

**ORDINANCE NO. 6416**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING CHAPTER 2 (ANIMAL SERVICES) OF THE CODE OF ORDINANCES, CITY OF SHERMAN, TEXAS; PRESCRIBING REGULATIONS TO ENSURE THE HEALTH AND HUMANE TREATMENT OF ANIMALS AND THE PUBLIC; DEFINING TERMS; ESTABLISHING REGULATIONS ON ANIMALS, DOGS AND CATS, DANGEROUS DOGS AND RABIES CONTROL; PROVIDING FOR AN ANIMAL SHELTER ADVISORY BOARD; REGULATING PET SHOPS AND THE RETAIL SALE OF ANIMALS; PROVIDING A REPEALING CLAUSE AND SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED \$500.00; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

WHEREAS, the City Council of the City of Sherman, Texas ("City Council") finds that it is necessary and in the public interest to ensure the health and humane treatment of animals and the public in the City of Sherman, Texas ("Sherman" or "City"); and

WHEREAS, the City Council has investigated and determined that the Sherman Code of Ordinances, Chapter 2 (Animal Services) should be amended as provided herein; and

WHEREAS, the City Council finds that it is in the best interest of Sherman and its citizens to amend the Code of Ordinances as set forth below, and that such amendments are in furtherance of the health, safety, morals and general welfare of the Sherman community.

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

**SECTION 1.** That the Code of Ordinances, Chapter 2 (Animal Services) is amended in its entirety as follows:

**"Chapter 2 - ANIMAL SERVICES**

**Article 2.01. Generally.**

**Sec. 2.01.001. – Definitions.**

For the purpose of this chapter, the following terms, phrases, and words have the meanings given to them in this section.

*Abandon* means leaving in an enclosure or at large without providing food and water or shelter from sun, rain, hail, or snow.

*Abused* means wounded, maimed, trapped, beaten, crippled, starved, or tortured by any means or lack of necessary, immediate medical care or failure to give food or water when there is a duty

to do so.

*Animal* means any member of the group of living beings from the class of mammals (excluding humans), bird or fowl, reptiles, or amphibians generally capable of spontaneous and rapid motor response to stimulation.

*Animal control officer or animal services officer* means an employee of the City appointed by the animal services supervisor to supervise the operation and maintenance of the City animal shelter, to act as the animal control authority under state law, and to help carry out and enforce the provisions of this chapter.

*Animal rescue organization* means any not-for-profit organization that has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, which rescues and places animals into permanent homes. Animal rescue organization does not include an entity that breeds animals, or an entity that in exchange for payment or compensation obtains any dog or cat from a person who either breeds dogs or cats or facilitates the sale of dogs or cats that were obtained from a person who breeds dogs or cats.

*Animal services* means the City of Sherman Police Department of Animal Services.

*Animal services supervisor* means the animal services supervisor, or their authorized representative. The animal services supervisor shall be responsible for the enforcement of this chapter and any regulations promulgated hereunder, unless otherwise provided by law.

*Animal shelter* means the City of Sherman Animal Shelter.

*Attack* means the unprovoked biting or scratching of a person or an animal by an animal.

*At large* means:

- (1) *On premises of owner.* Any animal not confined to the premises of the owner by some physical means of sufficient height, strength, length, and/or manner of construction to preclude the animal from leaving the premises of the owner.
- (2) *Off premises of owner.* Any animal which is not physically and continually restrained by some person, by means of a leash or chain of proper strength and not more than six feet in length, to control the actions of such animal while off premises.
- (3) Provided however, that any animal confined within a cage, automobile, truck, or any other vehicle of its owner shall not be deemed at large.
- (4) Provided however, that any dog lawfully allowed in Fairview Dog Park or other City-approved off-leash site shall not be deemed at large.

*Bee* means any stage of the common domestic honey bee (*Apis mellifera*).

*Bodily injury* means physical pain, illness, or any impairment of physical condition.

*Breeder* means a person who breeds dogs or cats and transfers possession of more than two (2) litters in a twelve-month period.

*Cat* means all domesticated members of the feline family.

*Chicken* means all breeds of *Gallus gallus domesticus*, a common domesticated fowl widely kept for meat and eggs.

*Coyote hybrid* means an animal that is the offspring created by the mating of a coyote with a noncoyote animal, or is shown to be a coyote hybrid by the testimony of a licensed veterinarian or animal control officer, or is represented to be a coyote hybrid by a person who owns or exercises control or custody of said animal.

*Dangerous dog* means a dog that:

- (1) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept 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 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.

*Dangerous, wild animal* means all undomesticated animals including, but not limited to, lions, tigers, bears, wolves, wolf hybrids, coyote, coyote hybrids, apes, monkeys, foxes, baboons, skunks, raccoons, squirrels, birds of prey, migratory birds, other nondomestic birds, and all forms of poisonous, venomous, or otherwise dangerous reptiles.

*Designated caretaker* means the provisional assumption of ownership for the purposes of administering preventative immunizations and treatment including emergent humane euthanasia as directed by a licensed veterinarian in the event of suffering during an animal's stray hold period at an impound facility.

*Direct physical control* means outside with the dog and near enough to the dog to exercise physical control over the dog in the event it should become necessary to do so to protect the dog, a human, or another animal from harm.

*Dog* means any domesticated member of the canine family excluding wolf hybrids that contain any percentage of wolf and coyote hybrids that contain any percentage of coyote.

*Domesticated animal* means any animal which is naturally tame and gentle.

*Electric fence* means any fence with electric conductors carrying electric current supplied by batteries, commercial power or any other source of electricity, erected for the purpose of restraining or excluding an animal.

*Endangered species* means any species of animal that is considered endangered by international, federal, or state regulations.

*Foster home* means a temporary care facility for an animal owner or harborer.

*Harbor* means to provide home, sustenance, shelter, refuge, care, or habitat for or to exercise custody or control over a domestic animal. Harbor does not include feeding wildlife or providing assistance in an emergency to an injured or ill animal or providing care on a temporary or one-time basis so long as such activity is not a nuisance to others.

*Harborer* is a person who harbors a domestic animal.

*Hen* means a female chicken.

*Impound* means to take into custody or to place in the animal shelter of the City or other authorized confinement area.

*Licensed veterinarian* or *veterinarian* means a veterinarian licensed by the Texas Board of Veterinary Examiners.

*Livestock* means domestic animals generally used or raised on a farm for profit or use, including, but not limited to, cattle, cows, sheep, goats, pigs, bulls, stallions, jacks, hogs, and sows.

*Microchip implant* means a passive electronic device that is injected into an animal by means of a hypodermic-type syringe device. Each microchip shall contain a unique and original number that is read by an electronic scanning device for purposes of animal identification and recovery by the animal's owners. The microchip implant shall be supplied with an exterior collar-type tag for purposes of an external means of notifying others that the animal has been implanted with a microchip.

*Microchip reader* means an electronic scanner with an operating frequency that is able to detect a microchip that has been implanted in an animal and display the number of the microchip to its operator. The microchip reader shall be of a type that activates and displays the number of a microchip manufactured by multiple vendors.

*Miniature donkey* means a donkey that is no taller than thirty-four (34) inches at the withers.

*Miniature horse* means a horse that is no taller than thirty-four (34) inches at the withers.

*Municipal court* means the City municipal court of record.

*Neglected* means without sufficient food, shelter, water, or without appropriate veterinary care and treatment to maintain health, or heavily infested with parasites.

*Nuisance animal* means any wild or feral animal found on a person's property that reasonably could be a threat to personal property, safety, or health.

*Offer for sale* means to proffer, display or advertise for the sale, adoption or other commercial transfer of an animal.

*Owner* means any person who owns, keeps, shelters, maintains, feeds, harbors or has temporary or permanent custody of a domestic or prohibited animal, or who knowingly permits a domestic or prohibited animal to remain on or about any premises occupied by that person over which that person has control. An animal shall be deemed to be owned by a person who harbored it, fed it, or sheltered it for three (3) consecutive days or more. If a person under the age of seventeen (17) owns an animal subject to the provisions of this chapter, the head of the household of which such person under the age of seventeen (17) is a member shall be the person responsible for the animal under this chapter. Such household head may himself be under the age of seventeen (17) and therefore subject to prosecution under this chapter. There may be more than one (1) person responsible for an animal.

*Permit* means a certificate or permit issued by the City.

*Person* means an individual, association, partnership, corporation, trust, estate, joint-stock company, or foundation.

*Pet shop* means a business establishment, whether licensed or not by animal services, where dogs and cats are sold, offered for sale, bartered, traded, given away or otherwise transferred.

*Pigmy goat* means a goat that is no taller than twenty-three (23) inches at the withers.

*Potbellied pig* means a dwarf swine breed originally developed in the 1960s from a breed in Vietnam.

*Pooper scooper* means any device or container used to remove animal feces.

*Primary enclosure* means any structure used to immediately restrict an animal to a limited amount of space, including a cage, pen, run, room, compartment, or hutch.

*Prohibited animal* means an animal that poses a potential physical or zoonotic disease threat; that is a member of an endangered species; or that is protected by international, federal, or state regulations other than a common domestic species regardless of state of duration of captivity including, but not limited to, the following categories:

(1) *Class Reptilia.*

Category I-Order Squamata, family Helodermatidae (the venomous lizards such as Gila monsters and beaded lizards), family Hydrophiidae (marine snake), family Vioeridae (such as rattlesnakes, copperheads, cottonmouth, moccasin, and true vipers), family Elapidae (such as coral snakes, cobras, and mambas), family Colubridae (including rear-fanged colubrids such as Dispholidus typus (boomslang), Hydrodynastes gigas (water cobra), Boiga dendrophilia (mangrove snake), and other venomous Boiga species, and Thelotornis kirtlandi (twig snake), family Boidae (such as pythons, boas, and anacondas); order Crocodylia (such as crocodiles, caimans, and gavials).

(2) *Class Aves.*

- a. Category II-Order Sfrigiformes (such as owls), order Falconiformes (such as falcons, hawks, eagles, and vultures).
- b. Category III-Super-order Paleo-gnathae (Ratites) (such as ostriches, rheas, cassowaries, and emus).

(3) *Class Mammalia.*

- a. Category IV-Order Carnivora, family Felidae (such as lions, ocelots, margays, tigers, jaguars, leopards, and cougars), except domestic cats, the family Canidae (such as wolves, dingos, coyotes, and jackals), except domestic dogs, family Ursidae (such as bears), suborder Pinnipedia (such as seals and sea lions); order Primata (such as apes, orangutans, chimpanzees, and gorillas); order Proboscidea (elephants); order Chiroptera (bats); order Ungulata (such as antelope, deer, bison, and camels); and order Marsupiala (such as kangaroos);
- b. Category V-Order Carnivora, family Mustelidae (such as weasels, skunks, martins, ferrets, mink, and badgers), family Procyonidae (raccoon), family Vivveridae (such as civets and mongooses); order Edentata (such as sloths, anteaters, and armadillos); and order Rodentia (such as porcupines). Ferrets are not prohibited animals.

