be posted on the animal's kennel, if any, in such a manner as to be clearly visible.

SECTION 15: IMPOUNDMENT FOR DESTRUCTION

(A) Any animal impounded by the city qualified for redemption by the keeper thereof as provided for in this Ordinance and which is not redeemed by the keeper thereof may be disposed of by the City as follows: any such animal may be adopted to any person requesting same by such person paying a fee in the current amount collected and required by the animal shelter keeping said animal, per dog or cat and in addition thereto upon such person complying with the vaccination, licensing, and animal restraining provisions as any such may be applicable; or such animal, upon not being redeemed by the keeper thereof or not being redeemed by any other person as herein provided for, may be destroyed.

(B) Any animal impounded for destruction under the provisions of this Section may be claimed by its owner either at the discretion of the Police Chief or his designee or with an order issued by the Municipal Court after a hearing pursuant to this Section and in compliance with any conditions of such an order.

(C) Within two days of any impoundment for destruction under this Ordinance, the Chief of Police or designee shall notify the animal's owner in writing of the impoundment, by personal service acknowledged in writing by the owner or certified by the server. In the alternative, service may be by certified mail and by posting on the animal owner's property. The notice shall advise of the owner's right to a hearing under this Section. Service of notice shall be deemed completed upon mailing. Ownership of the animal may be presumed or determined in a manner similar to how it is provided in Section 13. In the case of stray animals an attempt to notify the owner is not necessary.

(D) The owner of an animal impounded for destruction shall have the right, within five days after service of the notice under this Section, to personally serve upon the Chief of Police, designee, or any police officer a written request for a hearing to contest the impoundment. The Chief of Police or designee shall immediately file the request with the Municipal Court, and a hearing shall be held within five business days after such filing with the Municipal Court.

(E) The impoundment hearing shall be informal, and strict rules of evidence shall not apply. The owner may be represented by counsel, present oral and written evidence and cross examine witnesses.

(F) The Municipal Judge shall issue a decision within two business days after the close of the hearing under this section and shall notify the owner in writing of the decision.

(G) After considering all of the relevant evidence, the Municipal Judge may order the destruction of the impounded animal or may release the animal to its owner, conditional on the owner complying with any other requirements necessary to protect the public health or safety, or may unconditionally release the animal to its owner. The Municipal Judge may also make the animal's release conditional upon the owner's payment to the animal shelter of the costs of impoundment and boarding.

(H) If after proper notice, the owner of an animal impounded under this Ordinance fails to appear at a hearing or fails to request a hearing, the animal may be destroyed.

SECTION 16: NOISY ANIMALS

No owner shall fail to exercise proper care and control of his animal or animals to prevent them from becoming a public nuisance with such public nuisance being defined as any animal which barks, whines, or howls in an excessive, continuous, or untimely fashion to such an extent as to interfere with or prevent a citizen or citizens of the city from obtaining the reasonable and necessary sleep, rest, and relaxation normally and reasonably required to maintain a person's health.

SECTION 17: KEEPING NUISANCE ANIMALS

The keeping of any animal within the city in such manner, or under such conditions, as to cause a hazard or danger to the public health, or which produce noxious odors or disturbing noises, or discomfort or annoyance, to persons of ordinary sensibilities in the immediate vicinity thereof, or that acts in a way as defined in the definitions section as nuisance by an animal, is hereby declared to be a nuisance and is hereby prohibited.

SECTION 18: KEEPING OF LIVESTOCK/SWINE

Keeping of Swine.

(A) It shall be unlawful for any person to keep swine within 1,000 feet of any residential dwelling or occupied building except that of the owner of the swine.

(B) The premises on which swine are kept shall be so drained as to prevent the pooling of water or the accumulation of liquid waste. Such premises shall be of such dimensions as to provide at least 1,000 square feet per animal, keeping of which is regulated by this section.

- (C) Swine shall not be kept on raised wooden floors or on any other type floor, except an impervious concrete floor or the clean natural ground.
- (D) The creation of any condition on the premises on which swine are kept contributes to the breeding of flies, rats, or roaches is prohibited.
- (E) All pens in which swine are kept shall be free of trash, litter and all types of debris. Any garbage kept on the premises in which swine are maintained shall be kept in metal, fly-tight containers.
- (F) The word "swine" as used in this section, shall be taken to include hogs and pigs.

Location and maintenance requirements for enclosures.

- (A) It shall be unlawful for the owner or keeper of any horse, mule, jack, jennet, cow, bull, goat, sheep, or fowl to keep any such animal in a stable, shed, pen, or any school, church or center used regularly or at frequent intervals of time by people other than such owner or keeper or other than a member of the family or tenant of the owner or keeper of such animal.
- (B) It shall be unlawful for the owner or keeper of any horse, mule, jack, jennet, cow, bull, goat, sheep, or fowl to keep any such animal in a stable, shed, pen, or any school, church or center used regularly or at frequent intervals of time by people other than such owner or keeper or other than a member of the family or tenant of the owner or keeper of such animal.
- (C) The owner of any horse, mule, jack, jennet, cow, bull, goat, sheep, or fowl, who keeps such animal in an enclosure of one acre or less, as authorized by division (A) of this section, shall maintain the area of such enclosure in a clean and sanitary condition free from obvious and accumulation of animal droppings and manure.
- (D) The owner of any horse, mule, jack jennet, cow, bull, goat, sheep, or fowl, who keeps such animal within an enclosure of one acre or less, as authorized by division (A) of this section, shall clean the area of such enclosure not less than once per day by depositing animal dropping and manure in a closed container or by covering the same underground or by otherwise eliminating exposure of the same to flies and the open air.

