

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-08

AN ORDINANCE AMENDING CHAPTER 18 “ANIMALS” OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, BY REVISING AND REPLACING SAID CHAPTER IN ITS ENTIRETY; THE NEW CHAPTER INCLUDES REGULATIONS PERTAINING TO THE CARE, CUSTODY, AND CONTROL OF DOMESTICATED ANIMALS, SEIZURE AND IMPOUNDMENT UNDER SPECIFIC SITUATIONS, REQUIRED RABIES VACCINATIONS, AND ENFORCEMENT AND PENALTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; ORDERING PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT

WHEREAS, the City of Kerrville, Texas, has a number of animal related regulations that originated decades ago, many of which are badly out of date, are in need of clarification, and/or do not comply with state law or modern animal control and veterinary practices; and

WHEREAS, the Texas legislature has made a number of changes to regulations relating to dangerous dogs and animal care and cruelty, which has also served to make some of the City’s ordinances out of date; and

WHEREAS, on October 10, 2023, City Council adopted Resolution No. 35-2023, which created an ad hoc Animal Regulations Review Committee (“Committee”), to review and consider recommendations as to the City’s regulations and policies with respect to the control, care, and keeping of animals; and

WHEREAS, the Committee, which included persons with interests in animal welfare and a representative from Kerr County, met 9 times and reached a consensus on the proposed ordinance provided here; and

WHEREAS, the City’s code enforcement officers, Police Chief, Municipal Court Clerk, and others also provided input on obstacles to enforcement of regulations and control of animals and requested clarifications and modifications to the City’s existing regulations to enable them to be more effective at serving the citizens and animals of Kerrville; and

WHEREAS, as the City continues growing, it is beneficial to all to have continuity of regulations when practical and prudent in order to make it easier for citizens to comply with the City’s regulations; and

WHEREAS, the City is adopting an ordinance in accordance with the authority granted under Texas Health and Safety Code Section 822.0422; and

WHEREAS, due to several important reasons and conditions, not the least of which is Kerr County's facilities, staffing, and expertise, City staff recommends the regulations provided herein and looks forward to continuing its work with the County's Animal Control Services and other community partners in ways to reduce the number of loose, hazardous, and unwanted animals within Kerrville and the surrounding area; and

WHEREAS, City Council has determined that it is in the best interests of the citizens of Kerrville to ensure effective and efficient enforcement of animal related regulations, and therefore, Chapter 18, Animals, of the City's Code of Ordinances, should be amended as set forth herein; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. The facts, recitations, and findings contained in the preamble of this Ordinance are found to be true and correct and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.

SECTION TWO. Chapter 18 "Animals" of the Code of Ordinances of the City of Kerrville, Texas, is repealed and replaced in its entirety with a new Chapter 18, as provided for in **Exhibit A**, which is attached, included herein for all purposes, and hereby adopted.

SECTION THREE. The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the provisions adopted herein, to correct typographical errors, and to index, format, and number and letter paragraphs to the existing Code as appropriate.

SECTION FOUR. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict. Ordinance Nos. 03-15, 06-14, and 14-07 are repealed.

SECTION FIVE. It is officially found and determined that the meetings at which this Ordinance is passed were open to the public as required and that public notice of the time, place, and purpose of said meetings was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION SIX. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

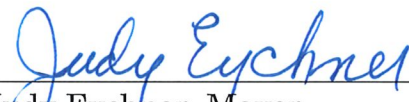
SECTION SEVEN. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7 of the Code of Ordinances of the City of Kerrville, Texas.

SECTION EIGHT. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION NINE. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 09 day of April A.D., 2024.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 23 day of April, A.D., 2024.



Judy Eychner, Mayor

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

ATTEST:


Shelley McElhannon, City Secretary

EXHIBIT A

Chapter 18 ANIMALS *ARTICLE I. IN GENERAL*

Sec. 18-1. Definitions.

Abandonment means to desert or to leave:

- (1) in an enclosure on private property without care, food, shelter, or a continuous source of clean water for a period of 24 hours or more;
- (2) on private property without the consent of the owner or person with legal right to control the property; or
- (3) on public property without the express written permission of the animal control authority or owner or agent in charge of the property.

Animal means any member of the group of living beings belonging to the subphylum vertebrate, specifically excluding human beings. Animals includes any and all types, both domesticated and wild, male and female, warm and cold blooded.

Animal control authority means the person or persons designated by the City Manager or applicable state law to enforce this chapter, including duly licensed peace officers. The term includes both City employees and the County's Animal Services Department in its role as the "local rabies control authority."

Animal shelter means a facility designated or recognized by the City for the purpose of impounding and caring for animals.

At large means to be free of physical restraint beyond the boundaries of the premises of the owner.