(4) *Fish.*

Category VI-Order Anguilliformes, family Muraenidae and family Congridae (eels); order Cypriniformes; family Characidae (piranha fish).

- (5) *Exceptions to list of class; family and order of prohibited animal.* The term prohibited animal does not include livestock, fowl, poultry, or common household pets, such as a psittacine bird, canary, finch, cockatiel, or other commonly kept domestic birds, small monkey, hamster, guinea pig, gerbil, rabbit, fish, or small, non-venomous reptile which is less than six (6) feet long and are not listed in any category above.

*Residential purpose* means use as a dwelling or residence, including, but not limited to, multifamily, fourplex, triplex, duplex, single-family dwelling, hotel, motel, and mobile home uses.

*Restraint* used with respect to a dog, means kept under the direct physical control of the animal's owner, by a leash, cord, chain, or similar physical attachment.

*Rooster* means a male chicken.

*Secure enclosure* means a securely enclosed 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 an animal;
- (4) Clearly marked as containing a dangerous animal;
- (5) Enclosed by a secure top and sides with a solid bottom or, constructed in such a manner which would prevent the animal from tunneling under the secure enclosure and escaping;
- (6) Protected from the elements adequately for the animal's humane care; and
- (7) In conformance with the requirements for enclosures established by the animal services supervisor or by this chapter.

A structure such as a house, mobile home, apartment, travel trailer, or other habitation or similar structure is not a secure enclosure when any window is open, or when a screen window or a screen door or other penetrable barrier is the only obstacle preventing the animal from exiting the structure, or when any door or other opening used for entry or exit by persons or animals is accessible to the dangerous animal.

*Seize* means the act of taking physical possession of an animal.

*Shelter* means any structure that will shield an animal from the direct rays of the sun when the temperature is above ninety (90) degrees Fahrenheit or direct exposure to wind from the north when the temperature is below fifty (50) degrees Fahrenheit.

*Sterilized*, in reference to an animal, means rendered incapable of reproduction by means approved by the American Veterinary Medical Association.

*Supervisor* means the animal services supervisor or their authorized representative.

*U.S.D.A.* means the United States Department of Agriculture.

*Unprovoked attack* means an attack by an animal on a person who at the time of the attack by the animal was not committing a willful trespass or other tort upon the premises occupied by the owner or harbinger of the animal; or was not teasing, tormenting, abusing, or hitting the animal; or had not in the past, been observed or reported to have teased, tormented, abused, or hit the animal; or was not committing or attempting to commit a crime.

*Vaccination* means the inoculation of an animal with a rabies vaccine, that is licensed by the United States Department of Agriculture for use in that species, and which is administered according to the label's directions by a veterinarian or a technician under a veterinarian's purview as allowed by state law for the purpose of immunizing the animal against rabies.

*Wolf hybrid* means a canid that is the offspring created by the mating of a wolf with a nonwolf animal, or is shown to be a wolf hybrid by the testimony of a licensed veterinarian or an animal control officer, or is represented to be a wolf hybrid by a person who owns or exercises control or custody over said animal.

*Working day* means any day Monday through and including Saturday, excluding Sunday, and excluding City, state, and federal-observed holidays.

*Zoological park* means a permanent facility other than a pet shop or kennel, displaying or exhibiting one (1) or more species of nondomesticated animals and operating under the inspection authority of the U.S.D.A.

*Zoonotic disease* means a disease which is of animal origin and usually causes illness to other members of animal populations and which can adversely affect man.

**Sec. 2.01.002. – Authority; duties; enforcement; territorial application.**

- (a) The animal services department shall fall under the authority of the Sherman Police Department.
  - (1) The animal services supervisor shall act as the local rabies control authority for the purpose of enforcing animal health and control laws of the State of Texas.
  - (2) The City may employ animal services officers to assist the animal services supervisor in the carrying out of specified duties.
- (b) It shall be the duty of the animal services supervisor and designated representatives to:
  - (1) Administer and enforce all state and federal laws pertaining to animals that authorize the local rabies control authority or animal services officers to enforce the same;
  - (2) Administer and enforce the animal ordinances of the City when a nuisance or health problem is caused by one (1) or more animals;
  - (3) Supervise the animal services operations of the City;
  - (4) Seize and impound all animals when authorized or required by this chapter; and
  - (5) Aid the state health department in the enforcement of area quarantines.
- (c) The animal services supervisor and animal services officers of the City who are licensed peace officers shall have the authority to issue citations for any violation of this chapter. The animal services supervisor and animal services officers of the City shall have any other power or duty stated within the terms of this chapter. If the person being cited is not present, the animal services officer may send the citation to the alleged offender by registered or certified mail, return receipt requested, by depositing the same in the U.S. mail, postage prepaid.
- (d) It shall be unlawful for any person to knowingly prevent, interfere with, or obstruct the animal services supervisor or an animal services officer in the performance of their duties. It shall be unlawful for any person to fail to comply with any lawful order of the animal services supervisor or any animal services officer of the City. It shall be unlawful for an



animal's owner or harbinger to intentionally or knowingly deceive or mislead animal services by statement, action, or omission, in order to avoid a penalty, charge, or other consequence under this chapter.

- (e) The animal services supervisor and their authorized representatives shall have the authority to adopt, transfer, or humanely euthanize an animal as a result of the animal being impounded for more than seventy-two (72) hours, using the Asilomar Accords Guiding Principles and Definitions or as otherwise required by state law.
- (f) In addition to the authority to destroy, impound, or euthanize animals otherwise granted in this chapter, the animal services supervisor, their authorized representatives, and any licensed peace officer are authorized to:
  - (1) Destroy an animal which poses an imminent danger to a person or property or a real or apparent immediate necessity exists for destruction of the animal;
  - (2) Impound an animal which is diseased or endangers the health of a person or another animal, or is at large; and
  - (3) Destroy any animal suspected of having rabies when such animal is found at large, after having made a reasonable, but unsuccessful effort to capture the animal.
- (g) In any complaint and in an action or proceeding brought for the enforcement of any provision of this chapter, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained in this chapter; and the burden of proof of any such exception, excuse, proviso, or exemption shall be on the owner or defendant as an affirmative defense.
- (h) Any violation of this chapter shall be considered a nonculpable offense, unless the article or section specifically sets out the necessary culpability for the offense. The criminal penalty for a violation of this chapter shall be as set forth in Section 1.01.009 of this Code. The City shall be entitled to pursue all other criminal and civil remedies to which it is entitled under the authority of federal, state, or local law.
- (i) This chapter and the standards, requirements, limitations, and prohibitions set forth herein shall apply within the city limits and within the area immediately contiguous and adjacent to the city limits, extending for a total distance of 5,000 feet; provided, however, that this chapter shall not apply within any portion of said 5,000-foot area that is contained within the territory of any other municipal corporation.

### **Sec. 2.01.003 – Establishment of Animal Services Advisory Committee.**

The City Council shall, by resolution, appoint an animal services advisory committee. The membership, function, frequency of meetings and authority of the committee shall comply with state law, including Texas Health and Safety Code § 823.005.

### **Secs. 2.01.004 – 2.01.009 – Reserved**

**Article 2.02. Humane Treatment of Animals; Animal Nuisances.**

**Sec. 2.02.001. – Inhumane treatment, generally.**

- (a) It shall be unlawful for a person to treat an animal inhumanely.
- (b) For the purposes this article, inhumane treatment means:
  - (1) to unnecessarily permit or cause pain or suffering;
  - (2) to unnecessarily deprive the animal of food, veterinary care, or shelter; or
  - (3) to confine in a manner that is injurious to the animal's health and/or wellbeing.

**Sec. 2.02.002. – Animals running at large.**

- (a) It is unlawful for the owner or harbinger of an animal to fail to prevent it from running at large within the City.
- (b) It is unlawful for the owner or harbinger of any animal to fail to provide any animal with an enclosure or system of restraint secure enough to prevent the animal from running at large. Use of an electric fence, an electronic collar or other similar device as a system of restraint is not sufficient to satisfy the requirements of this section, except that an underground, invisible and fully operational electric fence may be used as a system of restraint for tracts of land five acres or larger that are enclosed by a fence of that type.
- (c) Evidence that an animal is at large establishes a presumption that its owner or harbinger knowingly failed to prevent any animal from being at large.
- (d) Evidence that an animal is at large establishes a presumption that its owner or harbinger knowingly failed to provide it with an enclosure or system of restraint secure enough to prevent it from being at large.

**Sec. 2.02.003. – Retention of animals at large.**

A person commits an offense if the person confines an at-large animal, other than one already owned by the person, on their property without notifying animal services of the confinement within twenty-four (24) hours of the confinement.

**Sec. 2.02.004. – Restraint requirements for dogs.**

- (a) *General prohibition on tethering.* It is unlawful for a person to restrain a dog with a chain or tether unless the person is holding the chain or tether.
- (b) *Affirmative defenses.* It is an affirmative defense to a violation of subsection (a) that the restraint:

- (1) Is required to protect the safety or welfare of a person or the dog, if the dog's owner remains with the dog throughout the period of restraint; or
  - (2) Occurs on the owner's premises and:
    - a. While the dog is within the owner's direct physical control; and
    - b. While the dog is prevented from being within fifteen (15) feet from the edge of any public street or sidewalk.
- (c) *Exceptions.* The prohibition of subsection (a) does not apply to a temporary restraint:
- (1) During a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity; or
  - (2) While in the presence of the owner in a designated City dog park.
- (d) *Restraint specifications.* The affirmative defenses provided in subsection (b) and exceptions in subsection (c) do not apply unless the restraint meets the following specifications:
- (1) The chain, leash, cord, or tether is not placed directly around the dog's neck and is attached to a properly fitting collar or harness worn by the dog;
  - (2) The chain, leash, cord, or tether does not exceed more than one-tenth of the dog's body weight;
  - (3) The chain, leash, cord, or tether, by design and placement, is unlikely to become entangled; and
  - (4) The dog is restrained in a manner that permits access to necessary shelter and water.
  - (5) A "skyline" type aerial trolley consisting of a line that is strung between two (2) fixed points that are at least twenty (20) feet apart with a down line that is at least five (5) feet in length is allowed as long the animal is enclosed behind a fence of adequate size and strength capable of preventing the general public, including children, and other animals from entering the area and all other requirements of this section are met.
- (e) *Violation.* A person commits an offense if he violates this section. The person's conduct with respect to each dog constitutes a separate offense.
- (f) *Hand-held leashes.* This section does not prohibit a person from walking a dog with a hand-held leash.
- (g) *Dogs running at large strictly prohibited.* Nothing in this section authorizes an owner to allow a dog to run at large or to fail to provide appropriate restraint or enclosure as required by this chapter.