SECTION 19: HUMANE TREATMENT OF ANIMALS/CRUELTY TO ANIMALS PROHIBITED

(A) GENERAL. No owner shall fail to provide his animal with good wholesome food and water, proper shelter and protection from the weather, veterinarian care when needed to prevent suffering, humane care and treatment. Any owner of animal(s) shall maintain a clean and healthful shelter and living area for any animal being kept, which area shall be free of accumulated waste and debris so that the animal is free to walk or lie down without coming in contact with such waste or debris. All such shelters or living areas must be cleaned and

maintained regularly so as to promote proper health for the animals being kept. Failure to provide acceptable standards of housing and care constitutes animal cruelty.

(B) No owner shall abandon any animal, abandonment consisting of leaving such animal for a period in excess of twenty-four (24) hours, without providing for someone to feed, water and check the animal's condition. No owner shall leave an animal by a roadside or other area, or leave such animal on either public or private property without the property owner's consent. An animal so left shall be deemed abandoned. In the event that an animal is found so abandoned, such animal may be taken by an Animal Control Officer or Police Officer and impounded in an Animal Shelter or other facility maintained by or used by the city, and there confined in a humane manner. Such animal, if taken from private property, shall be kept for not less than seventy-two (72) hours. In the event the animal is so abandoned, the owner or the person, if and whom he has charged with the animal's care, shall be subject to a citation in violation of this Ordinance section.

(C) It is unlawful for anyone to beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

(D) It is unlawful for anyone to breed or train an animal for fighting with any other animal.

(E) It is unlawful for anyone to intentionally or knowingly leave a pet in a motor vehicle for longer than five minutes, knowing that the animal is not attended by an individual in the vehicle who is 14 years of age or older.

Trapping and shooting. (F) 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.

(G) 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 that is not owned by such person. 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 or policy.

(H) 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.

(I) This section is not Intended to contravene the provisions for animal cruelty contained in the Texas Penal Code.

SECTION 20: UNLAWFUL TO HARBOR, FEED OR CARE FOR ANIMALS ON CITY PROPERTY

It is unlawful for any unauthorized person to regularly or routinely harbor, feed, care for or provide any form of sustenance to a cat or dog on city property or right-of-way.

SECTION 21: COMMERCE IN LIVE ANIMALS/PET SHOP LICENSE REQUIRED; PROHIBITIONS; APPLICATION FEES; REQUIREMENTS; EXCEPTIONS

(A) It shall be unlawful for any person to maintain or operate a pet shop without a license. Application for a pet shop license shall be on a form prescribed by the Chief of Police or designee, provide such information as the Chief of Police or designee shall require, and specify the number and type of animals to be maintained. It shall be unlawful to maintain more animals or types of animals than allowed by such license.

(B) It shall be unlawful to sell or to allow the sale of pets in flea markets, or on a roadside or any other outdoor or unenclosed location. No pet shop license shall be issued for the sale of pets in flea markets, or on a roadside or any other outdoor or unenclosed location.

(C) It shall be a condition of the issuance of pet shop permits that the licensee agree to the inspections provided for in this section. The application fee shall be \$150.00. Pet shop licenses shall be annually renewable.

(D) Pet shop premises shall be inspected by the Chief of Police or designee prior to the issuance of any license, and the same shall be subject to random inspections as well as to inspections based on complaints.

(E) Pet shops shall be kept and maintained in a clean manner, free from odors detectable at or near neighboring property.

(F) Pet shops shall be constructed and maintained in accordance with this ordinance and all applicable state law regulating pet shops and/or the sale of pets, as the same may hereafter be amended from time to time.

(G) Pet shop licenses are subject to revocation by the Chief of Police or designee, for failure to operate the same in accordance with this ordinance and all applicable state laws.

(H) Excepted from the provisions of subsections (A-B) hereof is the sale of the offspring of an owner's pet, provided the sale takes place on the owner's premises where the owner's pet resides, and there is compliance with any other applicable ordinance.

SECTION 22: WILD ANIMALS PROHIBITED

It shall be unlawful to harbor, have, keep, or possess any wild animal or poisonous reptiles within the city limits except in an approved zoo, circus, school, or college for educational purposes. Possession of a wild animal pursuant to this section may be subject to regulations prescribed by the City for indemnification of the city, proof of insurance and such other conditions deemed necessary to preserve the safety and welfare of the public.

SECTION 23: ENFORCEMENT OF ORDINANCE

The Chief of Police or designee are hereby granted the authority and it shall be their duty to carry out the functions of, and to enforce the provisions of this Ordinance.

SECTION 24: PENALTY FOR VIOLATION OF ORDINANCE

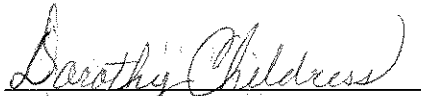
(A) Except as otherwise noted in this Ordinance with regard to punishment or fines, any person found guilty of the violation of any provision of this Ordinance shall be punished as follows:

First violation:	\$50
Second violation:	\$100
Violations after second:	\$200

(B) In addition to the fine specified in subsection (A) hereof, the Municipal Court may sentence owners, at their own cost, to complete a Responsible Owner Course every time they are found guilty after a first violation.


(C) In the event the Municipal Judge allows community service in lieu of or in addition to the imposition of a fine, whenever possible such community service shall be served at an animal shelter or similar institution.

PASSED AND APPROVED on this the 15th day of April, 2019.



Dorothy Childress, Mayor

ATTEST:



Lucy Dieringer, City Secretary