Cat means any member of the family *Felis domestica*.

City means the City of Kerrville, Texas.

City Council means the City Council for the City of Kerrville, Texas.

City Manager means the City Manager or designee for the City of Kerrville, Texas.

Community cat means a feral cat that has been 1) ear-tipped and microchipped, 2) vaccinated, and 3) sterilized through trap-neuter-return.

Community cat caregiver means a person who participates in trap-neuter-return. A community cat caregiver is not considered the owner, caretaker, custodian, harborer, or keeper of a community cat.

Community cat colony means a group of community cats that congregate, more or less, together as a unit and may share a common food source.

County means Kerr County and its authority and responsibilities under state law and the applicable order of the Commissioner Court as the local rabies control authority.

Court means the municipal court of the City of Kerrville, Texas, or a Kerr County justice court.

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.

Currently vaccinated means properly injected with a rabies vaccine licensed for use in the subject species by the United States Department of Agriculture and administered by or under the direct supervision of a licensed veterinarian.

Dangerous dog means a dog that:

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

Dog means any member of the family *Canis familiaris* excluding wolf hybrids which contain any percentage of wolf.

Domestic animal means a tame, gentle animal (including *Felis domestica* and *Canis familiaris*), caged birds, amphibians, fish, reptiles other than poisonous, venomous, or otherwise dangerous reptiles; small caged rodents; and *P. furus* (the common ferret).

Ear-tipping means the removal of the ⅛-inch tip of a cat's ear, performed while the cat is under anesthesia, to identify the cat as being a community cat that has been sterilized and lawfully vaccinated for rabies.

Enclosure means:

- (1) a structure with lockable windows and doors;
- (2) a tether, as defined by this chapter and in compliance with this chapter; or
- (3) a fenced area that is reasonably certain to prevent the animal in question from escaping.

Feral cat means a free-roaming domestic cat which is not owned and is not socialized to people.

Fowl means domesticated animals belonging to the class of Aves including chickens, poultry, game birds, pigeons, or similar whether kept for pleasure or for profit.

Impound means the act of placing an animal in an animal shelter.

Livestock means domestic animals generally used or raised on a farm for profit, work, or pleasure, including cattle, sheep, swine, horses, donkeys, mules, domesticated game animals, and llamas. Livestock does not include mini-pigs.

Mini-pig means any of the domesticated forms of the species *suidae sus scrofa*, under 180 pounds, originating in Southeastern Asia, and having a straight tail, potbelly, swayback, and coat that is black, white, or both.

Neutered means rendered permanently incapable of reproduction. The term neuter is synonymous with spay or sterilize.

Nonprofit animal welfare organization means a nonprofit organization that has as its purpose 1) the prevention of cruelty to animals; or, 2) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

Owner means any person who has a right of property to an animal, keeps or harbors an animal, has an animal in their care, acts as custodian of an animal, or who permits an animal to remain on or about his or her premises.

Person means any individual, firm, corporation, partnership, other business unit, society, association or other legal entity, any public or private institution, the state, or any municipal corporation or political subdivision of the state.

Registration or registered means a tag worn on a collar for identification and annually renewed with the registration authority and/or an implanted registered microchip.

Registration authority means the agency or department designated by the City Manager and charged with registering animals upon confirmation of a rabies vaccination.

Restraint means that an animal is considered under restraint if it is within a secured enclosure, secured by a leash or lead, or under the physical control of a responsible person.

Secured enclosure means a structure that has working locks on doors and windows or a fenced area that meets the following criteria:

- (1) lockable or otherwise capable of preventing the entry of the general public, including children;
- (2) capable of preventing the release or escape of the dog being secured;
- (3) clearly marked as containing a dangerous dog by signs at all entrances; and
- (4) of sufficient height and depth to prevent the dog from climbing out or digging under.

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

Serious bodily injury means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Tether means a chain, rope, leash, cable, or other device that is attached to a stationary object or cable run as a means of restraining an animal.

Trap-neuter-return means a nonlethal approach to feral cat population control where feral cats are humanely trapped, sterilized and vaccinated, ear-tipped and microchipped, and then returned to the location where they were originally trapped or to another community cat colony when authorized under Section 18-32.

Unprovoked attack or acts means an attack or act by a dog which took place even though the person that was attacked did not unreasonably do anything to cause or encourage the attack or act.

Wild animals means all undomesticated animals including 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.

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.

Sec. 18-2. Enforcement.