**Sec. 2.02.005. – Abandonment of animals in City prohibited.**

It is unlawful for any person to abandon any animal in the City.

**Sec. 2.02.006. – Animal safety.**

- (a) *Animals in vehicles.* It shall be unlawful to leave an animal in a standing or parked vehicle without providing the animal with adequate air and protection from heat or cold. An animal left under such conditions may be impounded.
- (b) *Tethered animals.* It shall be unlawful for an owner or harbinger to allow an animal to be tethered to a stationary object or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian as determined by the animal services supervisor. The term “unhealthy situation” shall include, but not be limited to, the following:
  - (1) To tether any animal in such a manner as to cause the animal injury;
  - (2) To tether any animal in such a manner as to not permit the animal access to shelter, food, or water. It shall be an affirmative defense to this subsection that the owner or harbinger was in the same location as the dog or other animal while the animal was tethered;
  - (3) To tether any animal in such a manner as to permit the animal to leave the premises owned, leased, or occupied by the animal’s owner or harbinger or to permit the animal access on any public right-of-way;
  - (4) To tether any animal in such a manner as to permit the animal to leave the owner or harbinger’s property;
  - (5) To allow any tethered animal to become entangled; or
  - (6) To use choke, pinch, or prong type collars to tether any animal.

**Sec. 2.02.007. – Vaccination required.**

- (a) A person commits an offense if he owns any dog or cat over four (4) months of age without having such dog or cat currently vaccinated against rabies.
- (b) A person who owns a dog commits an offense if he fails to display on such dog a current rabies vaccination tag furnished by a veterinarian
- (c) A person who owns a dog or cat commits an offense if he displays on such dog or cat a rabies vaccination tag issued to another animal.
- (d) Each animal in violation of this section constitutes a separate offense.

**Sec. 2.02.008. – Animals creating a nuisance.**

- (a) *Noise.* It shall be unlawful for any animal’s owner or harbinger to allow the peace and quiet of the neighboring properties or of persons of normal sensibilities within the vicinity of the animal to be disturbed by the animal’s barking, howling, crowing, or other noise of any kind.
- (b) *Odor.* It shall be unlawful for any animal’s owner or harbinger to allow the peaceable use and enjoyment of the neighboring properties or of persons of normal sensibilities within the vicinity of the animal to be disturbed by the smell of the animal, its food, its waste, or its enclosure.
- (c) *Other Nuisances.* It shall be unlawful for any animal’s owner or harbinger to keep or maintain yards, pens, coops, or other enclosures in which animals are confined in such a manner as to breed or attract flies, mosquitoes, or other noxious insects or rodents, or in any manner to endanger the public health, safety, or welfare, or to create a public nuisance.
- (d) *Banishment.* In any case where one or more animals have been the cause of a substantial number of bona fide nuisance complaints under this chapter from multiple sources, the animal services supervisor may petition the municipal court to order the removal of the animal(s) from the city limits. A substantial number of nuisance complaints means three or more complaints within the past twelve (12) months. Multiple sources means that there are two or more reporting parties that do not reside at the same address. A complaint is bona fide if made in good faith and is not unfounded, as determined by the animal services supervisor. If the court orders the animal removed, it must be microchipped (dogs and cats only), registered with animal services and removed to a permanent location that is greater than 5,000 feet outside the city limits. If an animal that was ordered removed is found within the boundary of 5,000 feet outside the city limits, the City may obtain a seizure warrant from the municipal court, which warrant shall order the humane disposition of such animal in accordance with this chapter.

**Sec. 2.02.009. – Animal waste requirements.**

- (a) It is unlawful for any person to maintain any pen, enclosure, yard, or area for any animal in an unsanitary manner.
- (b) It is unlawful for an owner or harbinger to allow their dog’s feces to remain in any public place or another person’s private property. (This provision may be referred to as the “Pooper Scooper Law.”)
- (c) It is an affirmative defense to prosecution under subsection (c) that the site contained only animal feces from a herbivore and was a residential compost mound or was zoned for agricultural uses, not within five hundred (500) feet of residentially zoned property, and not in violation of subsection (a) above. Such compost mounds shall only be utilized if measures are taken to protect against breeding of flies and to prevent migration of fly larvae (maggots) into the surrounding soil.

**Sec. 2.02.010. – Permit for breeders of dogs or cats.**

- (a) A person shall not breed dogs or cats unless the person has a permit.
- (b) Permits shall be valid for one (1) year, unless revoked.
- (c) To obtain a breeder's permit, a person must make application with the animal services supervisor, and the following requirements must be met for a breeder's permit to be issued:
  - (1) Name and address of applicant and address of proposed location for breeding the dogs or cats (if different from applicant's address);
  - (2) Approval by the animal services supervisor for the maximum number of dogs or cats that will be kept at the location;
  - (3) The plans or designs showing both the enclosed indoor cages or pens, which shall be a minimum number of square feet for each animal over weaning age, said amount of square feet to be determined by the animal services supervisor, depending upon the breed of the dog or cat, and a drawing showing the proposed design and the enclosed outdoor area for the dogs or cats, which shall be at least one hundred (100) square feet per animal over the normal weaning age;
  - (4) An inspection report by City personnel approving the enclosed indoor facilities where the dogs or cats will be kept and affirming that the facilities match the submitted plans, or if the facilities have not been built yet, a statement of review by City personnel that the proposed facilities are acceptable under this chapter;
  - (5) The property to be used for breeding dogs or cats must be properly zoned for such use under the City's zoning ordinance; and
  - (6) An annual fee of fifty dollars (\$50.00).
- (d) A breeder's permit may be revoked by the animal services supervisor at any time if any of the following occurs:
  - (1) If the dogs or cats bark, howl, or create noises that disturb the neighbors;
  - (2) If the indoor or outdoor areas for the dogs or cats are not maintained in a sanitary condition;
  - (3) If any person is bitten or scratched by any of the dogs or cats on the premises;
  - (4) If any of the dogs or cats are found to be a dangerous animal; or
  - (5) If any provisions of this chapter are violated by the person holding the breeder's permit.

- (e) The decision of the animal services supervisor in regard to the issuance of a permit or the revocation of a permit is final unless the applicant/permittee files a written appeal with the Office of the Chief of Police within ten (10) working days after the date on the communication notifying the applicant/permittee of the animal services supervisor's action. Appeals shall be considered by the Chief of Police. If the Chief of Police concurs with the decision of the animal services supervisor, the decision is final unless the applicant/permittee files a written appeal with the City Clerk addressed to the City Manager within ten (10) working days from the date on the communication notifying the applicant/permittee of the decision. The City Manager's decision on the appeal is final

**Sec. 2.02.011. – Limitation on number of dogs or cats.**

- (a) It is unlawful to harbor, keep, or maintain more than ten (10) dogs, cats, or a combination thereof on any premises utilized for residential purposes.
- (b) It is an affirmative defense to a violation of subsection (a) if the dogs or cats are four months of age or younger and are part of a litter that is in the process of being weened.
- (c) It is an affirmative defense to subsection (a) if the owner of the animals obtains an annual permit from the City. To be entitled to a permit, the owner must submit an application for the over ten permit, pay the fee as set by City Manager, and pass an inspection of the premises by animal services.
  - (1) The inspection of the premises is to ensure compliance with this chapter, including but not limited to requirements regarding the provision of food, care, and shelter and preventing nuisances.
  - (2) The inspection may be waived if, within the preceding twelve (12) months, there have been no bona fide complaints regarding violations of this chapter. A complaint is bona fide if made in good faith and is not unfounded, as determined by the animal services supervisor. This section does not obligate animal services to waive the inspection if the City determines, in its discretion, that an inspection is warranted.
  - (3) The permit fee may be waived if the owner is fostering animals for the City, and is not otherwise in violation of this chapter. The animal services supervisor may waive the permit fee as a part of promotion for adoption or to encourage compliance with this chapter.

**Sec. 2.02.012. – Hogs, sows, pigs prohibited in City; affirmative defense for potbellied pigs; requirements for keeping potbellied pigs; requirements for keeping bees.**

- (a) It is unlawful to maintain and keep any hog, sow, or pig in the City.
- (b) It is an affirmative defense to subsection (a) that the animal is a potbellied pig, which meets the following requirements:

- (1) That there are no more than two (2) adult potbellied pigs in any one (1) household within the City;
  - (2) It is indoors at all times other than times for evacuation of waste material or during exercise periods;
  - (3) It is not in violation of any applicable provision of this chapter;
  - (4) It receives annual vaccinations for erysipelas.
- (c) *Keeping bees.* A person who keeps bees shall:
- (1) Maintain each colony in a healthy state;
  - (2) Maintain the grounds near each hive in a sanitary manner;
  - (3) Ensure that a convenient source of water is available to each colony at all times;
  - (4) Mark each hive with the name and telephone number of the beekeeper; and
  - (5) The animal services supervisor shall have the authority to require a person to reduce the number of hives or require other reasonable safety precautions in an apiary in order to abate any nuisance.

**Sec. 2.02.013. – Restrictions on size and locations for keeping livestock.**

- (a) It is unlawful for any person to keep any mule, donkey, horse, mare, colt, bull, cow, calf, sheep, goat, cattle, or livestock (does not include requirement for pygmy goats, miniature horses, or miniature donkeys, which are in subsection (b) below):
  - (1) Closer than fifty (50) feet from any building located on adjoining property that is used for human habitation; or
  - (2) On a lot or parcel of land that does not contain at least one (1) acre per animal.
- (b) It is unlawful for any person to keep a pigmy goat or miniature horse or miniature donkey:
  - (1) Closer than fifty (50) feet from any building located on adjoining property that is used for human habitation;
  - (2) Without overhead shelter containing at least seventy-five (75) square feet per animal; or
  - (3) On a parcel of land that does not contain at least one thousand eight hundred (1,800) square feet per animal, provided; the animal services supervisor shall have the authority to adjust the square footage requirement if the animals can be maintained without creating a nuisance.



**Sec. 2.02.014. – Regulations on the keeping of chickens.**

- (a) A person commits an offense if he keeps or maintains:
  - (1) More than one (1) rooster without having a minimum of six (6) hens or more than ten (10) chickens total, including the rooster, on land of one (1) acre or less.
  - (2) More than one (1) rooster for every six (6) hens on land greater than one (1) acre.
- (b) A person commits an offense if he houses or keeps chickens in a structure or enclosure at a distance within twenty-five (25) feet from any building or structure used or intended for human occupancy or human habitation located on another's property.
- (c) A person commits an offense if he keeps or maintains chickens in an enclosure that is not:
  - (1) Designed, erected, and maintained in accordance with applicable building and zoning requirements of City code;
  - (2) A three (3) or more sided structure with a minimum of one (1) square foot of roosting area per chicken with a roof or cover to allow the chickens to remain dry and protected from the elements and has direct access from the roosting area to an outdoor enclosure that is a minimum of ten (10) square feet of ground area per chicken;
  - (3) Constructed and maintained to reasonably prevent the collection of standing water;
  - (4) Easily accessed;
  - (5) Cleaned of droppings, uneaten feed, feathers, and other waste weekly or more often as needed to prevent foul odor;
  - (6) Predator proof; and
  - (7) Thoroughly ventilated.
- (d) A person commits an offense if he keeps or maintains chickens without fresh water at all times and food in sufficient quantity and with nutritive value to maintain the health of the animal.
- (e) A person commits an offense if he slaughters any chicken in public view.
- (f) *Affirmative defense.* It is an affirmative defense to this section if a person keeps or maintains a rooster when it is:
  - (1) Being exhibited during a special event approved by the City;

- (2) Owned by and kept on premises of a governmental entity for the purposes of a research, educational, or similar program conducted by a governmental entity;
- (3) Owned by and kept on premises of a medical, educational, or research institution for scientific or educational purposes, operating in compliance with all City ordinances and state and federal laws.

**Sec. 2.02.015. – Riding or driving animals on sidewalks or streets.**

- (a) It is unlawful for any person to ride or drive an animal on a public sidewalk.
- (b) It is unlawful for any person to ride or drive an animal within any portion of the street or right-of-way of a heavily traveled street.
- (c) It is an affirmative defense to prosecution for a violation of this section that a person is riding or driving an animal in a City-approved parade or event or is riding or driving an animal in the performance of the person's official duties as an employee of the City or other law enforcement agency.

**Sec. 2.02.016. – Killing, trapping, etc., animals prohibited except in certain instances; authority to seize animals treated inhumanely.**

- (a) It is unlawful for any person to wound, trap, maim, cripple, or inhumanely kill any animal.
- (b) It is an affirmative defense to prosecution for a violation of this section that the animal is a chicken slaughtered not within public view.
- (c) It is permissible to humanely trap, relocate, or humanely dispose of nuisance animals provided that doing so is not prohibited by other law.
- (d) The animal services supervisor may request a warrant from a court to enter any property within the City in order to carry out programs for the preservation of the health, safety, and general welfare of the City's citizens, and to determine the condition of any animal. The animal services supervisor may seize and impound any animal if it is:
  - (1) Without food or water;
  - (2) Abused, neglected, or kept or harbored in extreme weather conditions without shelter or protection;
  - (3) Restrained on a leash, chain, or other restraining line less than eight (8) feet in length, unless being exercised by a person;
  - (4) Enclosed in an area less than twenty (20) square feet except when the animal is being restrained by the City, a licensed veterinarian, or a bona fide humane organization; or

- (5) Abandoned.
- (e) It is unlawful for any person to permit any of the conditions in subsection (d) to exist on property under their control.
- (f) Animal services shall have the power to seize an animal with a warrant or court order if there is probable cause to believe one of the following conditions exist.
  - (1) The animal is found at large and/or has been abandoned.
  - (2) The animal is exhibiting symptoms of rabies, has been exposed to a rabid animal, or has bitten or scratched a human being.
  - (3) The animal is a dog that has caused the death or serious bodily injury of a person or otherwise meets the definition of a dangerous dog as defined in this chapter.
  - (4) The animal is being treated cruelly in violation of this chapter or State law.
  - (5) Animal services is authorized to seize the animal based on, or pursuant to, this chapter or other state law.
- (g) Animal services shall have the power to seize an animal without a warrant or court order if there is probable cause to believe one of the conditions listed in (f)(1)—(5) exist and under the following conditions:
  - (1) On public property, in all cases;
  - (2) On private property if:
    - a. The consent of the resident or property owner is obtained;
    - b. Animal services is in pursuit of an animal that is at large, or
    - c. An animal services officer reasonably believes there is imminent danger of serious bodily injury or death to the public, other animals, or the animal in question and there is insufficient time to obtain a warrant.
  - (3) Upon the request of a peace officer if the owner of the animal is not available and there is no one 18 years of age or older to accept responsibility for the animal.
- (h) Animal services officers are authorized to use necessary force to make lawful seizures of animals pursuant to this chapter.
- (i) Any animal that has been seized pursuant to subsection (f)(2) must be impounded and quarantined, and disposition of the animal shall only be permitted, as required by Chapter 826 of the Texas Health and Safety Code and Title 25 of the Texas Administrative Code Chapter 169, Subchapter A. Animal services shall notify the owner in writing when the

animal may be released from quarantine and when the animal must be redeemed to avoid transfer of ownership to the City for adoption or other humane disposition.

- (j) Seizure, impoundment, and disposition of an animal that is being treated cruelly shall be determined in accordance with Chapter 821 of the Texas Health and Safety Code.
- (k) Seizure, impoundment, and disposition of a dog that has caused the death or serious bodily injury of a person, or that meets the definition of dangerous dog, shall be governed by Section 2.02.018 of this chapter.

**Sec. 2.02.017. – Unlawful slaughtering of animals.**

It shall be unlawful for any person to maintain any property for the purpose of slaughtering any animal, except those establishments that have been duly licensed to slaughter animals under the laws of the state and applicable City ordinances.

**Sec. 2.02.018. – Impoundment of dogs and cats.**

- (a) Any dog or cat may be impounded by the animal services supervisor in any of the following circumstances:
  - (1) Any dog or cat running at large in the City;
  - (2) Any dog not having affixed to and wearing on a collar or harness a valid tag furnished by a veterinarian showing that said dog is currently vaccinated against rabies;
  - (3) (A dog or cat that is suspected of having inflicted bodily injury on any human being or animal, or poses a threat to public safety; or
  - (4) A dog or cat that has rabies or symptoms thereof, or that a person could suspect as having rabies, or that bites, scratches, or otherwise creates a condition which may have exposed or transmitted the rabies virus to any human being or animal.
- (b) *Disposition of impounded dogs and cats.*
  - (1) If any dog or cat impounded under this section is not called for by the owner within seventy-two (72) hours after notification of the impoundment or within seventy-two (72) hours of impoundment where the owner cannot be reasonably ascertained, the dog or cat shall become the property of the animal shelter and may be placed for adoption, transferred, or euthanized, using the Asilomar Accords Guiding Principles and Definitions.
  - (2) The animal shelter shall be considered the designated caretaker of a stray, impounded, or surrendered animal immediately upon intake at the animal shelter. After a holding period of at least seventy-two (72) hours or three (3) working days

from the time of intake, impound, or surrender, the City shall become the full owner of the animal in question. After the expiration of the holding period, animals that are not claimed and redeemed by the owner or custodian may be put up for adoption, placed with a animal rescue organization or approved person, or humanely destroyed.

- (3) If any dog or cat that is impounded by animal services, or brought to the animal shelter by a person other than the owner of that animal, and is wearing traceable identification, is readily observable as being sterilized or declawed in the best judgment of the animal services supervisor or supervisor's designee, or where an owner is known, such animal shall be held at the animal shelter for a minimum of five (5) working days from the time the animal enters the animal shelter. Animal services shall notify the owner, when known, of the impoundment. Unless the owner has notified animal services in writing of their intentions to claim the animal after that date, listing a date by which time that owner will reclaim the dog/cat and satisfy all applicable fees and this arrangement has been approved by the animal services supervisor, the animal shall become the property of the animal shelter and may be placed for adoption, transferred, or euthanized after the fifth (5th) working day, using the Asilomar Accords Guiding Principles and Definitions.
- (4) The owner of any impounded dog or cat shall be permitted to repossess such dog or cat prior to disposition by the City upon the payment to the animal services department of the appropriate fees.
- (5) This subsection does not apply to any dog or cat placed in quarantine that is the subject of a dangerous animal complaint.

**Sec. 2.02.019. – Adoption of dogs or cats.**

The animal services supervisor shall be authorized to place for adoption dogs or cats impounded by the City under the following conditions:

- (a) *Health and age assessment.* The animal services supervisor shall determine whether a dog or cat is healthy enough for adoption and its health and age adequate for vaccination. However, such decision by the animal services supervisor shall not constitute a warranty of the health or age of the animal.
- (b) *Adoption fee.* There will be an adoption fee for all dogs and cats at an amount set by the City Manager
- (c) Requirements for adoption of dog or cat age four (4) months or older:
- (d) Requirements for adoption of a dog or cat under four (4) months of age:
  - (1) *Registration fee.* Within one (1) week after a dog or cat, which was under four (4) months old when adopted, is vaccinated against rabies, the adopting person shall

furnish to the animal services supervisor the original adoption receipt and proof of vaccination.

**Sec. 2.02.020. – Animal service fees.**

The City Manager will determine the amount of all fees not otherwise set in this Chapter.

**Sec. 2.02.021. – Liability.**

The City does not in any way warrant or guarantee the title or ownership of any animal sold or adopted from the animal shelter, and if a lawsuit is filed by the prior owner or harbinger or anyone claiming an interest in the animal, the purchaser or adopter of the animal agrees to defend and indemnify the City and accept the full responsibility in regard to the suit. The City does not warrant or guarantee the age, health or physical condition of any animal that it may sell or offer for adoption. The animal services supervisor and other City employees and volunteers have no authority to make any warranties or guarantees regarding the title, ownership, age, health or physical condition of any such animal or to otherwise bind the City to the same.

**Sec. 2.02.022. – Vaccination certificate.**

- (a) It is unlawful for any person to keep or own a dog, cat, ferret, or other domestic mammal immunized against rabies as provided in this chapter without a written vaccination certificate provided by the veterinarian who immunized the animal, giving an accurate description of the animal, date of immunization, and the name and address of the owner or harbinger.
- (b) It is unlawful for any person to own or keep a dog, cat, ferret without making the vaccination certificate available for inspection by the animal services supervisor or any police officer at any time.

**Sec. 2.02.023. – Animals suspected of rabies to be held for observation.**

- (a) The animal services supervisor may impound any animal that has rabies symptoms or any animal that bites, or otherwise attacks any person within the City and hold it in strict isolation for ten (10) days for observation in the City animal shelter.
- (b) The owner or harbinger of any animal that has rabies, that has been exposed to rabies, that has rabies symptoms, or that has bitten, or otherwise attacked any person within the City, shall, on demand, surrender the animal to the animal services supervisor.
- (c) The animal services supervisor may order the owner or harbinger of an animal that has rabies, is suspected of having rabies, or has rabies symptoms to hold it in strict isolation for ten (10) days for observation in the City animal shelter, any licensed veterinary hospital of the owner or harbinger's choosing within the city limits, or at the owner or harbinger's home when approved by the animal services supervisor.