- (a) It shall be the duty of the animal control authority to carry out all applicable provisions of this chapter and to seize and impound all animals when authorized or required by this chapter.
- (b) Any offense of this chapter is considered a nonculpable offense, unless the section specifically sets out the necessary culpability for the offense. The penalty for a violation of this chapter shall be as set forth in Section 1-7 of this Code.
- (c) It is unlawful for a person to interfere with, hinder, or molest any agent of the animal control authority in the performance of any duty as herein provided. It shall also be unlawful for a person to remove an animal from or inflict damage upon a humane live trap set by the animal control authority.
- (d) It is unlawful for an animal's owner or community cat caregiver to intentionally or knowingly deceive or mislead the animal control authority by statement, action, or omission in order to avoid a penalty, charge, or other consequence under this chapter.
- (e) 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 control authority may petition the 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 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 control authority. If the court orders the animal removed, it must be microchipped (dogs and cats only), registered with the animal control authority, 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 Manager may obtain a seizure warrant from the court, which warrant shall order the humane disposition of such animal in accordance with this chapter.

Sec. 18-3. Seizure and impoundment.

- (a) The animal control authority shall have the power to seize an animal with a warrant or court order if probable cause is present to believe one of the following conditions exists:
 - (1) An animal is found at large and/or has been abandoned.
 - (2) An 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) An animal is being treated cruelly in violation of this chapter or state law.
 - (5) The animal control authority is authorized to seize the animal based on, or pursuant to, this chapter or other state law.
- (b) The animal control authority shall have the power to seize an animal without a warrant or court order if probable cause is present to believe one of the conditions listed in (a)(1)-(5) exists 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. The animal control authority is in pursuit of an animal that is at large; or
 - c. The animal control authority 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; and
 - (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.
- (c) The animal control authority is authorized to use necessary force to make lawful seizures of animals pursuant to this chapter.

- (d) Any animal that has been seized pursuant to section (a)(2) shall 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, as may be amended. The animal control authority 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 for adoption or other humane disposition.
- (e) 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, as may be amended.
- (f) 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 Article III, Division 1 of this chapter.
- (g) Seizure, impoundment, and disposition of livestock that are considered a nuisance shall be governed by Article IV of this chapter.
- (h) The animal control authority shall not release a dog or cat for adoption unless the animal has been sterilized.
- (i) The animal control authority shall not release an animal that has been impounded for a third time as a stray unless the animal has been sterilized.

Sec. 18-4. At large, generally.

- (a) It is unlawful for an animal to be at large within the City. It is an affirmative defense if the animal is a community cat.
- (b) Livestock that are found at large are “estrays” and are governed by Chapter 142, Texas Agriculture Code.
- (c) Animals other than livestock that are found at large may be seized in accordance with this chapter and the animal control authority may exercise the option to serve the owner with a citation, return the animal to the owner, or impound the animal.

Sec. 18-5. Redemption.

The owner of any impounded animal may reclaim same by signing any citations issued for alleged violations of this chapter and paying all impoundment fees, fines and other accrued expenses. If an animal is not redeemed within three days of impoundment and that the animal shelter is open to the public, the animal control

up for adoption or arrange for other humane disposition. If an animal has been previously impounded, the impoundment fee may be raised. A community cat caregiver may reclaim a community cat in the same manner as an owner. A community cat caregiver may only reclaim a feral cat if it is, or will be, ear-tipped, microchipped, vaccinated, and sterilized before being reclaimed.

Sec. 18-6. Humane disposition of unredeemed, impounded animals.

- (a) After the redemption period expires, the animal control authority shall have the authority to order the humane disposition of an animal, either by transfer of ownership or humane euthanasia, at its discretion and in accordance with state law.
- (b) While an animal is in the possession of the animal control authority, under veterinary care ordered by the animal control authority, or in foster care, ownership of the animal will not have transferred. The animal's owner may redeem the animal by complying with the requirements of this chapter, even if the redemption period has expired.
- (c) After the redemption period has expired, the animal control authority may transfer ownership of the animal. When an animal is transferred to a new owner, the prior owner's rights to redeem the animal or otherwise claim ownership are extinguished. Ownership is transferred when a person agrees to adopt an animal or when an organization, or someone acting on the organization's behalf, accepts custody of an animal.

Sec. 18-7. Willfully causing animals to be impounded; release when owner not responsible.

Whenever the animal control authority shall become satisfied that any animal has been willfully released from any enclosure or property by any person other than the animal's owner, the animal control authority shall have the discretion to order such animal so impounded released without cost.

Sec. 18-8. Slaughtering animals.

It is unlawful for a person to maintain any property for the purpose of slaughtering any animal except those establishments authorized to slaughter animals as a governmental entity, under the laws of the state and applicable City ordinances.

Sec. 18-9. Animals biting, scratching or attacking any person.

The owner of any animal that bites, scratches, or attacks any person when the person bitten was not trespassing upon the property of the owner of the animal, shall be guilty of violating this chapter.

Sec. 18-10. Animals creating a nuisance.