- (d) No person shall release an animal held for observation of rabies to the owner or harbored until a licensed veterinarian or the animal services supervisor certifies that the animal has been held for the specific time and is demonstrating no clinical symptoms of rabies.
- (e) No person shall dispose of any animal that has died of rabies except as directed by the animal services supervisor.
- (f) All examinations by a veterinarian shall be at the owner or harbored's expense.
- (g) Notwithstanding any provision in this chapter, if an animal that has not received a current rabies vaccination attacks a person or animal, and the animal services supervisor decides the animal must be destroyed in order to determine whether rabies inoculation of the victim should begin, the animal services supervisor may destroy the animal immediately.
- (h) The animal services supervisor may dispose of dogs, cats, or other animals which are not removed from the City animal shelter within twenty-four (24) hours after the expiration of the ten-day observation period in the manner permitted by this chapter.

**Sec. 2.02.024. – Reporting of rabies cases by veterinarians.**

Each veterinarian shall report in writing all clinical or suspected cases of rabies under their care to the animal services supervisor within twenty-four (24) hours after the animal is admitted to a hospital or has been seen by the veterinarian or their staff. The report shall include the name and address of the owner or harbored, location of the animal, and the number of and names and addresses of any persons bitten.

**Sec. 2.02.025. – Duty of person knowing of animals exhibiting symptoms of rabies to report to animal services supervisor.**

If an animal is infected with rabies or suspected of being infected with rabies or has been bitten by an animal known or suspected of being infected with rabies, the owner or harbored of the animal or any person having knowledge of it shall immediately notify the animal services supervisor.

**Sec. 2.02.026. – Duty of owner or harbored of dog or other animal suspected of being rabid.**

The animal services supervisor shall notify in writing the owner or harbored of any animal known or suspected of being infected with rabies to have the animal examined by a licensed veterinarian within twenty-four (24) hours and confine the animal until the ten-day observation period of the suspected rabid animal is over and there is a definite diagnosis shown.

**Sec. 2.02.027. – Prohibiting the sale of animals in public places.**

- (a) It shall be unlawful for any person to display or sell, trade, barter, lease, or rent any animal on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place that is generally accessible by the public, regardless of whether such access was authorized.

- (b) It shall be unlawful for any manager, operator, or property owner to allow the conduct described in subsection (a).
- (c) This section shall not apply to the City or any animal rescue organization that has an active animal rescue organization license issued by the animal services supervisor.
- (d) Any animal being sold, traded, bartered, leased, or rented on any roadside, public right-of-way, commercial parking lot, garage sale, flea market, festival, park, community center, or outdoor public place shall be subject to seizure and impoundment at the discretion of the investigating animal services officer. Upon impoundment, a notice of violation will be provided to the animal owner. Animals impounded under this section may be reclaimed by the owner within five (5) days excluding the day of impoundment and any days the animal care services facility is not opened. Animals not reclaimed within this period shall thereafter become the property of the City and be subject to adoption, rescue, foster or humanely euthanized as determined by animal services. Applicable impoundment fees for each animal reclaimed shall be paid.

**Sec. 2.02.028. – Pet shop requirements.**

- (a) It shall be unlawful for any person to operate a pet shop without first obtaining a license from animal services.
  - (1) It is an affirmative defense to prosecution under subsection (a) that the person was operating the pet shop on the day before the effective date of the ordinance that established this section and operation of the unlicensed pet shop has not ceased for any reason for a period of seven (7) days or more.
- (b) It shall be unlawful for an owner, operator, manager, or employee of a pet shop or other business establishment to sell, trade, transfer, barter, give away, maintain, or act as a dealer or agent between a buyer and seller of any prohibited animal as defined by this chapter.
- (c) It shall be unlawful for a pet shop owner, operator, manager, or employee to sell, lease, offer for sale, trade, give away, or otherwise transfer a cat or dog, unless the cat or dog was obtained from a government-owned or -operated animal shelter, an animal control agency, or an animal rescue organization licensed by animal services.
  - (1) It is an affirmative defense to prosecution under subsection (c) that the person was operating the pet shop on the day before the effective date of the ordinance that established this section and operation of the pet shop has not ceased for any reason for a period of seven (7) days or more.
- (d) All pet shops and business establishments selling animals shall:
  - (1) House animals in a sanitary manner;



- (2) Provide appropriate medical services, care, and housing according to individual species' needs;
- (3) Keep sick, diseased, and injured animals isolated and checked by a licensed veterinarian on the day of discovery of the need for veterinary care;
- (4) Provide each animal sufficient space to stand, stretch, and turn without touching any of the four (4) sides or top of their primary enclosure. Group housing of compatible animals is allowed if the space prevents crowding and allows for easy removal of animal waste, and the unhampered movement and comfort of each animal. Take cats and dogs out of their primary enclosures at least twice during each 24-hour period for exercise unless the primary enclosure is of sufficient size to conduct an exercise regimen needed by the animal for good health;
- (5) Maintain clean animal enclosures and remove debris and fecal matter at least once every twenty-four (24) hours. Sanitizing of cat and dog enclosures shall be done once every day by washing the surfaces with water and either soap or detergent, or by the use of a pressure water system or steam cleaner all of which shall be followed by the application of a safe and effective disinfectant. The exercise and run areas having pea gravel or other non-permanent surface materials shall be thoroughly cleaned at least every twenty-four (24) hours and more frequently if necessary by removal of soiled materials and application of suitable disinfectants followed by the replacement of clean surface materials when necessary;
- (6) Check and treat all cats and dogs for internal and external parasites, unless documentation is provided indicating the animal has had a veterinary exam within the past thirty (30) days and is free of internal and external parasites;
- (7) Immunize all cats and dogs offered for sale, trade or other compensation or for free giveaway (except an animal taken to animal services) against common disease in accordance with standard veterinary practices; in the case of dogs, against canine distemper, adeno-virus para influenza, parvovirus, corona virus, and leptospirosis, and in the case of cats, against feline rhinotracheitis, and panleukopenia;
- (8) Ensure that all cats and dogs that are being offered for sale, trade or other compensation or for free giveaway are:
  - a. sterilized by a licensed veterinarian;
  - b. implanted with a registered microchip.
- (9) Not offer any kitten or puppy under the age of eight (8) weeks for sale, trade or other compensation or for free giveaway; and
- (10) Post on the enclosure of each cat or dog offered for sale the name, address, and contact information of the government-owned or -operated animal shelter, animal

control agency, or animal rescue organization from which the cat or dog was obtained.

- (e) The pet shop license holder shall furnish a purchaser of a cat or dog a written statement at the time of sale which shall include:
  - (1) Date of sale;
  - (2) Name, address and telephone number of purchaser and license holder;
  - (3) License number of license holder;
  - (4) Breed, description, approximate age and sex of cat, dog, or other animal sold (small mammals, parrot-type birds, and fish not included);
  - (5) Medication and vaccination and immunization information, including dates administered;
  - (6) Internal parasite medication(s) and date(s) administered;
  - (7) A guarantee of good health for a period of not less than two (2) weeks with recommendation to have the animal examined by a licensed veterinarian. The license holder shall retain a copy of the written statement for twelve (12) months from date of sale. All purchasers of cats, dogs, and ferrets shall also be furnished with information as to the requirements of ownership of these animals within the city including requirements for rabies vaccination, litter permits, and microchipping; and
  - (8) In the case of the sale of a cat or dog: the name, address, and contact information of the government-owned or -operated animal shelter, animal control agency, or animal rescue organization from which the pet shop obtained the cat or dog.
- (f) Records shall be maintained in good auditable condition, and surrendered to animal services upon request and without reservation or purpose of evasion. Failure to produce a copy of such records on demand by animal services shall be cause for the revocation of an existing license and the refusal to issue a new license for a period of two (2) years.

**Sec. 2.02.029. – Pet shop license.**

- (a) No person shall operate any pet shop as defined in this chapter, without first obtaining a license from the animal services supervisor, who shall take into consideration the type of building construction, the regulatory compliance history of the proposed licensee as it relates to sanitation, health, welfare of the animals, birds or reptiles housed, and related zoning requirements. Animal services shall inspect and evaluate the qualifications of applicants.

- (b) Applications for an original or renewal pet shop license shall be submitted to animal services and shall be approved or denied by the animal services supervisor. Animal services shall investigate the applicant's qualifications for a license. A conviction for the violation of any provision of this chapter may constitute cause for denial or revocation of a license.
- (c) Failure to apply for a license prior to the opening of a pet shop, or within thirty (30) days after the renewal date, shall constitute an offense.
- (d) Each pet shop license shall be valid for one (1) year.
- (e) The decision of the animal services supervisor in regard to the issuance of a pet shop license or the revocation of a license is final unless the applicant/licensee files a written appeal with the Office of the Chief of Police within ten (10) working days after the date on the communication notifying the applicant/licensee of the animal services supervisor's action. Appeals shall be considered by the Chief of Police. If the Chief of Police concurs with the decision of animal services, the decision is final unless the applicant/licensee files a written appeal with the City Clerk addressed to the City Manager within ten (10) working days from the date on the communication notifying the applicant/permittee of the decision. The City Manager's decision on the appeal is final.

**Sec. 2.02.030. – Animal rescue organization license.**

- (a) No person shall operate an animal rescue organization as defined in this chapter, without first obtaining a license from the animal services supervisor, who shall take into consideration the housing conditions, the history of the animal rescue organization as it relates to sanitation, health, welfare of the animals, birds or reptiles housed, and related zoning requirements. Animal services may require an inspection and evaluation as part of the approval process or upon the receipt of a complaint after approval. For the purposes of this section, operating an animal rescue organization includes to house in an enclosure or exchange ownership of an animal to or from said organization
- (b) Applications for an original or renewal of an animal rescue organization license shall be submitted to animal services and shall be approved or denied by the animal services supervisor. Animal services shall investigate the applicant's qualifications for a license. A conviction for the violation of any provision of this chapter may constitute cause for denial or revocation of a license.
- (c) Failure to apply for a license or the renewal of a license within thirty (30) days after the renewal date shall constitute an offense.
- (d) Each animal rescue organization license shall be valid for two (2) years.
- (e) Organizations with an approved animal rescue organization license issued by the animal services supervisor shall be exempt from being required to have a pet shop license.

- (f) The decision of the animal services supervisor in regard to the issuance of an animal rescue organization license or the revocation of a license is final unless the applicant/licensee files a written appeal with the Office of the Chief of Police within ten (10) working days after the date on the communication notifying the applicant/licensee of the animal services supervisor's action. Appeals shall be considered by the Chief of Police. If the Chief of Police concurs with the decision of animal services, the decision is final unless the applicant/licensee files a written appeal with the City Clerk addressed to the City Manager within ten (10) working days from the date on the communication notifying the applicant/permittee of the decision. The City Manager's decision on the appeal is final.

**Secs 2.02.031 – 2.02.049. – Reserved.**

**Article 2.03. Dangerous Dogs.**

**Sec. 2.03.001. – Knowledge of dangerous dog.**

For purposes of this section, a person learns they are the owner of a dangerous dog when:

- (a) The owner knows of an attack described in the Section 2.01.001 definition of “dangerous dog,” or
- (b) The owner is notified by the animal services supervisor that the dog is a dangerous dog; or
- (c) The owner is notified by the court that the dog is a dangerous dog; or
- (d) The owner is notified by the court that, after appeal, the court has upheld the animal services supervisor's determination that the dog is a dangerous dog.

**Sec. 2.03.002. – Dangerous dog report.**

- (a) The animal services supervisor may receive a report concerning a dangerous dog. Such report and supporting witness statements shall be in writing and sworn to on a form prescribed by the animal services supervisor.
- (b) The animal services supervisor shall investigate all reports filed under this section and may issue sworn reports based on the animal services supervisor's investigation or observation.

**Sec. 2.03.003. – Dog causing death or serious bodily injury.**

- (a) *Complaint; Impoundment.* If there is probable cause to believe that a dog has caused the death or serious bodily injury of a person, a sworn complaint may be filed with the municipal court requesting that a seizure warrant be issued for the dog. Upon a showing of probable cause, the court shall issue the seizure warrant and schedule a hearing not more than ten (10) days from the date the warrant is issued. The animal control supervisor shall execute the seizure warrant and shall impound the dog and provide for its care until disposition is ordered by the court.

(b) *Hearing on Dog Causing Death or Serious Bodily Injury.*

- (1) Notice of the date, time, and place of the hearing shall be provided to the owner of the dog and the person from whom the dog was seized.
- (2) The purpose of the hearing is to determine, by a preponderance of the evidence, if the dog caused the death or serious bodily injury of a person. Any interested party may present evidence at the hearing.
- (3) If the dog caused the death of a person, the dog shall be ordered humanely euthanized as allowed by law.
- (4) If the dog caused serious bodily injury to a person, the dog shall be ordered humanely euthanized as allowed by law, unless one of the following exceptions applies:
  - a. the dog was being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and:
    - (A) the enclosure was reasonably certain to prevent the dog from leaving the enclosure on its own and provided notice of the presence of a dog; and
    - (B) the injured person was at least eight (8) years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;
  - b. the dog was not being used for the protection of a person or person's property, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and the injured person was at least eight (8) years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
  - c. the attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the dog for law enforcement purposes;
  - d. the dog was defending a person from an assault or person's property from damage or theft by the injured person; or
  - e. the injured person was younger than eight (8) years of age, the attack, bite, or mauling occurred in an enclosure in which the dog was being kept, and

the enclosure was reasonably certain to keep a person younger than eight (8) years of age from entering.

- (5) If the dog did not cause the death or serious bodily injury of a person, or if one of the above exceptions is applicable, the dog shall be released to the owner.
- (6) If the dog is ordered humanely euthanized, the municipal court may also order that the owner of the dog pay the costs associated with impoundment and humane disposition of the dog.
- (7) The owner of a dog that causes death or serious bodily injury may waive the hearing and release the dog to animal services for humane euthanasia, and in such case, the City Manager, or their designee, may waive any fees that would otherwise be charged.
- (8) In order to appeal the decision of the municipal court under this section, the owner must file a notice of appeal and the appeal bond with the municipal court clerk within ten (10) days of the municipal court's decision.

**Sec. 2.03.004. – Dangerous dog determination.**

- (a) *Notification; Impoundment.* If animal services determines that a dog qualifies as a dangerous dog, as defined by this chapter, they shall notify the owner of the dog in writing. Unless the dog has already been impounded under Section 2.03.003 or otherwise, the owner of the dog shall deliver the dog to animal services within five (5) days to be impounded. The dog will remain impounded until disposition is ordered by a court. If the owner does not comply with this section, animal services is authorized to obtain a seizure warrant from the municipal court.
- (b) *Dangerous Dog Hearing.*
  - (1) Animal services shall file a complaint with the municipal court on, or near, the day the dog is impounded. The court will schedule a hearing to determine if the dog is dangerous and to order disposition not later than the tenth (10) day after the dog is impounded.
  - (2) If the municipal court determines that the dog does not meet the definition of dangerous, the court shall order the dog released to the owner.
  - (3) If the municipal court determines the dog does meet the definition of dangerous, the court shall:
    - a. uphold the determination of animal services,

- b. determine the cost of impoundment up to the date of the hearing and through any potential appeal,
  - c. set an appeal bond adequate to cover those costs, and
  - d. order that the dog be released to the owner if and when the owner complies with the requirements of Section 2.03.005 or order the dog to be humanely euthanized if the owner cannot or does not comply with those requirements.
- (4) In order to appeal the decision, the owner must file a notice of appeal and the appeal bond with the municipal court clerk within ten (10) days of the municipal court's decision.

**Sec. 2.03.005 – Requirements for owners of dangerous dogs.**

- (a) Not later than fifteen (15) days after a person learns that he is the owner of a dangerous dog, the owner shall, in accordance with the order of the court or determination of the animal services supervisor:
- (1) Remove the dangerous dog from within the city limits and within the area immediately contiguous and adjacent to the city limits, extending for a total distance of 5,000 feet. In which case, the owner must provide, in writing, the destination address of where the dog is to reside and proof to the animal services supervisor that the owner has alerted the agency responsible for animal services in the destination area prior to the dog being released from the animal services facility; or
  - (2) Humanely euthanize the dangerous dog; or
  - (3) Register and establish compliance with all of the following requirements of this section, at the owner's expense, to the animal services supervisor before the dog is released from the animal services facility or other state approved quarantine facility.
    - a. *Register.* Register the dangerous dog with the animal services supervisor and maintain current registration at all times;
    - b. *Secure.* Restrain the dog in a secure enclosure inspected and approved by the animal services supervisor;
    - c. *Insure.* Acquire and maintain liability insurance coverage in an amount of at least two hundred thousand dollars and no cents (\$200,000.00) to cover damages resulting from an attack by the dangerous dog and provide proof of the required liability insurance coverage to the animal services supervisor. The owner shall notify the animal services supervisor

immediately if a lapse in insurance coverage occurs or if the coverage ceases or is reduced at any time for any reason. The owner shall include in the policy provisions requiring the insurance provider to provide notice to the animal services supervisor not less than thirty (30) days prior to cancellation or any material change in coverage, and naming the City as a certificate holder;

- d. *Microchip.* Microchip and register the dangerous dog for its life with a national registry, and present proof to the animal services supervisor. The cost shall be at the owner's expense. The owner of the dangerous animal shall microchip the dog by implanting a microchip identification device on the dog within seven (7) days after being notified by the animal services supervisor or the court that such dog is dangerous or within forty-eight (48) hours of an unsuccessful appeal;
  - e. *Sterilize.* Present proof to the animal services supervisor that the dog has been sterilized so as to prevent reproduction;
  - f. *Compliance.* Comply with all applicable regulations, requirements, and restrictions on dangerous dogs; and
  - g. *Extensions.* Obtain written extension from the animal services supervisor to complete the registration requirements, if necessary. All requests for extension shall be in writing and, if granted by the animal services supervisor, shall total no more than thirty (30) additional days.
- (b) *No stay of microchip requirement.* An appeal of a dangerous dog determination by the court under Sections 2.03.003 or 2.03.004 shall not act to stay the requirements of subsection (a) except regarding implantation of a microchip as noted in subsection (a)(4).
  - (c) *Delivery required-dangerous.* The owner of a dangerous dog shall deliver the dog to the animal services supervisor immediately upon learning that the dog is a dangerous dog, if the dog is not already impounded.
  - (d) *Delivery required-out of compliance.* The owner of a dangerous dog who falls out of compliance with an owner's requirement of subsection (a) shall deliver the dog to animal services immediately.
  - (e) *Seizure warrant.* The court may issue a warrant to seize the subject dog at any time the court finds that probable cause of violation or non-compliance exists, including any time otherwise allowed for voluntary compliance. If, on application of the animal services supervisor, the court finds, after notice and hearing as provided by this chapter, that the owner of a dangerous dog has failed to comply with or has fallen out of compliance with an owner's requirement of subsection (a), the court shall order the animal services supervisor to seize the dog and shall issue a warrant authorizing the seizure.



**Sec. 2.03.006. – Registration.**

- (a) *Fee.* The animal services supervisor shall annually register a dangerous dog, if the owner is in compliance with the owner's requirements of this section. The owner shall present proof of compliance satisfactory to the animal services supervisor and shall pay an annual registration fee of two hundred dollars (\$200.00).
- (b) *Tag.* The animal services supervisor shall provide to the owner registering a dangerous dog, a dangerous dog registration tag. Such tag shall be of a bright distinguishing color, shall contain the year of registration engraved on its face, and shall be larger than a normal license tag issued to dogs and cats. A dangerous dog registration shall be valid for one (1) year from the date of issuance.
- (c) *Required display of tag.* The owner of a registered dangerous dog shall attach the tag to the dog's collar, or similar device, and shall place such collar or device on the dog. The owner of a registered dangerous dog shall display current registration on the dog in this manner at all times.
- (d) *Notice to animal services supervisor.* If the owner of a registered dangerous dog intends to sell or give away the dog or move the dog to a new address, the owner, not later than the fourteen (14) days prior to the date of the intended sale, gift, or move, shall notify the animal services supervisor of the dog's new address and new owner, if applicable.
- (e) *Notice to others.* If the owner of a registered dangerous dog sells or gives the dog to another person, the owner shall notify the other person at the time of the sale or gift that the dog is a registered dangerous dog.
- (f) *Dangerous dog relocations.* An owner moving to a new location within the City must have the new location inspected and approved by the animal services supervisor prior to relocating the dog to the new location within the City or must relinquish the dog to animal services.
- (g) *Registration non-transferable.* Dangerous dog registrations are non-transferable to a new owner or a new location.
- (h) *Dangerous dogs from other jurisdictions prohibited.* The owner of a dog that has been determined to be dangerous by another jurisdiction is prohibited from having such dog within the city limits and within the area immediately contiguous and adjacent to the city limits, extending for a total distance of 5,000 feet.
- (i) *Notice to other jurisdictions.* When the animal services supervisor is informed that a dangerous dog has moved to another jurisdiction, he should notify animal services for such jurisdiction of this information.

**Sec. 2.03.007. – Owner notification of attacks.**

- (a) *Notice of attacks-human.* The owner of a registered dangerous dog shall notify the animal services supervisor of all attacks the dog makes on humans.
- (b) *Notice of attacks-animal.* Additionally, the owner of a registered dangerous dog shall notify the animal services supervisor of all attacks made by the dog on domestic animals and domestic fowl.