- (a) It is unlawful for a person to allow the peace and quiet of neighboring properties to be disturbed by an animal's barking, howling, crowing, or other noise of any kind.
- (b) It is unlawful for a person to allow the peaceable use and enjoyment of neighboring properties to be disturbed by the smell of an animal, its food, its waste, or its enclosure.

Sec. 18-11. Riding animal on sidewalks and streets prohibited.

It is unlawful for a person to ride a horse or mule or any other animal on a public sidewalk or within the public street right-of-way except on the paved shoulder or curb lane of the street right-of-way. It is an affirmative defense that the person has a horse drawn carriage permit or a special event permit issued by the City.

Sec. 18-12. Harboring wild animals.

- (a) It is unlawful for a person to keep or harbor any wild animal within the City except commercial establishments dealing in the sale of these animals, zoos and similar entertainers, and governmental entities, all of which shall have proper facilities for restraint and care of these animals.
- (b) The animal control authority or the local health authority under the Texas Health and Safety Code may set up conditions under which it would be permissible to keep or harbor wild animals in the City on a temporary basis.

Sec. 18-13. Sale of animals.

- (a) It is unlawful for a person to sell, trade, barter, lease, rent, give away, or display for a commercial purpose a live animal outdoors on a roadside, public right of way, or commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.
- (b) This section does not apply to:

- (1) A sale held on privately or publically owned, non-commercial property with the permission of the owner; or
- (2) An event primarily for the sale of agricultural livestock, such as hoofed animals or animals or fowl commonly raised for food, dairy, or fiber products.

ARTICLE II. DOGS AND CATS

Sec. 18-30. Rabies vaccination and registered.

- (a) *Required; exception.* Except as otherwise provided, no person shall own, keep, or harbor any dog or cat over four months of age within the City limits unless such dog or cat is currently vaccinated and registered. The provisions of this section do not apply to animals owned by a licensed research facility or government operated animal shelter.
- (b) *Vaccination by licensed veterinarian.* All dogs and cats shall be vaccinated against rabies by a licensed veterinarian in accordance with Section 826.021, Texas Health and Safety Code.
- (c) *Microchipping.* All dogs and cats shall be microchipped and owners shall thereafter update the microchip company with the current address of the owner.
- (d) *Time limit for registration; exception.* The owner of a dog or cat shall seek registration within 30 days after obtaining a dog or cat over four months of age. This requirement will not apply to a nonresident keeping a dog or cat within the City for no longer than 60 days. New residents must apply for registration within 30 days of establishing residency.
- (e) *Registration period; registration to be attached to collar; transferability; records.* Except as otherwise provided, the registration period shall be for one year. Each applicant shall pay the appropriate fee annually and shall supply all information reasonably requested on forms supplied by the registration authority. Registration furnished by the registration authority shall be of durable material. Registration issued for a dog or cat must be attached to the collar of the animal and must be worn at all times. Registrations are not transferable. A record of all registrations issued shall be maintained by the registration authority; and such records shall be available to the animal control authority if not the same entity. The registration authority shall maintain records for five years.
- (f) *Failure to obtain registration.* A registration shall be issued after payment of the required fee, and a showing of proof of vaccination by a licensed veterinarian. A person who fails to obtain registration for his or her dog or cat as required within the time period specified in this section will be subjected to a delinquent fee.

- (g) *Waiver of registration fee.* Registration fees shall be waived for dogs serving the blind, deaf, or other persons with disabilities as defined by law, or government-owned dogs used for law enforcement. All other registration provisions will apply.
- (h) *Tag required.* It is unlawful for a person to have a dog or cat in their care, custody or control which does not have a current vaccination tag and a license on the dog or cat.
- (i) *Exception.* This section does not apply to community cats with up to date vaccinations.

Sec. 18-31. Nuisances.

- (a) All dogs and cats, excluding community cats, shall be kept under restraint.
- (b) No dog or cat may be allowed to cause a nuisance. The owner of every dog or cat shall be held responsible for every behavior of such dog or cat under the provisions of this article.
- (c) A dog or cat is considered a nuisance if it damages, soils, defiles, or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous, or offensive conditions; causes a disturbance by excessive barking or other noisemaking; chases vehicles; or molests, attacks, or interferes with persons or other domestic animals on public property.
- (d) It is unlawful for a person to feed feral cats or to provide food for feral cats. It is an affirmative defense if the person is a community cat caregiver maintaining a community cat colony.
- (e) If a community cat colony is the source for a substantial number of nuisance complaints from multiple sources, the affirmative defense under subsection (d) does not apply and the community cat colony must be relocated or the cats claimed by owners and re-homed. A substantial number of nuisance complaints means three or more complaints within the past 12 months. Multiple sources means that there are two or more reporting parties that do not reside at the same address.