**Sec. 2.03.008. – Offenses.**

- (a) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure, and the attack causes bodily injury to the other person.
- (b) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on a domestic animal or domestic fowl while said dog is at large, and the attack causes bodily injury or death to the domestic animal or domestic fowl.
- (c) A person commits an offense if the person is the owner of a dangerous dog or the new owner of a dangerous dog and performs an act prohibited or fails to perform an act required by this chapter.
- (d) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed ten thousand dollars (\$10,000.00). An attorney having civil jurisdiction for a municipality where the offense occurred may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this subsection shall be retained by the municipality.

**Sec. 2.03.009. – Defenses.**

- (a) It is a defense to prosecution under Section 2.03.008 that the person is a veterinarian, a licensed peace officer, a person employed by a recognized animal services center or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the animal in connection with that position.
- (b) It is a defense to prosecution under Section 2.03.008 that the person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.
- (c) It is a defense to prosecution under Section 2.03.008 that the person is a dog trainer or an employee of a guard dog company under the Texas Private Security Act (Chapter 1702, Texas Occupations Code) and its subsequent amendments and the regulations adopted under that act, and is not the actual owner of the dog.

- (d) It is a defense to prosecution under Section 2.03.008 that the person injured was teasing, tormenting, abusing, or assaulting the animal or has, in the past, been reported to have teased, tormented, abused, or assaulted the animal.
- (e) It is a defense to prosecution under Section 2.03.008 that the person injured was, at the time of the attack, committing or attempting to commit a crime.
- (f) It is a defense to prosecution under Section 2.03.008 that the animal was protecting or defending a person while in the person's control, from an unjustified attack or assault.

**Sec. 2.03.010. – Muzzle and restraint of dangerous dogs.**

An owner of a dangerous animal shall not permit a dangerous animal to be outside the secure enclosure unless the animal is muzzled and restrained by a substantial chain or leash, no longer than six (6) feet in length, and a capable person is in immediate physical control of the leash. Such animal shall not be leashed to any inanimate object such as a tree, post, building, or other object. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration but shall prevent it from biting any person or animal. Cloth muzzles are prohibited.

**Secs. 2.03.011. – 2.03.019. – Reserved.**

**Article 2.04. Prohibited Animals; Dangerous, Wild Animals.**

**Sec. 2.04.001. – Prohibited animals.**

- (a) *Unlawful to harbor prohibited animal.* It shall be unlawful to harbor any prohibited animal within the city limits and within the area immediately contiguous and adjacent to the city limits, extending for a total distance of 5,000 feet.
- (b) Affirmative defenses to prosecution under this section are that:
  - (1) The owner or harbinger of the prohibited animal has a current City permit to harbor the prohibited animal;
  - (2) The owner or harbinger is a governmental entity that notified the animal services supervisor before bringing the prohibited animals to the City of the number and type of prohibited animals, and the location where the animals shall be harbored;
  - (3) The owner or harbinger of the prohibited animal or animals is a licensed veterinarian and who harbors the animals upon premises zoned and used for veterinarian offices and/or animal treatment facilities for the purpose of providing veterinarian's services to them;
  - (4) The owner or harbinger of the prohibited animal or animals is a circus or wild animal show which remains within the City no longer than ten (10) consecutive days; and

that before bringing the prohibited animals into the City, notified the animal services supervisor in writing of the number and type of prohibited animals, presenting health certificates for each animal, and providing the location where the animals shall be harbored, and allowing the animal services supervisor or their designee unlimited access for determination that sufficient shelter, food, and water is being provided for every animal.

- (5) The owner or harbored of the prohibited animal or animals keeps them at a commercial film or television studio where commercial film and/or television production facilities are located who notified the animal services supervisor prior to bringing the prohibited animals to the City, of the number and type of prohibited animals, and the location where they will be harbored, and the length of time they will be kept there;
- (6) The owner or harbored of the prohibited animal or animals is a medical or research facility or zoological park; or
- (7) The animal is a psittacine bird, canary, finch, cockatiel, small monkey, hamster, ferret, guinea pig, gerbil, rabbit, fish, or small, non-venomous reptile which is less than six (6) feet long.

**Sec. 2.04.002. – Prohibited animal permits.**

(a) *Categories I, III, IV and VI permits.*

- (1) The animal services supervisor may issue a permit to harbor a category I, III, IV and VI prohibited animal only if the following requirements are met:
  - a. The premises where the applicant will harbor the animal is not zoned or used for any residential purpose and is at least two hundred fifty (250) feet from a lot zoned or used for residential purposes measured in a straight line from lot line to lot line;
  - b. The applicant correctly completes a prohibited animal application form and pays a two hundred fifty dollars (\$250.00) nonrefundable application fee;
  - c. The applicant has filed all required licenses from the United States Department of Agriculture, Animal and Plant Health Inspection Service and all other required licenses from the state or federal government for the animals and files it with the animal services supervisor;
  - d. The applicant provides to the City a program prepared and signed by a licensed veterinarian detailing veterinary care for the prohibited animal;
  - e. The applicant furnishes the City with a hold harmless and indemnity agreement approved by the City attorney relieving the City of liability and

indemnifying the City and its employees for any damages, costs of court, and attorney's fees which result from maintaining the prohibited animal within the City; and

- f. The applicant furnishes the City a policy of insurance in an amount not less than two hundred fifty thousand dollars (\$250,000.00) for each injury caused to persons, animals, or property by the prohibited animal; naming the City as an additional insured, and containing a provision requiring notice to the City before the insurance can be terminated.
- (2) The applicant shall file plans with the animal services supervisor for the construction of the facilities in which the prohibited animal shall be maintained signed by a licensed veterinarian.
- (3) The animal services supervisor shall give notice to all property owners within five hundred (500) feet of the lot where the prohibited animal will be harbored.
- (4) If the animal services supervisor approves the plans, the owner or harborer shall construct the facilities in which the prohibited animal is to be maintained in compliance with the plans and have them inspected and approved by a licensed veterinarian and file a copy of the approval with the animal services supervisor before bringing the prohibited animal to the permitted premises.
- (5) If facilities to harbor the prohibited animal are already in existence, the applicant shall submit a copy of a report from a licensed veterinarian who has inspected and approved of the facilities.
- (6) If the veterinarian report concludes that the facilities are adequate to properly restrain the prohibited animal and to provide humane handling, care, and treatment of the prohibited animal, the animal services supervisor shall issue the permit.
- (7) The permit is for a one-year period and is limited to one (1) prohibited animal at one (1) approved site.
- (8) If the insurance policy is canceled or insurance coverage is lost for any reason, the permit shall automatically terminate and the owner or harborer shall remove the prohibited animal from the City not later than seventy-two (72) hours after the loss of insurance unless he or she secures replacement insurance before the expiration of the seventy-two-hour period.
- (9) The owner or harborer may renew the permit following the same application procedure required for an original permit except for approval of the facility and paying a ten dollar (\$10.00) renewal fee.

- (10) The owner or harbinger shall cause a licensed veterinarian to inspect the premises twice annually and shall file a report of their findings with the animal services supervisor after each inspection.
- (11) After consideration of the application, the animal services supervisor may issue a permit.
- (12) The animal services supervisor may revoke the permit:
  - a. If the permit holder fails to properly restrain the prohibited animal at all times;
  - b. If the permit holder fails to adequately care for or protect the prohibited animal;
  - c. If the United States Department of Agriculture, Animal and Plant Inspection Service revokes or fails to renew a required license; or
  - d. For any other reason to the extent necessary to protect public or animal health, safety, or welfare.

(b) *Categories II and V permits.*

- (1) The animal services supervisor may issue a permit for a category II or V prohibited animal only if the following requirements are met:
  - a. The applicant correctly completes a prohibited animal application form and pays a one hundred dollar (\$100.00) nonrefundable application fee;
  - b. The applicant provides a program prepared and signed by a licensed veterinarian detailing veterinary care for the prohibited animal;
  - c. The applicant submits a copy of a report from a licensed veterinarian familiar with the type of animal that concludes that the facility is adequate to properly restrain the prohibited animals and the facilities are adequate to provide humane handling, care, and treatment of the prohibited animals; and
  - d. The applicant files an affidavit stating that he or she will harbor no more than four (4) prohibited animals on the premises.
- (2) The permit is for a one-year period.
- (3) The applicant may renew the permit for a one hundred dollar (\$100.00) nonrefundable fee; however, following the application procedure required for an original permit except for approval of the facility.

- (4) Prior to the renewal of a permit, the applicant shall submit a copy of a report from a licensed veterinarian who has inspected the facility. Said inspection and report shall be at the applicant's expense.
- (5) The prohibited animal shall not be allowed to roam the premises outside of the facility constructed to house the prohibited animal.
- (6) During the time a prohibited animal is being transported it shall be placed in a cage of suitable strength to restrain the prohibited animal under all conditions.
- (7) The animal services supervisor may revoke the permit if the permit holder fails to properly restrain the prohibited animal.
- (8) The animal services supervisor's denial or revocation of the permit is final unless the applicant files a written appeal with the Office of the Chief of Police within ten (10) working days after the date on the communication notifying the applicant of the animal services supervisor's action. An appeal operates as a stay or postponement of the denial or revocation until the Council makes a final decision. Appeals shall be considered by the Chief of Police. If the Chief of Police concurs with the decision of the animal services supervisor, the decision is final unless the applicant files a written appeal with the City Clerk addressed to the City Manager within ten (10) working days from the date on the communication notifying the applicant of the decision. The City Manager's decision on the appeal is final.

**Sec. 2.04.003. – Requirements regarding prohibited animals.**

- (a) No person shall breed prohibited animals in the City.
- (b) No person shall transport a prohibited animal without first providing the animal services supervisor with the time, date, manner of transportation, destination, and reason for movement.
- (c) The owner or harbinger shall not allow the prohibited animal outside the facility constructed to house it.
- (d) If a prohibited animal dies or leaves the approved site, the owner or harbinger shall notify the animal services supervisor within ten (10) days.
- (e) Any person transporting a prohibited animal shall place it in a cage of suitable strength to restrain it under all conditions.
- (f) No person shall remove a prohibited animal from its permitted premises except:
  - (1) When ordered to remove it by the City or other governmental entity;
  - (2) When transporting it to a veterinarian; and

- (3) When transporting it to a commercial site for commercial purposes.

**Sec. 2.04.004. – Applicability of requirements governing dangerous, wild animals.**

The sections of this chapter governing dangerous, wild animals do not apply to:

- (a) A county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;
- (b) A research facility, as that term is defined by subsection (e) of the United States Animal Welfare Act (7 U.S.C. § 2132), and its subsequent amendments, that is licensed by the Secretary of Agriculture of the United States under that act;
- (c) An organization that is an accredited member of the American Zoo and Aquarium Association;
- (d) An injured, infirm, orphaned, or abandoned dangerous, wild animal while being transported for care or treatment;
- (e) An injured, infirm, orphaned, or abandoned dangerous, wild animal while being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Texas Parks and Wildlife Code;
- (f) A dangerous, wild animal owned by and in the custody and control of a transient circus company that is not based in this state if:
  - (1) The animal is used as an integral part of the circus performances; and
  - (2) The animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed thirty (30) days while the circus is performing outside the United States;
- (g) A dangerous, wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;
- (h) A dangerous, wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;
- (i) A dangerous, wild animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. § 2131, et seq.) and its subsequent amendments and the regulations adopted under that act;
- (j) A nonhuman primate owned by and in the control and custody of a person whose only working is supplying nonhuman primates directly and exclusively to biomedical research



facilities and who holds a class “A” or class “B” dealer’s license issued by the Secretary of Agriculture of the United States under the Animal Welfare Act (7 U.S.C. § 2132, et seq.) and its subsequent amendments; and

- (k) A dangerous, wild animal that is:
  - (1) Owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and
  - (2) An integral part of that species survival plan.

**Sec. 2.04.005. – Certificate of registration; fees.**

- (a) A person may not own, harbor, or have custody or control of a dangerous, wild animal for any purpose unless the person holds a certificate of registration for that animal issued by the City.
- (b) A certificate of registration is not transferable and is valid for one (1) year after its date of issuance or renewal unless revoked.
- (c) The applicant shall pay a one hundred dollar (\$100.00) fee for each animal registered but no more than a total of one thousand dollars (\$1,000.00) per year.
- (d) The fees collected under this section shall be used only to administer and enforce the sections pertaining to dangerous, wild animals in this chapter.

**Sec. 2.04.006. – Certificate of registration application.**

- (a) An applicant for an original or renewal certificate of registration for a dangerous, wild animal shall file an application with the animal services supervisor on a form provided by the animal services supervisor.
- (b) The application shall include:
  - (1) The name, address, and telephone number of the applicant;
  - (2) A complete identification of each animal, including species, sex, age, if known, and any distinguishing marks or coloration that would aid in the identification of the animal;
  - (3) The exact location where each animal is to be kept;
  - (4) A sworn statement that:
    - a. All information in the application is complete and accurate; and

- b. The applicant has read this chapter and that all facilities used by the applicant to confine or enclose the animal comply with the requirements of this chapter; and
    - (5) Any other information the animal services supervisor may require.
- (c) An applicant shall include with each application:
  - (1) The nonrefundable fee;
  - (2) Proof, in a form acceptable by the animal registration agency, that the applicant has liability insurance;
  - (3) A color photograph of each animal being registered taken not earlier than the thirtieth day before the date the application is filed;
  - (4) A photograph and a statement of the dimensions of the primary enclosure in which each animal is to be kept and a scale diagram of the premises where each animal will be kept, including the location of any perimeter fencing and any residence on the premises; and
  - (5) If an applicant holds a class “A” or class “B” dealer’s license or class “C” exhibitor’s license issued by the Secretary of Agriculture of the United States under the Animal Welfare Act (7 U.S.C. § 2131, et seq.) and its subsequent amendments, a clear and legible photocopy of the license.
- (d) In addition to the items required under subsection (c), an application for renewal must include a statement signed by a veterinarian licensed to practice in this state stating that the veterinarian:
  - (1) Inspected each animal being registered not earlier than the thirtieth day before the date of the filing of the renewal application; and
  - (2) Finds that the care and treatment of each animal by the owner meets or exceeds the standards prescribed in this chapter.

**Sec. 2.04.007. – Denial or revocation of certificate of registration; appeal.**

- (a) If the animal services supervisor finds that an application for an original or renewal certificate of registration under this chapter does not meet the requirements for dangerous, wild animals or, after inspection, that an applicant has not complied with this chapter, the animal services supervisor shall deny the applicant a certificate of registration and give the applicant written notice of the denial and the reasons for the denial.
- (b) If the animal services supervisor finds, after inspection, that a registered owner provided false information on or in connection with the application or has not complied with this

chapter, the animal services supervisor shall revoke the certificate of registration and give the owner written notice of the revocation and the reasons for the revocation.

- (c) A person may appeal the denial of an original or renewal certificate of registration or the revocation of a certificate of registration to the justice court for the precinct in which the animal is located or the municipal court in the municipality in which the animal is located not later than the fifteenth day after the date the certificate of registration is denied or revoked. Either party may appeal the decision of the justice or municipal court to a county court or county court at law in the county in which the justice or municipal court is located. The decision of the county court or county court at law may not be appealed.
- (d) Filing an appeal of the denial or revocation of a certificate of registration under subsection (c) stays the denial or revocation until the court rules on the appeal.

**Sec. 2.04.008. – Display of certificate of registration.**

- (a) A holder of a certificate of registration shall prominently display the certificate at the premises where each animal that is the subject of the certificate of registration is kept.
- (b) Not later than the tenth day after the date a person receives a certificate of registration, the person shall file a clear and legible copy of the certificate of registration with the Texas Department of Health.

**Sec. 2.04.009. – Liability insurance.**

An owner of a dangerous, wild animal shall maintain liability insurance coverage in an amount of not less than one hundred thousand dollars (\$100,000.00) for each occurrence for liability for damages for destruction of or damage to property and death or bodily injury to a person caused by the dangerous wild animal.

**Sec. 2.04.010. – Inspection.**

An owner of a dangerous, wild animal, at all reasonable times, shall allow the animal services supervisor or a licensed veterinarian designated by the animal services supervisor to enter the premises where the animal is kept and to inspect the animal, the primary enclosure for the animal, and the owner's records relating to the animal to ensure compliance with this chapter.

**Sec. 2.04.011. – Relocation or disposition of animal.**

- (a) An owner of a dangerous, wild animal may not permanently relocate the animal unless the owner first notifies the animal services supervisor in writing of the exact location to which the animal will be relocated and provides the animal services supervisor, with respect to the new location, the information required for dangerous, wild animals.

- (b) Within ten (10) days after the death, sale, or other disposition of the animal, the owner of the animal shall notify the animal services supervisor in writing of the death, sale, or other disposition.

**Sec. 2.04.012. – Attack by animal; escape of animal; liability.**

- (a) An owner of a dangerous, wild animal shall notify the animal services supervisor of any attack of a human by the animal within forty-eight (48) hours of the attack.
- (b) An owner of a dangerous, wild animal shall immediately notify the animal services supervisor and the police department of any escape of the animal.
- (c) An owner of a dangerous, wild animal that escapes is liable for all costs incurred in apprehending and confining the animal.
- (d) The animal services supervisor is not liable to an owner of a dangerous, wild animal for damages arising in connection with the escape of a dangerous, wild animal, including liability for damage, injury, or death caused by the animal during or after the animal's escape, or for injury to or death of the animal as a result of apprehension or confinement of the animal after escape.

**Sec. 2.04.013. – Care, treatment, and transportation of animal.**

- (a) For each dangerous, wild animal, the owner shall comply with all applicable standards of the Animal Welfare Act (7 U.S.C. § 2131, et seq.) and its subsequent amendments and the regulations adopted under that act relating to:
  - (1) Facilities and operations;
  - (2) Animal health and husbandry; and
  - (3) Veterinary care.
- (b) An owner of a dangerous, wild animal shall maintain a separate written log for each dangerous, wild animal documenting the animal's veterinary care and shall make the log available to the animal services supervisor on request.
- (c) The log must:
  - (1) Identify the animal treated;
  - (2) Provide the date of treatment;
  - (3) Describe the type or nature of treatment; and
  - (4) Provide the name of the attending veterinarian, if applicable.

- (d) When transporting a dangerous, wild animal, the owner of the animal, or a designated carrier or intermediate handler of the animal, shall comply with all transportation standards that apply to that animal under the Animal Welfare Act (7 U.S.C. § 2131, et seq.) and its subsequent amendments and the regulations adopted under that act.
- (e) It is an affirmative defense to prosecution under this section that the person is caring for, treating, or transporting an animal for which the person holds a class “A” or class “B” dealer’s license or a class “C” exhibitor’s license issued by the Secretary of Agriculture of the United States under the Animal Welfare Act (7 U.S.C. § 2131, et seq.) and its subsequent amendments.

**Sec. 2.04.014. – Transfer of ownership.**

A person commits an offense if the person knowingly sells or otherwise transfers ownership of a dangerous, wild animal to a person who does not have a certificate of registration for that animal as required by this chapter.

**Sec. 2.04.015. – Civil penalty and costs.**

- (a) A person who violates the requirement for a certificate of registration for ownership of a dangerous, wild animal is liable for a civil penalty of not less than two hundred dollars (\$200.00) and not more than two thousand dollars (\$2,000.00) for each animal with respect to which there is a violation and for each day the violation continues.
- (b) The City may sue to collect a civil penalty and retain the civil penalty collected.
- (c) The City may also recover the reasonable costs of investigation, reasonable attorney’s fees, and reasonable expert witness fees incurred by the City in the civil action. Costs or fees recovered under this subsection shall be credited to the operating account from which payment for the City’s expenditures was made.

**Secs. 2.04.016. – 2.04.29. – Reserved.”**

**SECTION 3.** That the Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 4:** That any person violating any provision of this Ordinance or the Code of Ordinances, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding Two Thousand and 00/100 Dollars (\$2,000.00) if the violation relates to zoning or the public health and sanitation, otherwise the fine shall be a sum not exceeding five hundred dollars (\$500.00). A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs. The penal

provisions imposed under this Ordinance shall not preclude Sherman from filing suit to enjoin the violation. Sherman retains all legal rights and remedies available to it pursuant to local, state, and federal law.

**SECTION 5.** That in the event any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

**SECTION 6.** That it is hereby officially found and determined that the meeting at which this Ordinance was introduced and passed was open to the public and that public notice of the time, place and purpose of said meeting were given as required by law.

**SECTION 7.** That this Ordinance shall become effective from and after its adoption and publication as required by law.

**INTRODUCED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**ADOPTED** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**EFFECTIVE DATE** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF SHERMAN, TEXAS**

**BY:** \_\_\_\_\_

**DAVID PLYLER, MAYOR**

**ATTEST:**

**BY:** \_\_\_\_\_

**LINDA ASHBY, CITY CLERK**

**APPROVED AS TO FORM**

**AND CONTENT:**

**THE LAW FIRM OF ABERNATHY,  
ROEDER, BOYD & HULLETT, P.C.**

**BY:** \_\_\_\_\_

**RYAN D. PITTMAN, CITY ATTORNEY**