Sec. 18-32. Community cats.

- (a) Community cats impounded on a nuisance complaint shall be humanely euthanized after expiration of the redemption period unless a community cat caregiver claims the community cat and agrees and is able to relocate the cat to

another location, in compliance with this chapter. Community cats may be held longer, as space is available in the animal shelter.

- (b) Community cats that bite or scratch a person shall undergo rabies observation or testing, shall be euthanized in accordance with law, and may not be released, including to a community cat caregiver.

Sec. 18-33. Redemption.

- (a) A community cat released to a community cat caregiver may be released without payment of an impoundment fee, unless the community cat was seized pursuant to a nuisance complaint.
- (b) Any dog or cat confined for rabies quarantine, evidence, or other purpose may be redeemed by the owner thereof upon payment of a fee. Disposal of a dog or cat by any method specified herein does not relieve the owner of liability for violations and accrued charges.
- (c) No dog or cat required to be registered or vaccinated under this chapter may be redeemed until arrangements for such registration and vaccination have been made.
- (d) As a condition for redemption, the animal control authority may require a dog or cat, including community cats, to be microchipped and have the microchip registered such that the animal control authority is able to identify the owner or community cat caregiver, as applicable.

Sec. 18-34. Registration fees.

Any and all registration fees required by this chapter shall be set by City Council after direct consultation with the County as to the appropriate fee amounts. The resolution shall also determine the conditions of payment and collection of the required fees.

Sec. 18-35. Over four dogs and/or cats prohibited.

- (a) It is unlawful for a person to harbor, keep, or maintain more than four dogs, cats, or a combination thereof on any property within the City. This section does not apply to a property owned and/or operated by a governmental entity, a nonprofit animal welfare organization, or an animal shelter.
- (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 animals are being fostered for the animal control authority or a nonprofit animal welfare organization, and the care is not otherwise in violation of this chapter or any applicable policy. The animal control authority may waive the permit fee as a part of promotion for adoption or to encourage compliance with this chapter.

ARTICLE III. DANGEROUS DOGS AND INHUMANE TREATMENT

DIVISION 1. DANGEROUS DOGS

Sec. 18-51. Dog causing death or serious bodily injury.

- (a) If the animal control authority has probable cause to believe that a dog has caused the death or serious bodily injury of a person, a sworn complaint shall be filed with the 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 days from the date the warrant is issued.
- (b) The animal control authority shall execute the seizure warrant and shall impound the dog and provide for its care until disposition is ordered by the court.

Sec. 18-52. Hearing on dog causing death or serious bodily injury.

- (a) 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.
- (b) 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.
- (c) If the dog caused the death of a person, the dog shall be ordered humanely euthanized as allowed by law.
- (d) 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:
 - (1) 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 years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;
- (2) 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 years of age and was trespassing in the enclosure when the attack, bite, or mauling occurred;
- (3) 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;
- (4) the dog was defending a person from an assault or person's property from damage or theft by the injured person; or
- (5) the injured person was younger than eight 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 years of age from entering.
- (e) 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.
- (f) If the dog is ordered humanely euthanized, the court may also order that the owner of the dog pay the costs associated with impoundment and humane disposition of the dog.
- (g) The owner of a dog that causes death or serious bodily injury may waive the hearing and release the dog to the animal control authority for humane euthanasia, and in such case, the animal control authority may waive any fees that would otherwise be charged.

Sec. 18-53. Dangerous dogs.

- (a) If the animal control authority determines that a dog qualifies as a dangerous dog, as defined by this chapter, it shall notify the owner of the dog in writing.
- (b) Unless the dog has already been impounded, the owner of the dog shall deliver the dog to the animal control authority within five 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, the animal control authority is authorized to obtain a seizure warrant from a judge.

Sec. 18-54. Dangerous dog hearing.

- (a) The animal control authority shall file a complaint with the 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 day after the dog is impounded.
- (b) If the court determines that the dog does not meet the definition of dangerous, the court shall order the dog released to the owner.
- (c) If the court determines the dog does meet the definition of dangerous, the court shall:
 - (1) uphold the determination of the animal control authority;
 - (2) determine the cost of impoundment up to the date of the hearing and through any potential appeal;
 - (3) set an appeal bond adequate to cover those costs; and
 - (4) order that the dog be released to the owner if and when the owner complies with the requirements of Section 18-55 or order the dog to be humanely euthanized if the owner cannot or does not comply with those requirements.
- (d) Per state law, as may be amended, in order to appeal the decision, the owner must file a notice of appeal and the appeal bond with the court clerk within ten days of the court's decision.

Sec. 18-55. Requirements for owner of dangerous dog.

- (a) Within 30 days of the court decision to declare a dog dangerous, or within 30 days of such decision being upheld on appeal, the owner of the dangerous dog must comply with the following requirements for the dog to be released from impoundment:
 - (1) registration, specifically as a dangerous dog, with the animal control authority for the area in which the dog is kept, which registration must be updated within 14 days in the event of a change in address or ownership;
 - (2) restrain the dog at all times on a leash in the immediate control of a person or in a secured enclosure as defined by state law;

- (3) obtain liability insurance policy with at least \$100,000.00 in coverage for damages resulting from an attack by the dog causing serious bodily injury or provide proof of financial responsibility substantially equal to that amount;
 - (4) the dog must be microchipped and the owner must update the microchip company with the current address of the owner;
 - (5) the dog must be fitted with a bright orange collar visible from 50 feet away;
 - (6) the dog must be vaccinated for rabies and registered as required by this chapter; and
 - (7) have the dog sterilized.
- (b) If the owner of the dangerous dog is unable to establish timely compliance with the above requirements, the dog shall be humanely euthanized.
 - (c) It is a violation of this chapter for an owner of a dog previously declared dangerous to be out of compliance with these requirements, including a dog previously declared dangerous in another jurisdiction.

Sec. 18-56. Subsequent violations.

- (a) If the owner of a dog that has been previously declared dangerous is issued a citation for failure to comply with Section 18-55, the animal control authority may apply to the court for a seizure warrant. Upon a showing of probable cause that a violation of Section 18-55 has occurred, the court shall issue the warrant and order the dog to be humanely euthanized unless the owner can provide the animal control authority with proof of compliance.
- (b) The owner of the dangerous dog has ten days to establish compliance with Section 18-55 or the dog shall be humanely euthanized.
- (c) If a dog that has been previously declared to be dangerous makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the person, the person is guilty of a violation of this chapter. Upon a showing of probable cause that the violation occurred, the court shall issue a seizure warrant and order the dog to be humanely euthanized.

Sec. 18-57. Exceptions.

It is a defense to prosecution under this division that a person is:

- (1) a veterinarian, employee of a veterinarian, dog trainer, peace officer, animal shelter employee, or employee of the state or a political subdivision of the state and the person has temporary ownership, custody, or control of the dog in connection with that position; or
- (2) an employee of the institutional division of the Texas Department of Criminal Justice, or other law enforcement agency, and trains or uses dogs for law enforcement or corrections purposes.

DIVISION 2. INHUMANE TREATMENT OF ANIMALS

Sec. 18-71. Inhumane treatment, generally.

- (a) It is unlawful for a person to treat an animal inhumanely. The penalty for a violation of this section is as set forth in Section 1-7 of the Code of Ordinances.
- (b) For the purposes this section 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. 18-72. Tethering.

- (a) It is unlawful for a person to restrain an animal by use of a tether attached to a stationary object or a cable run. This does not apply to an animal on a leash held by a person.
- (b) It is an affirmative defense to subsection (a) if the tether is attached to a properly fitted harness or collar on the animal, and
 - (1) the tether is secured in such a manner that
 - a. the animal has continuous access to food, water, and shelter;
 - b. the tether is at least ten feet long or five times the length of the dog from nose to the base of the tail, whichever is longer;
 - c. the tether is not a chain and weighs less than one-twentieth of the animal's weight;

- d. the tether is attached in a manner that prevents choking, hanging, or other potential injury; and
 - e. the tether is short enough that the animal is not able to cross the property line; or
- (2) the tether is temporarily used during veterinary treatment, grooming, training, or law enforcement activity; or
 - (3) the tether is temporarily used to protect the safety or welfare of a person or the animal provided that the owner remains with the animal throughout the period of restraint.
- (c) The affirmative defense under subsection (b) does not apply if:
- (1) the animal is in estrus (*i.e.*, in heat);
 - (2) the animal is secured by a pinch or prong type collar; or
 - (3) the animal is injured by the tether.

Sec. 18-73. Animal fights; fighting paraphernalia.

- (a) It is unlawful for a person to keep, or use, or in any way be connected with, or interested in the management of any place used for the purpose of fighting animals. It is unlawful for a person to receive money for the admission of any person to any place kept or used for the purpose of fighting animals, or to permit or suffer any place belonging to or under his or her control to be so kept or used. It is unlawful for a person to aid, encourage, assist, or arrange for an animal fight, or to issue a challenge for the purpose of bringing about an animal fight.
- (b) It is unlawful for a person to have on their person or property any paraphernalia used in fighting, including fighting rings, break sticks, fighting knives, or training facilities used to prepare animals for fighting.
- (c) It is unlawful for a person to raise, breed, maintain, or harbor any animal which is used or intended to be used for fighting.

Sec. 18-74. Abandonment of animals.

It is unlawful for a person to abandon an animal in the City. It is an affirmative defense to prosecution under this section that the person is a community cat caregiver and the animal is a community cat.

Sec. 18-75. Traps.

It is unlawful for a person to set any form of trap which causes bodily harm by the nature of the trap, including leg hold traps, or body traps. Humane live cage traps are permissible.

Sec. 18-76. Animals left in vehicles.

- (a) It is unlawful to leave an animal in a parked or standing vehicle or enclosed trailer in such a way as to endanger the animal's health, safety, or welfare.
- (b) It is presumed that an animal's health, safety, or welfare is endangered when the animal is confined for a period of ten or more minutes at a time when the ambient outside air temperature is above 75 degrees or below 35 degrees Fahrenheit.
- (c) The animal control authority, a peace officer, or a firefighter may take reasonable actions to remove an animal that was left in violation of subsections (a) or (b), including use of force if necessary and/or if the animal is showing signs of distress. Any animal so removed shall be impounded as if at large.

Sec. 18-77. Animals in trucks and trailers.

It is unlawful for a person to transport in an open bed pickup or an open flatbed truck or to tow in an open flatbed trailer on a public street or highway while a dog or other animal occupies the bed of the truck or trailer unless the animal is secured in a kennel or other secure vented enclosure, restrained by a harness manufactured for the purpose of restraining animals, or restrained using a chain, rope, or other device cross-tied to prevent the animal from falling or jumping from the motor vehicle or from strangling. If the ambient outside air temperature is above 85 degrees Fahrenheit, there must be some kind of flooring between the animal and the truck bed that will prevent injury by the hot surface of the bed.

Sec. 18-78. Care.

- (a) All animals must be provided with
 - (1) daily food and a clean source of water sufficient for the breed and size to maintain the animal at a good level of nutrition;
 - (2) a source of shelter from the elements appropriate for the breed, size, and needs of the animal; and
 - (3) veterinary care reasonably necessary to prevent suffering.

- (b) Failure by an owner of an animal to provide care as required by this section is a violation of this chapter. This section does not apply to community cats.

ARTICLE IV. LIVESTOCK, FOWL, AND OTHER AGRICULTURAL ANIMALS

Sec. 18-90. Keeping of livestock.

- (a) It is a violation to maintain livestock on properties other than those zoned for such use. It is an affirmative defense if the maintenance of livestock is a legal non-conforming use.
- (b) The owner of livestock, or the owner of real property on which livestock is being kept, may not allow the livestock to be a nuisance, or be the source of a nuisance, by virtue of (1) odor, excessive noise, or attraction of pests, which would disturb a person of normal sensibilities; or (2) otherwise create a health hazard.
- (c) Livestock may not be maintained on property belonging to another person without that person's permission.
- (d) It is a violation to tether or stake out livestock. It is an affirmative defense to this section if the tether is otherwise in compliance with this chapter, and if the animal has unrestricted access to at least 6,000 square feet of ground. Livestock may not be maintained on property with less than 6,000 square feet of ground per animal, excluding structures not used for housing or feeding the animal.
- (e) The structure or enclosure in which livestock is kept, fed, or cared for may not be less than 180 feet from any structure used for human occupancy, except for structures belonging to the owner of the livestock.
- (f) It is unlawful for a person to keep, harbor, or maintain swine within the City. It is an affirmative defense to this section that the swine are wild and not within the care, custody, or control of the owner.
- (g) Livestock may be considered a nuisance and the animal control authority is authorized to seize and impound such livestock if (i) they are found in violation of subsections (a), (c), or (f); or (ii) if the owner of such livestock is cited for a violation of subsection (b) and the citation results in a conviction or deferred adjudication,
 - (1) The animal control authority shall provide notice to the owner, if known, by personal delivery or certified mail return receipt requested. If the owner is unknown, notice shall be posted at the location the animal was seized.

- (2) The owner must redeem the animal by coming to collect it and pay the related citations and fees, within ten business days during which the animal shelter is open to the public after the date the animal is seized.
- (3) The owner may appeal the seizure during the redemption period described above by submitting a written appeal to the City Manager. The City Manager may consider the appeal and uphold the decision or overturn the decision and order the animal released.
- (4) If the redemption period expires and no appeal is filed, or if an appeal is denied, the animal control authority may humanely dispose of the animal by euthanasia (if necessary to alleviate suffering), conveyance to a rescue organization, or public auction. If the animal control authority determines that a public auction would not be commercially reasonable, the animal may be conveyed to a rescue organization. If the animal is conveyed by public auction, post notice of a sale of livestock at the county courthouse, at the municipal office building, and to the owner (if known). The notice will include a full description of the impounded livestock and the date, time, and place of the public auction (which must be not less than ten days from the date notice is posted). The sale will be to the highest bidder, for cash, and proceeds will be applied to defray the cost of the sale and impoundment of the animal. Any excess proceeds must be claimed within 15 days of the date of the sale or such proceeds shall be transferred to the City's general fund.

(h) This section is only applicable:

- (1) to livestock on properties located within City limits; and
- (2) where the City's application of these provisions do not conflict with state law.

Sec. 18-91. Fowl.

- (a) It is unlawful for a person to keep fowl within the City limits in violation of this section.
- (b) Any enclosure that houses fowl must be at least 50 feet from any dwelling other than the dwelling occupied by the owner of the fowl, provided that there are fewer than six fowl on the property. Any enclosure that houses fowl must be at least 180 feet from any dwelling other than the dwelling occupied by the owner of the fowl, when there are six or more fowl on the property. A property in the City limits may not have more than 12 fowl unless it is zoned agriculture, general. This section does not apply to exotic birds such as parakeets and parrots that are primarily kept indoors.

- (c) It is unlawful for a person to own, keep, harbor, or maintain a rooster within the City limits.
- (d) It is unlawful for a person to own, keep, harbor, or maintain an ostrich, peafowl, or an emu within the City limits.
- (e) The owner of fowl, or the owner of real property on which fowl is being kept, may not allow the fowl to be a nuisance, or be the source of a nuisance, by virtue of (1) odor, excessive noise, or attraction of pests, which would disturb a person of normal sensibilities; or (2) otherwise create a health hazard.
- (f) This section is only applicable where the City's application of these provisions do not conflict with state law.

Sec. 18-92. Rabbits.

- (a) A person may not keep, harbor, own, or maintain, within City limits, on residential property, as that term is defined by "dwelling unit" in the City's zoning code, more than ten rabbits unless the person is lawfully involved in an agricultural youth project under the supervision of a county extension agent or agriculture teacher employed by the independent school district.
- (b) Any enclosure that houses rabbits within City limits must be at least 50 feet from any dwelling other than the dwelling occupied by the owner of the rabbits.
- (c) The owner of rabbits, or the owner of real property on which rabbits are being kept, may not allow the rabbits to be a nuisance, or be the source of a nuisance, by virtue of (1) odor, excessive noise, or attraction of pests, which would disturb a person of normal sensibilities; or (2) otherwise create a health hazard.
- (d) This section is only applicable where the City's application of these provisions do not conflict with state law.

Sec. 18-93. Ferrets.

- (a) It is unlawful for a person to harbor, keep, or maintain ferrets over the age of six months on any property within the City limits where the overall number of ferrets, dogs, and cats exceeds four such animals.
- (b) Ferrets must be currently vaccinated against rabies at all times.
- (c) The owner of ferrets, or the owner of real property on which ferrets are being kept, may not allow the ferrets to be a nuisance, or be the source of a nuisance,

by virtue of (1) odor, excessive noise, or attraction of pests, which would disturb a person of normal sensibilities; or (2) otherwise create a health hazard.

Sec. 18-94. Beekeeping.

- (a) It is unlawful for a person to keep a hive within 50 feet of any structure used for human habitation, excluding the residence of the owner. If a hive is located within 25 feet of a property line, the owner must maintain a flyway barrier, such as a solid wall, fence, or dense vegetation, parallel to the property line, which must be at least six feet high and extend at least ten feet beyond each end of the hive.
- (b) A person shall provide a source of water on the same property within line of sight of a hive.
- (c) A person shall immediately replace the queen in a hive that exhibits aggressive characteristics, including stinging or attempting to sting without provocation, or a disposition towards swarming. The hive shall be temporarily removed to a location outside the City limits which is at least 200 feet from any structure used for human habitation for a period of at least 45 days.
- (d) If it is determined by the animal control authority that a person's bees are becoming a nuisance to other properties, the person may be required to reconfigure, relocate, or remove one or more hives. The person may appeal an order issued under this section by submitting a written request for an appeal to the City Manager within ten business days of the order. The City Manager, or his or her designee, shall consider the appeal and either uphold, modify, or reverse the order. It is a violation of this section to fail to comply with an order issued under this section.
- (e) Except for subsection (d), this section does not apply to wild bees.
- (d) This section is only applicable where the City's application of these provisions do not conflict with state law.

Sec. 18-95. When owner of premises may impound stock.

If any livestock are found upon the premises of anyone, the owner or occupant of the premises shall have the right to confine such animal until he or she can notify the animal control authority to come and impound such animal, provided the same is done in a reasonable time. When so notified, it shall be the duty of the officers to at once cause such animal to be impounded as herein provided.